

PROGRAM AUDIT OF THE CALIFORNIA CLEAN ENERGY JOBS ACT

Audit Report

PROPOSITION 39 PROGRAM

Chapter 29, Statutes of 2013

July 1, 2018, through June 30, 2019



BETTY T. YEE
California State Controller

June 2020



BETTY T. YEE
California State Controller

June 30, 2020

Adrienne Alvord, Chair
Citizens Oversight Board
1516 9th Street, MS 19
Sacramento, CA 95814

Dear Ms. Alvord:

The State Controller's Office (SCO) audited a selection of completed projects related to the California Clean Energy Jobs Act for the period of July 1, 2018, through June 30, 2019.

As of June 30, 2019, 212 local educational agencies (LEAs) reported \$171,890,450 in completed project costs and 59 community college districts (CCDs) reported \$66,985,654 in completed project costs. From the list of completed projects, we selected for audit 17 LEAs and four CCDs, which together reported total expenditures of \$45,102,262. Our audit found that:

- Six LEAs sole-sourced a portion of their project costs, resulting in unallowable costs of \$9,537,047;
- Twelve LEAs and four CCDs did not identify the projected energy savings in the awarded contracts, and four LEAs did not have a signed contract;
- One LEA spent Proposition 39 funds on ineligible expenditures, resulting in unallowable costs of \$3,034; and
- Nine LEAs submitted their final project completion reports after the deadline.

We also identified an issue that is not significant to the audit objectives, but warrants the attention of management. Specifically, we found that two LEAs with unused planning funds properly applied the funds to program implementation. However, as these funds were not included in the LEAs' approved energy expenditure plans, the amount of Proposition 39 funds paid to these LEAs exceeded their approved energy expenditure plans by \$232,713.

This final audit report identifies six LEAs that sole-sourced a portion of their project costs, in violation of Public Resources Code (PRC) section 26235(c). This final audit report also identifies one LEA that spent Proposition 39 funds on ineligible expenditures, in violation of the California Energy Commission's *Proposition 39: California Clean Energy Jobs Act – 2013 Program Implementation Guidelines* and the California Community Colleges Chancellor's Office's *California Community Colleges Proposition 39 Implementation Guidelines*.

PRC 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....”

Findings 1 and 3 are both apportionment-significant for LEAs. If you disagree with either finding, you have 30 days from the date the SCO emailed this report to request a summary review of any apportionment-significant audit findings on the grounds of substantial compliance. In addition, you have 60 days from delivery of this letter—or 30 days following the conclusion of a summary review regarding the finding included in that review—to file a formal appeal of any apportionment-significant audit findings on any one or more of the grounds set forth in Education Code (EC) section 41344(d). The request for a summary review or formal appeal should be submitted to the following address:

Executive Officer
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, California 95814

If you have any questions regarding the summary review process or the appeal process, please see the Education Audit Appeals Panel (EAAP) website (www.eaap.ca.gov) or call EAAP at (916) 445-7745.

LEAs working to resolve audit exceptions may request structured repayment plans under EC section 41344. To request a repayment plan, the LEA must submit a letter to the California Department of Education (CDE) within 90 days of receipt of this letter; within 30 days of withdrawing or receiving a determination of a summary review if there is no appeal; or within 30 days of withdrawing or receiving a final determination regarding an appeal pursuant to EC section 41344(a). More information on repayment plans can be found on the CDE’s website (<http://www.cde.ca.gov/fg/au/ag/resolution.asp>) or by contacting the CDE, School Fiscal Services Division, Categorical Allocations and Management Assistant Unit, at (916) 323-8068.

If you have any questions about the audit findings, please contact Lisa Kurokawa, Bureau Chief, by telephone at (916) 327-3138.

Sincerely,

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

JLS/ljs

cc: Jack Bastida, Contract Manager
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Audit Report

Summary

The State Controller's Office (SCO) audited a selection of completed projects related to the California Clean Energy Jobs Act for the period of July 1, 2018, through June 30, 2019.

As of June 30, 2019, 212 local educational agencies (LEAs) reported \$171,890,450 in completed project costs and 59 community college districts (CCDs) reported \$66,985,654 in completed project costs. From the list of completed projects, we selected for audit 17 LEAs and four CCDs, which together reported total expenditures of \$45,102,262. Our audit found that:

- Six LEAs sole-sourced a portion of their project costs, resulting in unallowable costs of \$9,537,047;
- Twelve LEAs and four CCDs did not identify the projected energy savings in the awarded contracts, and four LEAs did not have a signed contract;
- One LEA spent Proposition 39 funds on ineligible expenditures, resulting in unallowable costs of \$3,034; and
- Nine LEAs submitted their final project completion reports after the deadline.

We also identified an issue that is not significant to the audit objectives, but warrants the attention of management. Specifically, we found that two LEAs with unused planning funds properly applied the funds to program implementation. However, as the funds were not included in the LEAs' approved energy expenditure plans (EEPs), the amount of Proposition 39 funds paid to these LEAs exceeded their approved EEPs by \$232,713.

A separate summary of the audit results for the 17 LEAs and four CCDs selected for audit is included as an Appendix to this report.

Background

The California Clean Energy Jobs Act was created with the approval of Proposition 39 (Chapter 29, Statutes of 2013) in the November 2012 statewide election. The statute changed the corporate income tax code to allocate projected revenue from the General Fund to the Clean Energy Job Creation Fund for five fiscal years, beginning with fiscal year (FY) 2013-14. Under the initiative, it is estimated that up to \$550 million is available annually to be appropriated by the California State Legislature for purposes of funding eligible projects that create jobs in California while improving energy efficiency and expanding clean energy generation.

Senate Bill 73 requires that 89% of the funds deposited annually into the Clean Energy Job Creation Fund be made available to LEAs for energy efficiency and clean energy projects, and 11% be made available to CCDs for energy efficiency and clean energy projects.

An eligible energy project is an installation at or modification to a school site that improves energy efficiency or expands clean energy generation. Energy efficiency measures include heating, ventilation, and air conditioning (HVAC) system retrofits and various interior and exterior retrofits; clean energy generation measures include photovoltaic (solar) panels. All facilities within an LEA are eligible for Proposition 39 program funding.

Citizens Oversight Board

Proposition 39 also established the Citizens Oversight Board (COB) to review expenditures, audit the Clean Energy Job Creation Fund, and maintain transparency and accountability of the Fund. Members of the COB are appointed by the California Treasurer, Attorney General, and State Controller with two ex officio members from the California Energy Commission (CEC) and the California Public Utilities Commission (CPUC).

California Department of Education

The California Department of Education (CDE) is responsible for distributing Proposition 39 funding to LEAs that serve grade K-12 students. CDE allocates funds based on the following formula:

- 85% based on average daily attendance reported as of the second principal apportionment for the prior year (P-2); and
- 15% based on the number of students eligible for free and reduced-priced meals in the prior year.

These funds may be used by LEAs for energy efficiency and clean energy projects, as well as related energy planning, energy training, and energy management. LEAs are required to submit an EEP to the CEC for consideration and approval. An EEP includes a technical description and project specifications for the proposed eligible energy measures. Funds are released to an LEA only after the CEC approves the EEP.

LEAs with prior-year average daily attendance of 1,000 or lower are eligible to receive funding for both the current year and the following year in the current year. LEAs that select this option do not receive a funding allocation in the following year.

LEAs whose first year of eligibility was FY 2013-14 also had the option of requesting a portion of that year's award allocation for energy planning activities without submitting an EEP to the CEC. The energy planning funds can be spent only on the following four activities:

- Energy audits and energy surveys/assessments;
- Proposition 39 program assistance;
- Hiring or retaining an energy manager; and
- Energy-related training.

Any unused energy planning funds must be applied toward implementing energy projects from an LEA's approved EEP.

California Energy Commission

The CEC is the primary state agency responsible for energy policy and planning. Public Resources Code (PRC) section 26235(a) requires the CEC to establish guidelines in consultation with the State Superintendent of Public Instruction, the Chancellor of the California Community Colleges, and the CPUC.

On December 19, 2013, the CEC adopted the *Proposition 39: California Clean Energy Jobs Act – 2013 Program Implementation Guidelines* (Proposition 39 Program Implementation Guidelines). These guidelines provide direction to LEAs on the types of awards and the required proposals, explain the screening and evaluation criteria, describe the standards to be used to evaluate project proposals, and outline the award process.

Included in Proposition 39 Program Implementation Guidelines is a savings-to-investment ratio (SIR) calculation. To be approved for Proposition 39 funding, the eligible energy project must achieve a SIR above 1.0. For example, for every dollar invested in the eligible energy project, the LEA must accrue over \$1 in savings. The SIR calculation is based on the present value of the savings divided by project installation costs, subtracting rebates and other grant funding sources. The Proposition 39 Program Implementation Guidelines also include a formula for estimating job creation benefits, pursuant to PRC section 26235(e)(10).

The CEC also developed the *Proposition 39: California Clean Energy Jobs Act – 2015 Energy Expenditure Plan Handbook* (EEP Handbook), which includes step-by-step instructions to assist LEAs in completing the required forms.

California Community Colleges Chancellor's Office

The California Community Colleges Chancellor's Office (CCCCO) is the state agency that oversees the California community college system. The CCCCCO is responsible for distributing Proposition 39 funding to individual CCDs. The funds may be used by CCDs for energy efficiency and alternative energy projects, along with related improvements and repairs, that contribute to reducing operating costs and improving health and safety conditions in the community college system.

The CCCCCO developed its *Proposition 39: Clean Energy Jobs Act of 2012 – California Community Colleges Energy Project Guidance* (Energy Project Guidance) to assist CCDs with implementing projects that meet the Proposition 39 requirements. Projects must be consistent with the State's energy loading order, which guides the State's energy policies and decisions according to the following priority order: 1) decreasing electricity demand by increasing energy efficiency and reducing energy usage in periods of high demand or cost, 2) meeting new energy supply needs with renewable resources, and 3) meeting new energy generation needs with clean fossil-fuel generation.

CCDs have been pursuing and implementing energy efficiency and renewable energy projects for many years through such programs as the CPUC-administered California Community Colleges/Investor Owned Utilities Energy Efficiency Partnership. This public-private partnership has been working on behalf of CCDs since 2006 and has aggressively reduced energy usage, resulting in over \$12 million in costs savings for the community college system.

Audit Authority

Government Code section 12410 and PRC section 26210 provide the legal authority to conduct this audit.

Government Code section 12410 states that the Controller shall superintend the fiscal concerns of the State and audit the disbursement of any state money for correctness, legality, and for sufficient provisions of law for payment.

The SCO's interagency agreement with the COB, pursuant to PRC section 26210(d)(2), commissions the SCO to review a selection of completed projects to assess the effectiveness of the expenditures in meeting the objectives of the California Clean Energy Jobs Act.

Objectives, Scope, and Methodology

On July 17, 2019, we entered into an agreement with the COB to conduct an audit of a selection of completed projects (80% LEA projects and 20% CCD projects) to evaluate their effectiveness in meeting the objectives of the Clean Energy Job Creation Fund's program guidelines. We selected 17 LEAs and four CCDs for audit. We did not audit their financial statements.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To achieve our audit objectives for the LEA K-12 Proposition 39 Program, we selected 17 of 212 LEAs with project costs totaling \$37,700,150 and determined whether:

- Planning funds were expended in accordance with program requirements and unused planning funds were applied towards implementing eligible energy projects approved by the CEC;
- The LEA submitted an EEP to the CEC consistent with the LEA's priority of eligible projects;
- The CEC approved the EEP in compliance with the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook;

- The approved EEP included:
 - A signed utility data release form from the LEA allowing the CEC to access both historical and future utility billing data;
 - A benchmarking process established by the CEC to determine a prioritized plan for implementing the eligible energy projects;
 - An identification of eligible energy projects according to any one of the three methods available to LEAs (these include an energy survey; an American Society of Heating, Refrigerating and Air-Conditioning Engineering Level 2 energy audit; or data analytics);
 - A SIR that adheres to the cost-effectiveness determination set forth by the CEC; and
 - A job-creation benefits estimation that adheres to the formula set forth by the CEC.
- The final report to the CEC contained the information outlined in PRC section 26240, subdivision (b), paragraphs (1) through (7);
- The LEA did not use a sole-source process to award funds;
- The LEA had a signed contract that identified project specifications, costs, and projected energy savings;
- The LEA supported project costs; and
- The LEA paid back Proposition 39 funds if the project was torn down, remodeled, or deemed surplus and sold prior to the payback of the project.

Errors found in the selected samples were not projected to the intended (total) population.

To achieve our audit objectives for the CCD Proposition 39 Program, we selected four of 59 CCDs with completed project costs totaling \$7,402,112 and determined whether:

- The CCD submitted a Proposition 39 Funding Application to the CCCCCO, and the CCCCCO approved the application consistent with its *Proposition 39: Clean Energy Jobs Act of 2012 – California Community Colleges Proposition 39 Implementation Guidelines* (issued in May 2013 and revised in April 2015);
- The CCD submitted a Call for Projects form that identified projects as energy efficiency or renewable energy generation;
- The Proposition 39 Close-out Project Completion form and the Annual Project Expenditure Report submitted to the CCCCCO contained the following information:
 - The estimated amount of energy saved, accompanied by specific energy consumption and utility bill cost data for the individual facility where the project is located;
 - The nameplate rating of the new clean energy generation method installed;
 - The number of trainees resulting from the project;
 - The amount of time between awarding financial assistance and completing the project or training activities;

- The entity's energy intensity before and after project completion, as determined by an energy rating or benchmark system; and
- The number of direct full-time equivalent employees created by each project and the average number of months or years of utilization of each of these employees.
- The CCD did not use a sole-source process to award funds;
- The CCD had a signed contract that identified project specifications, costs, and projected energy savings;
- The CCD supported project costs; and
- The CCD paid back the Proposition 39 Program funds if the project was torn down, remodeled, or deemed surplus and sold prior to the payback of the project.

Errors found in the selected samples were not projected to the intended (total) population.

Conclusion

As a result of conducting the audit procedures, we found instances of noncompliance with the audit objectives outlined in the Objectives, Scope, and Methodology section. These instances are quantified in the Schedules and described in the Findings and Recommendations section of this report.

We selected 17 LEAs and four CCDs with completed projects for audit. These 21 agencies reported total completed project costs of \$45,102,262 (\$37,700,150 for LEAs and \$7,402,112 for CCDs). Our audit found:

- Six LEAs sole-sourced a portion of their project costs, resulting in unallowable costs of \$9,537,047;
- Twelve LEAs and four CCDs did not identify the projected energy savings in the awarded contracts, and four LEAs did not have a signed contract;
- One LEA spent Proposition 39 funds on ineligible expenditures, resulting in unallowable costs of \$3,034; and
- Nine LEAs submitted their final project completion reports after the deadline.

We also identified an issue that is not significant to the audit objectives, but warrants the attention of management. Specifically, we found that two LEAs with unused planning funds properly applied the funds to program implementation. However, as these funds were not included in the LEAs' approved EEPs, the amount of Proposition 39 funds paid to these LEAs exceeded their approved EEPs by \$232,713. This issue is described in the Observation and Recommendation section of this report.

**Follow-up on
Prior Audit
Findings**

We previously conducted an audit of 16 LEAs and three CCDs with projects completed between July 1, 2017, and June 30, 2018, and issued an audit report on June 28, 2019. The report found that:

- Seven LEAs and three CCDs sole-sourced a portion of their project costs, resulting in unallowable costs of \$3,013,770;
- Ten LEAs and three CCDs did not identify the projected energy savings in the awarded contracts;
- One LEA and one CCD spent Proposition 39 funds on ineligible expenditures, resulting in unallowable costs of 19,579 (\$27,654 less \$8,075 that was also sole-sourced);
- Five LEAs submitted their final project completion reports after the deadline; and
- Four LEAs with unused planning funds properly applied them to program implementation. However, as these funds were not included in their approved EEPs, the amount of Proposition 39 funds paid to these LEAs exceeded their approved EEPs by \$26,238.

The 17 LEAs and four CCDs selected for the current audit were not previously audited under the Proposition 39 Program. However, we found that the current audit identifies the same issues noted in prior audit reports.

**Views of
Responsible
Officials**

We discussed our audit results with representatives of the 17 LEAs and four CCDs selected for testing during audit fieldwork and via email at the end of the audit. All responses to the findings have been included in the LEA's or CCD's respective section of the Appendix; and all formal responses received on letterhead have been included as an Attachment to this report.

Restricted Use

This report is solely for the information and use of the COB, the CDE, the CEC, the CCCC, Brisbane School District, Cajon Valley Union School District, Chaffey Community College District, Corona-Norco Unified School District, Fort Bragg Unified School District, Grizzly Challenge Charter School, Lemoore Union High School District, McSwain Union Elementary School District, Nestor Language Academy Charter School, Norwalk-La Mirada Unified School District, Panama-Buena Vista Union School District, Penn Valley Union Elementary School District, Saddleback Valley Unified School District, Sierra Joint Community College District, Siskiyou County Office of Education, State Center Community College District, Stockton Unified School District, West Contra Costa Unified School District, William S. Hart Union High School District, Yosemite Community College District, and SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record, and is available on the SCO website at <https://www.sco.ca.gov>.

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

June 30, 2020

**Schedule 1—
Total Completed Proposition 39 Program Costs
for Local Educational Agencies
July 1, 2018, through June 30, 2019**

Local Educational Agency	Program Implementation	Planning Funds ¹	Total	Amount Unallowable	Reference ²
<u>Completed projects selected for audit:</u>					
Brisbane School District	\$ 218,044	\$ 41,194	\$ 259,238	\$ (56,822)	Finding 1, 2, 4
Cajon Valley Union School District	3,927,181	-	3,927,181	-	Finding 2
Corona-Norco Unified School District	8,588,274	-	8,588,274	-	Finding 4
Fort Bragg Unified School District	586,437	-	586,437	-	Finding 2
Grizzly ChalleNGe Charter School	249,680	11,577	261,257	-	
Lemoore Union High School District	546,344	22,297	568,641	-	Finding 2, 4
McSwain Union Elementary School	253,487	19,800	273,287	(46,950)	Finding 1, 2
Nestor Language Academy Charter	290,230	-	290,230	-	Finding 2, 4
Norwalk-La Mirada Unified School District	4,258,041	289,023	4,547,064	(23,478)	Finding 1, 2, 3
Panama-Buena Vista Union School District	3,406,613	124,191	3,530,804	-	Finding 2
Penn Valley Union Elementary School District	270,717	105,292	376,009	-	Finding 2
Ralph A. Gates Elementary School	262,577	-	262,577	(262,577)	Finding 1, 2, 4
Saddleback Valley Unified School District (EEP Nos. 1164, 1440, 2033)	4,753,967	1,062,261	5,816,228	(5,418,069)	Finding 1, 2, 4
Siskiyou County Office of Education	149,071	-	149,071	-	Finding 2
Stockton Unified School District (EEP No. 2365)	2,223,853	200,000	2,423,853	-	Finding 4
West Contra Costa Unified School District	1,634,936	195,097	1,830,033	-	Finding 2, 4
William S. Hart Union High School District	3,732,185	277,781	4,009,966	(3,732,185)	Finding 1, 4
Total, completed projects selected for audit	<u>\$ 35,351,637</u>	<u>\$ 2,348,513</u>	<u>\$ 37,700,150</u> ³	<u>\$ (9,540,081)</u>	
<u>Completed projects not selected for audit:</u>					
Academies of the Antelope Valley	\$ 149,716	\$ -	\$ 149,716		
Acalanes Union High School District	58,600	130,000	188,600		
Acton-Agua Dulce Unified	261,136	-	261,136		
Alpine Union Elementary	532,501	5,850	538,351		
Alview-Dairyland Union Elementary	160,000	10,783	170,783		
Alvord Unified School District (EEP No. 110)	4,442,149	289,676	4,731,825		
Alvord Unified School District (EEP No. 5007)	158,516	17,860	176,376		
Architecture, Construction & Engineering Charter High (ACE)	155,546	4,611	160,157		
Arena Union Elementary	220,673	30,000	250,673		
Arvin Union School District	823,300	-	823,300		
Atwater Elementary School District	988,246	-	988,246		
Bellevue Union Elementary School District (EEP No. 1598)	324,546	116,000	440,546		
Bellevue Union Elementary School District (EEP No. 1820)	22,880	116,467	139,347		
Bert Corona Charter	246,754	5,190	251,944		
Big Springs Union Elementary (EEP No. 4980)	85,211	-	85,211		
Big Springs Union Elementary (EEP No. 5547)	91,653	-	91,653		
Big Valley Joint Unified School District	228,785	15,919	244,704		
Biggs Unified School District	219,990	39,008	258,998		
Black Oak Mine Unified School District	535,077	-	535,077		
Blake Elementary	41,684	15,032	56,716		
Bonny Doon Elementary	133,620	11,832	145,452		
Bonsall Unified School District	311,575	2,038	313,613		
BRIDGES Charter	201,941	50,729	252,670		
Burrel Union Elementary School District	250,699	7,227	257,926		
Byron Union Elementary School District	513,264	21,386	534,650		
Cabrillo Unified School District	6	25,000	25,006		
Calipatria Unified School District	11,622	8,500	20,122		

Schedule 1 (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total
<u>Completed projects not selected for audit (continued):</u>			
Calistoga Joint Unified School District	\$ 90,577	\$ 15,000	\$ 105,577
Campbell Union High School District	1,215,269	83,000	1,298,269
Capistrano Unified School District	2,490,333	70,873	2,561,206
Cecil Avenue Math & Science Academy	243,156	60,789	303,945
Center Joint Unified School District	414,379	-	414,379
Central Unified School District	3,565,907	215,930	3,781,837
Charter Alternatives Academy	230,718	-	230,718
Charter School of Morgan Hill	175,684	11,500	187,184
Chino Valley Unified School District	1,111,510	39,000	1,150,510
Chula Vista Elementary School District	2,380,896	-	2,380,896
Chula Vista Elementary School District – Arroyo Vista Charter	19,332	-	19,332
Chula Vista Elementary School District – Discovery Charter	36,691	-	36,691
Coachella Valley Unified School District	214,828	-	214,828
College Preparatory Middle	151,435	25,361	176,796
Colusa County Office of Education	64,420	11,000	75,420
Community Roots Academy	250,000	-	250,000
Conejo Valley Unified School District	1,419,798	143,555	1,563,353
Covina-Valley Unified School District (EEP No. 1478)	2,609,027	186,884	2,795,911
Covina-Valley Unified School District (EEP No. 2233)	483,594	-	483,594
Credo High School	131,102	-	131,102
Cypress Charter High School	12,621	-	12,621
Cypress Elementary (EEP No. 1466)	343,834	-	343,834
Cypress Elementary (EEP No. 1621)	347,000	52,606	399,606
Da Vinci Charter Academy	100,467	-	100,467
Davis Joint Unified	239,766	127,429	367,195
Dehesa Elementary	247,773	7,650	255,423
Del Vista Math & Science Academy	233,988	58,497	292,485
Denair Charter Academy (EEP No. 1751)	182,477	-	182,477
Denair Charter Academy (EEP No. 2037)	17,782	-	17,782
Dunsmuir Joint Union High School District	63,740	-	63,740
Durham Unified School District	272,434	-	272,434
Earlimart Elementary	630,945	-	630,945
Eastside Union Elementary School District (EEP No. 527)	561,038	130,000	691,038
Eastside Union Elementary School District (EEP No. 899)	180,291	130,000	310,291
Eel River Charter School	44,644	2,500	47,144
El Monte City School District	2,017,022	144,797	2,161,819
El Segundo Unified School District	60,421	130,000	190,421
Encinitas Union Elementary School District	1,115,508	-	1,115,508
Escondido Union High School District	223,831	105,000	328,831
Eureka City Unified School District	179,572	17,102	196,674
Fallbrook Union Elementary School District	450,741	15,068	465,809
Feaster (Mae L.) Charter	64,575	-	64,575
Fowler Unified School District	624,113	-	624,113
Galt Joint Union High School District	497,165	29,145	526,310
Gateway Unified School District	529,477	70,000	599,477
George Washington Charter	270,020	-	270,020
Gerber Union Elementary School District	219,425	13,744	233,169
Geyserville Unified School District	21,168	51,000	72,168
Gilroy Prep School (Navigators School)	139,388	21,525	160,913
Glendora Unified School District	685,468	25,000	710,468
Global Youth Charter School	85,188	-	85,188
Golden Plains Unified School District	492,082	127,584	619,666
Gorman Elementary	134,162	-	134,162
Grass Valley Charter	22,800	46,015	68,815
Guadalupe Union Elementary School District	265,776	35,180	300,956
Guerneville Elementary	261,898	-	261,898

Schedule 1 (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total
<u>Completed projects not selected for audit (continued):</u>			
Hanford Elementary School District	\$ 1,315,435	\$ 130,000	\$ 1,445,435
Hanford Joint Union High School District	473,307	47,475	520,782
Happy Camp Union Elementary School District	184,441	-	184,441
Happy Valley Elementary (EEP No. 410)	129,960	18,106	148,066
Happy Valley Elementary (EEP No. 1866)	38,622	39,846	78,468
Hayward Unified School District	4,352,338	-	4,352,338
Heber Elementary	573,934	-	573,934
Hesperia Unified School District	223,168	260,000	483,168
Hickman Community Charter	515,593	9,841	525,434
High Tech High	254,677	10,000	264,677
High Tech Middle	244,696	15,000	259,696
Hughson Unified School District (EEP No. 1750)	86,410	-	86,410
Hughson Unified School District (EEP No. 2012)	80,000	-	80,000
Huntington Beach City School District	1,478,866	-	1,478,866
Huntington Beach Union High School District	3,229,831	206,159	3,435,990
iLEAD Lancaster Charter	200,913	50,475	251,388
Imperial Beach Charter School	289,782	-	289,782
Intermountain STEM Academy Charter	30,050	-	30,050
Jefferson Charter Academy	155,862	-	155,862
Junction Elementary	35,469	15,301	50,770
Jurupa Unified School District	1,906,727	-	1,906,727
Kern County Office of Education (EEP No. 5557)	100,535	-	100,535
Kern County Office of Education (EEP No. 5562)	112,335	-	112,335
Kern County Office of Education (EEP No. 5563)	121,202	2,500	123,702
Keyes to Learning Charter School	162,144	2,804	164,948
Keyes Union School District	297,184	3,620	300,804
Klamath River Union Elementary School District	60,394	9,450	69,844
La Canada Unified School District	148,036	76,204	224,240
Laguna Beach Unified School District	552,927	60,000	612,927
Lake Elsinore Unified School District (EEP No. 670)	1,546,664	152,351	1,699,015
Lake Elsinore Unified School District (EEP No. 1535)	901,947	302,138	1,204,085
Lake Elsinore Unified School District (EEP No. 1838)	2,509,249	302,138	2,811,387
Lake Tahoe Unified School District (EEP No. 1671)	763,154	-	763,154
Lake Tahoe Unified School District (EEP No. 3791)	150,532	-	150,532
Lakeside Union Elementary School District	1,044,852	11,000	1,055,852
Lammersville Joint Unified School District	697,868	24,190	722,058
Latrobe School District	229,791	20,763	250,554
Leadership Public Schools – Hayward	170,589	14,504	185,093
Learning Choice Academy	246,330	29,746	276,076
Leggett Valley Unified School District	182,714	50,855	233,569
Lennox School District	40,630	130,000	170,630
Liberty Elementary	110,000	50,000	160,000
Literacy First Charter School	273,853	2,000	275,853
Mammoth Unified School District	434,756	109,341	544,097
Maria Montessori Charter Academy	255,355	1,800	257,155
McFarland Unified School District	749,073	130,000	879,073
Meadows Arts and Technology Elementary	199,361	50,317	249,678
Meadows Union Elementary School District	275,183	-	275,183
Mendocino Unified School District	263,968	-	263,968
Menifee Union Elementary School District	2,182,863	-	2,182,863
Merced Union High School District	2,524,893	-	2,524,893
Middletown Unified School District	515,088	44,518	559,606
Modoc County Office of Education	78,036	-	78,036
Monterey Bay County Office of Education – Monterey Bay Charter	86,560	-	86,560
Morgan Hill Unified School District	1,853,893	55,000	1,908,893

Schedule 1 (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total
<u>Completed projects not selected for audit (continued):</u>			
Mountain View Elementary School District	\$ 1,871,427	\$ 8,455	\$ 1,879,882
Mountain View Los Altos High School District	659,376	-	659,376
Multicultural Learning Center	243,731	23,572	267,303
Natomas Pacific Pathways Prep	201,053	53,299	254,352
Natomas Pacific Pathways Prep Middle	196,964	53,073	250,037
Natomas Unified School District	2,158,532	130,000	2,288,532
Nevada City School of the Arts	217,936	45,236	263,172
Newhall School District	1,471,329	58,199	1,529,528
Nicasio School	12,785	-	12,785
Nueva Vista Language Academy	248,284	62,071	310,355
Ontario-Montclair School District (EEP No. 1438)	870,984	206,560	1,077,544
Ontario-Montclair School District (EEP No. 1439)	1,009,806	206,560	1,216,366
Orange Center School District	208,825	54,820	263,645
Pacific Elementary School District	70,367	50,349	120,716
Pierce Joint Unified School District	568,917	-	568,917
Pioneer Union Elementary School District	535,425	-	535,425
Placer Union High School District	431,657	130,000	561,657
Plumas Lake Elementary School District	498,398	33,595	531,993
Point Area Joint Union High School	228,045	30,000	258,045
Quail Lake Environmental Charter	259,573	-	259,573
Ravendale-Termo Elementary School District	19,422	15,032	34,454
Red Bluff Joint Union High School District	509,251	46,004	555,255
Redlands Unified School District	1,912,724	15,000	1,927,724
Rio Elementary School District	518,013	130,000	648,013
Ripon Unified School District	609,743	47,775	657,518
Roseville City Elementary School District	639,178	58,500	697,678
Ross Valley Elementary School District	72,251	-	72,251
Salida Union School District	622,815	25,445	648,260
San Benito High School District	686,029	-	686,029
San Dieguito Union High School District	1,165,482	145,004	1,310,486
San Francisco Unified School District	225,347	686,419	911,766
San Juan Unified School District (EEP No. 2055)	1,933,763	147,527	2,081,290
San Juan Unified School District (EEP No. 2139)	2,105,612	400,049	2,505,661
San Luis Coastal Unified School District	168,000	5,000	173,000
San Marino Unified School District (EEP No. 2141)	146,986	60,700	207,686
San Marino Unified School District (EEP No. 5600)	445,250	60,700	505,950
San Pasqual Union Elementary School	251,250	6,250	257,500
San Ysidro Elementary School District	1,269,426	-	1,269,426
Santa Clarita Valley International	248,759	15,000	263,759
Santa Paula Unified School District	1,273,321	130,000	1,403,321
Saucelito Elementary School District	79,532	-	79,532
School of Arts and Enterprise	283,031	-	283,031
Shasta Union High School District	831,768	130,000	961,768
Sixth Street Prep	212,305	52,847	265,152
Sonora Union High School District	391,690	41,040	432,730
Soquel Union Elementary School District	155,309	-	155,309
South Bay Union School District	1,395,548	22,117	1,417,665
Stockton Unified School District (EEP No. 5269)	1,758,994	20,000	1,778,994
Sulphur Spring Union School District (EEP No. 1093)	613,707	54,254	667,961
Sulphur Spring Union School District (EEP No. 2319)	614,212	130,000	744,212
Sycamore Academy of Science and Cultural Arts	250,432	-	250,432
Sylvan Union Elementary School District (EEP No. 5173)	1,661,419	107,500	1,768,919
Sylvan Union Elementary School District (EEP No. 5223)	143,075	-	143,075
Temecula Valley Unified School District	584,185	-	584,185
Templeton Unified School District	520,026	-	520,026
Today's Fresh Start – Compton	22,263	25,000	47,263

Schedule 1 (continued)

Local Educational Agency	Program Implementation	Planning Funds ¹	Total
<u>Completed projects not selected for audit (continued):</u>			
Torrance Unified School District (EEP No. 195)	\$ 531,710	\$ -	\$ 531,710
Torrance Unified School District (EEP No. 708)	1,091,573	-	1,091,573
Tulare City School District	2,424,400	-	2,424,400
Val Verde Unified School District	79,960	123,910	203,870
Valley Center-Pauma Unified School District (EEP No. 1429)	812,215	-	812,215
Valley Center-Pauma Unified School District (EEP No. 5501)	143,229	-	143,229
Valley Home Joint Elementary	213,657	14,355	228,012
Valley Life Charter School	216,821	47,378	264,199
Valley Oaks Charter School	68,487	2,862	71,349
Vantage Point Charter School	20,192	-	20,192
Vaughn Next Century Learning Center	523,655	16,872	540,527
Victor Valley Union High School District	2,455,473	-	2,455,473
Wasco Union Elementary School District	544,719	24,897	569,616
Washington Colony Elementary School District	263,808	11,128	274,936
Washington Unified School District	540,122	51,128	591,250
West Park Elementary School District	241,162	31,724	272,886
Westmorland Union Elementary School District	26,650	55,019	81,669
Westside Elementary School District	261,856	24,431	286,287
Willow Creek Elementary School	69,000	8,000	77,000
Wilsona Elementary School District	591,252	-	591,252
Wiseburn Unified School District	471,879	72,000	543,879
Woodville Union Elementary School District	273,561	-	273,561
Yuba County Office of Education	249,609	52,852	302,461
	<u>124,367,508</u>	<u>9,822,792</u>	<u>134,190,300</u>
Total, completed projects not selected for audit			
Total completed projects	<u>\$ 159,719,145</u>	<u>\$ 12,171,305</u>	<u>\$ 171,890,450</u>

¹ The planning funds are requested directly from CDE before an EEP is submitted.

² See the Findings and Recommendations section.

³ We tested 100% of the costs reported, totaling \$37,700,150, for the 17 LEAs selected for audit.

**Schedule 2—
Total Completed Proposition 39 Program Costs
for Community College Districts
July 1, 2018, through June 30, 2019**

Community College District	Program Implementation	Amount Unallowable	Reference ¹
<u>Completed projects selected for audit:</u>			
Chaffey Community College District	\$ 1,538,729	\$ -	Finding 2
Sierra Joint Community College District	1,253,188	-	Finding 2
State Center Community College District	1,914,406	-	Finding 2
Yosemite Community College District	2,695,789	-	Finding 2
Total, completed projects selected for audit	<u>\$ 7,402,112</u> ²	<u>\$ -</u>	
<u>Completed projects not selected for audit:</u>			
Antelope Valley Community College District	\$ 234,826		
Barstow Community College District	159,975		
Butte-Glenn Community College District	40,990		
Cabrillo Community College District	550,936		
Cerritos Community College District	1,470,044		
Chabot-Las Positas Community College District	2,053,362		
Citrus Community College District	839,319		
Coast Community College District	1,710,569		
Contra Costa Community College District	2,776,435		
El Camino Community College District	786,073		
Feather River Community College District	130,267		
Foothill-De Anza Community College District	826,430		
Gavilan Joint Community College District	298,371		
Glendale Community College District	543,535		
Grossmont-Cuyamaca Community College District	1,341,956		
Hartnell Community College District	920,224		
Imperial Community College District	126,623		
Kern Community College District	782,127		
Lake Tahoe Community College District	119,003		
Long Beach Community College District	17,026		
Los Angeles Community College District	3,134,580		
Los Rios Community College District	5,317,817		
Marin Community College District	546,337		
Mendocino-Lake Community College District	4,483		
Merced Community College District	340,627		
MiraCosta Community College District	1,046,999		
Monterey Peninsula Community College District	724,324		
Mt. San Antonio Community College District	3,929,543		
North Orange County Community College District	2,070,983		
Ohlone Community College District	293,269		
Palo Verde Community College District	88,824		

Schedule 2 (continued)

Community College District	Program Implementation
<u>Completed projects not selected for audit (continued):</u>	
Palomar Community College District	\$ 1,937,058
Pasadena Area Community College District	1,606,122
Peralta Community College District	714,545
Rancho Santiago Community College District	655,628
Redwoods Community College District	42,709
Riverside Community College District	1,496,915
San Bernardino Community College District	1,192,463
San Diego Community College District	3,357,028
San Joaquin Delta Community College District	370,733
San Jose/Evergreen Community College District	1,035,205
San Mateo County Community College District	1,207,246
Santa Barbara Community College District	1,312,752
Santa Clarita Community College District	1,142,432
Santa Monica Community College District	799,174
Sequoias Community College District	719,566
Shasta-Tehama-Trinity Joint Community College District	94,803
Siskiyou Community College District	92,574
Sonoma County Junior College District	1,631,415
South Orange County Community College District	1,793,701
Southwestern Community College District	751,300
Ventura County Community College District	2,459,989
Victor Valley Community College District	690,936
West Hills Community College District	494,639
Yuba Community College District	<u>758,732</u>
Total, completed projects not selected for audit	<u>\$ 59,583,542</u>
Total completed projects	<u><u>\$ 66,985,654</u></u>

¹See the Findings and Recommendations section.

²We tested 100% of the costs reported, totaling \$7,402,112, for the four CCDs selected for audit.

Findings and Recommendations

**FINDING 1—
Sole-sourced project costs**

We found that six LEAs sole-sourced a portion of their project costs, totaling \$9,537,047, as follows:

Local Education Agency	Contract Amount
Brisbane School District	\$ 56,822
McSwain Union Elementary School District	46,950
Norwalk-La Mirada Unified School District	20,444
Ralph A. Gates Elementary School	262,577
Saddleback Valley Unified School District (EEP Nos. 1164, 1440, 2033)	5,418,069
William S. Hart Union High School District	3,732,185
Total	<u>\$ 9,537,047</u>

These six LEAs did not provide supporting documentation to show that they considered other vendors before awarding contracts.

PRC section 26235(c) states, in part, “A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter.”

We have interpreted the requirement to “not use a sole source process to award funds” as the necessity for a competitive process. Competitive processes improve cost-effectiveness, prevent favoritism, and make the procurement process transparent.

For the Proposition 39 program, LEAs hired contractors to perform critical functions for energy upgrades. However, despite their reliance on contractors, these LEAs and CCDs used noncompetitive processes to contract for these vital services and, thus, did not ensure the cost-effectiveness of these services.

Recommendation

We recommend that the CDE take appropriate action in response to funds paid to LEAs that did not meet the sole-source requirement.

No additional recommendation for LEAs is applicable to this finding, as the Proposition 39 program has ended.

LEAs’ Response

We notified the six LEAs of this finding during audit fieldwork and at the end of the audit via email. Findings and Recommendations for individual LEAs are included in the Appendix. All responses to the findings have been included in the LEA’s respective section of the Appendix; and all formal responses received on letterhead have been included as an Attachment to this report.

**FINDING 2—
Projected energy
savings not
identified and/or
no signed contracts**

We found that 12 LEAs and four CCDs did not identify the required projected energy savings in the awarded contracts. In addition, four LEAs did not have signed contracts. The table below summarizes this finding:

<u>Local Educational Agency</u>	<u>Projected Energy Savings Not Identified</u>	<u>No Signed Contract</u>
Brisbane School District ¹	X	X
Cajon Valley Union School District	X	
Fort Bragg Unified School District	X	
Lemoore Union High School District	X	
McSwain Union Elementary School District ²	X	X
Nestor Language Academy Charter	X	
Norwalk-La Mirada Unified School District ³		X
Panama-Buena Vista Union School District	X	
Penn Valley Union Elementary School District	X	
Ralph A. Gates Elementary School	X	
Saddleback Valley Unified School District ⁴	X	X
Siskiyou County Office of Education	X	
West Contra Costa Unified School District	X	
<u>Community College District</u>		
Chaffey Community College District	X	
Sierra Joint Community College District	X	
State Center Community College District	X	
Yosemite Community College District ⁵	X	

¹ For Brisbane School District, we found that the district did not have signed contracts for two vendors.

² For McSwain Union Elementary School District, we found that the district did not have signed contracts for two vendors.

³ For Norwalk-La Mirada Unified School District, we found that the district did not have a signed contract for one vendor.

⁴ For Saddleback Valley Unified School District, we found that the district did not have signed contracts for two vendors. In addition, one of the three awarded contracts did not identify the required projected energy savings.

⁵ For Yosemite Community College District, we found that two of the six awarded contracts did not identify the required projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation for LEAs and CCDs is applicable to this finding, as the Proposition 39 program has ended.

LEAs’ and CCDs’ Response

We notified the affected LEAs and CCDs of this finding during audit fieldwork and at the end of the audit via email. Findings and Recommendations for individual LEAs and CCDs are included in the Appendix. All responses to the finding have been included in the LEA or CCD’s respective section of the Appendix; and all formal responses received on letterhead have been included as an Attachment to this report.

**FINDING 3—
Proposition 39 funds
applied to ineligible
expenditures**

We found that one LEA applied Proposition 39 funds to project costs not approved by the CEC, resulting in ineligible costs of \$3,034.

Norwalk-La Mirada Unified School District

We reviewed the invoices from Sunbelt Controls (\$1,980), California Coalition (\$274), and School Energy Coalition (\$780) for conferences, seminars, and memberships. We determined that these services/activities were not related to the approved project costs in the district’s EEP. Therefore, we found that \$3,034 for conferences, seminars, and memberships is ineligible for Proposition 39 funding.

The district self-certified in its EEP that “The LEA commits to use the funds for the eligible energy project(s) approved in its energy expenditure plan.”

The CEC’s Proposition 39 Program Implementation Guidelines state, “LEAs can only use Proposition 39 funding for the eligible energy projects approved in their energy expenditure plans.”

Recommendation

We recommend that the CDE take appropriate action in response to ineligible project costs.

No recommendation for Norwalk-La Mirada Unified School District is applicable to this finding, as the Proposition 39 program has ended.

LEA’s Response

We informed the district of the audit finding via email on March 10, 2020. Estuardo A. Santillan, Assistant Superintendent, Business Services, responded via email on April 13, 2020, stating that SCO may move forward with the audit exceptions and finalize the audit.

**FINDING 4—
Final project
completion reports
submitted after the
deadline**

We found that nine LEAs submitted their final project completion report after the deadline. Each LEA is required to submit a final project completion report to the CEC 12 to 15 months after the EEP is completed. An EEP is considered complete when the LEA has completed all measures in the approved EEP.

The following table identifies the number of months the final report was submitted *after* the project was completed:

<u>District</u>	<u>Months</u>
Brisbane School District	22
Corona-Norco Unified School District	16
Lemoore Union High School District	16
Nestor Language Academy Charter School	16
Ralph A. Gates Elementary School	20
Saddleback Valley Unified School District	23
Stockton Unified School District	26
West Contra Costa Unified School District	25
William S. Hart Union High School District	16

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board....To the extent practical, this report shall also contain information on any 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 or pursuant to subdivision (c) of Section 26227.2.
- (2) The estimated amount of energy saved, accompanied by specified energy consumption and utility bill cost data for the individual facility where the project is located, in a format to be specified by the Energy Commission.
- (3) The nameplate rating of new clean energy generation installed.
- (4) The number of trainees.
- (5) The number of direct full-time equivalent employees and the average number of months or years of utilization of each of these employees.
- (6) The amount of time between awarding of the financial assistance and the completion of the project or training activities.
- (7) The entity's energy intensity before and after project completion, as determined from an energy rating or benchmark system...

Recommendation

No recommendation for LEAs is applicable to this finding, as the Proposition 39 program has ended.

LEAs' Response

We notified the nine LEAs of this finding during audit fieldwork and at the end of the audit via email. Findings and Recommendations for individual LEAs are included in the Appendix. All responses to the finding have been included in the LEA's respective section of the Appendix; and all formal responses received on letterhead have been included as an Attachment to this report.

Observation and Recommendation

Unused planning funds

We found that two LEAs with unused planning funds properly applied the funds to program implementation. However, as these funds were not included in LEAs' approved EEPs, the amount of Proposition 39 funds paid to these LEAs exceeded their approved EEPs by \$232,713, as follows:

Local Educational Agency	Program	Planning	Total	Total	Unused
	Implementation	Funds	EEP Approved	CDE Apportionment	Planning Funds
			A	B	C = B - A
Nestor Language Academy Charter School	\$ 231,073	\$ 59,157	\$ 290,230	\$ 292,643	\$ 2,413
Saddleback Valley Unified School District	4,753,967	1,062,261	5,816,228	6,046,528	230,300
Total	\$ 4,985,040	\$ 1,121,418	\$ 6,106,458	\$ 6,339,171	\$ 232,713

We reviewed the districts' ledgers and found that these LEAs received funds in excess of the total amounts indicated in the EEPs approved by the CEC because these LEAs applied their unused planning funds to project implementation.

LEAs had the option of requesting planning funds for energy planning activities in FY 2013-14 without submitting an EEP to the CEC. The funds were intended to be used for planning activities for FY 2013-14 through FY 2017-18. Any unused planning funds can be applied toward implementing energy projects that are part of an approved EEP.

The two LEAs in our sample opted to either use only a portion or none of their planning funds, and were able to apply the remaining funds toward project implementation. However, the unspent planning funds were not included in an approved EEP. CDE releases program implementation funds based solely on the amounts requested in approved EEPs; as a result, these LEAs received program implementation funds in excess of their approved EEP amount.

PRC section 26235(f) states:

The Superintendent of Public Instruction shall not distribute funds to an LEA unless the LEA has submitted to the Energy Commission, and the Energy Commission has approved, an expenditure plan that outlines the energy projects to be funded. An LEA shall utilize a simple form expenditure plan developed by the Energy Commission. The Energy Commission shall promptly review the plan. ... A portion of the funds may be distributed to an LEA upon request for energy audits and other plan development activities prior to submission of the plan.

The CEC's Proposition 39 Program Implementation Guidelines state:

LEAs whose first year of eligibility was fiscal year 2013-14, the first year of the program, had the option of requesting a portion of that year's award allocation for energy planning activities in 2013-14 without submitting an energy expenditure plan(s) to the Energy Commission. This option was available only for the fiscal year 2013-14 award allocation of the Proposition 39 program and was intended to be used for planning activities for subsequent fiscal years (2013-14 through 2017-18).

The CEC's Proposition 39 Program Implementation Guidelines also state that "Any unused energy planning funds shall be applied toward implementing eligible energy project(s) approved as part of an LEA's energy expenditure plan(s)."

Recommendation

We recommend that:

- CDE take appropriate action in response to unused planning funds identified; and
- CDE and CEC account for unspent planning funds that were applied to program implementation without being included in an approved EEP.

CDE's Response

We initially communicated the results of our observation to a CDE representative via email on April 17, 2020. Derrick Andrade, Education Fiscal Services Consultant, responded by email on May 4, 2020, stating:

I was able to vouch your numbers and agree that the 2 districts audited had unused planning funds that should be returned to the state. However, I do not consider them to be "overpaid EEP funds" per the payment process established for this program, but rather "unused planning funds" that should be returned to the state. We will proceed to bill for return of unused planning funds once a finding is issued.

Appendix— Audit Results by Local Educational Agencies and Community College Districts

Local Educational Agencies

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Brisbane School District Proposition 39 Program

Background

The California Energy Commission (CEC) approved Brisbane School District’s EEP for \$218,044. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Brisbane Elementary	\$ 65,254	Kitchen, HVAC, HVAC controls, exterior lighting retrofit	\$ 6,979
Lipman Middle	86,499	Kitchen, HVAC controls, interior/exterior lighting retrofit, relamping	5,996
Panorama Elementary	66,291	Kitchen, HVAC, HVAC controls, interior/exterior lighting retrofit	5,511
Total	\$ 218,044		\$ 18,486

With these energy efficiency measures, the district reported a combined SIR of 1.29 and the creation of 1.22 direct job-years.

In addition, the district received \$41,194 in planning funds directly from the CDE, which it used for energy management services.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Sole-sourced project costs

We found that the district sole-sourced its contract with EnLight Energy Efficient Lighting, totaling \$36,278, for the lighting retrofit project. In addition, the district sole-sourced its contract with Myers Restaurant Supply, totaling \$20,544, for the replacement of three energy-efficient kitchen ovens. The district did not provide supporting documentation to show that it considered other vendors before awarding contracts to EnLight Energy Efficient Lighting and Myers Restaurant Supply. Therefore, we found that the district sole-sourced these Proposition 39 contracts, totaling \$56,822.

PRC section 26235(c) states, in part, “A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter.”

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contract with Emcor/Mesa Energy Systems and determined that the contract does not identify the projected energy savings. In addition, the district was unable to provide a copy of its contract with EnLight Energy Efficient Lighting, Inc. Therefore, we were unable to determine whether the contract included project specifications, costs, or energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Final project completion reports submitted after the deadline

The district's final report was submitted on January 30, 2019, 22 months after the reported project completion date of March 30, 2017.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board

Recommendation

We recommend that the CDE take appropriate action in response to funds paid to the district that did not meet the sole-source requirement.

No additional recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit findings via email on March 10, 2020. Ronan Collver, Superintendent, responded via email on April 13, 2020.

The district's response to the sole-source finding is as follows:

It is my understanding that the Brisbane School District contracted with Ecology Action to handle all of our Prop 39 tasks. I understand that no RFQ [request for quotation] was put out for EnLight Energy Efficient Lighting or Myers Restaurant for kitchen ovens which did not comply with the requirements of Prop 39. It was the District's understanding that Ecology Action would be handling all aspects of the sub-contracts. I believe the intent of Prop 39 was to assist the economy by putting people to work and at the same time improve energy efficiency in California schools. I would hate to see the District penalized \$56,822 as the District did not have the intention to give business to one entity above another. A school district of this size would suffer greatly over this large sum of money. I understand that the "letter of the law" may not have been completed correctly, however, I see no evidence that the "intent of the law" was violated.

The district's response to the projected energy savings and/or signed contracts finding is as follows:

I counted [on] Ecology Action to complete these tasks.

The district's response to the final project report finding is as follows:

I recall [that] there was much confusion [about] the final report and we were constantly in contact with Roy Yasny from the Efficiency Division, California Energy Commission.... We accept that the report was not completed in a timely manner.

SCO Comment

Our findings and recommendation remain unchanged.

Although we recognize that the district participated in the program to the best of its ability, the scope of our audit is to ensure compliance with state statutes and regulations. These requirements state, in part, that districts cannot use a sole-source process to award funds for energy management, planning, or implementation services, and that districts must identify projected energy savings in the awarded contracts.

Cajon Valley Union School District Proposition 39 Program

Background

The CEC approved Cajon Valley Union School District's EEP for \$3,927,181. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Anza Elementary	\$ 17,219	Interior lighting retrofit	\$ 12,152
Avocado Elementary	75,918	Interior lighting retrofit	21,146
Blossom Valley Elementary	20,334	Interior lighting retrofit	21,945
Bostonia Elementary	705,815	Interior lighting retrofit, HVAC system	59,067
Cajon Valley Community Day	2,366	Interior lighting retrofit	3,682
Cajon Valley Middle	70,872	Interior lighting retrofit	20,180
Chase Avenue Elementary	19,561	Interior lighting retrofit	19,859
Crest Elementary	12,853	Interior lighting retrofit	7,097
District Office	29,565	Interior lighting retrofit	57,695
Emerald Middle	12,833	Interior lighting retrofit	21,920
Flying Hills Elementary	15,253	Interior lighting retrofit	19,220
Fuerte Elementary	14,120	Interior lighting retrofit	21,139
Greenfield Middle	29,709	Interior lighting retrofit	29,770
Hillsdale Middle	26,676	Interior lighting retrofit	37,864
Jamancha Elementary	18,678	Interior lighting retrofit	17,476
Johnson Elementary	11,997	Interior lighting retrofit	34,427
Los Coches Creek Middle	21,830	Interior lighting retrofit	15,530
Madison Avenue Elementary	21,214	Interior lighting retrofit	13,589
Magnolia Elementary	12,162	Interior lighting retrofit	9,739
Meridian Elementary	16,721	Interior lighting retrofit	18,081
Montgomery Middle	2,673,946	Interior lighting retrofit, HVAC system	138,452
Naranca Elementary	17,435	Interior lighting retrofit	23,785
Rancho San Diego Elementary	16,321	Interior lighting retrofit	12,797
Rios Elementary	12,295	Interior lighting retrofit	14,687
Sevick Special Education	19,530	Interior lighting retrofit	10,541
Vista Grande Elementary	17,102	Interior lighting retrofit	11,721
W.D. Hall Elementary	14,856	Interior lighting retrofit	21,849
Total	\$ 3,927,181		\$ 695,410

With these energy efficiency measures, the district reported a combined SIR of 3.16 and the creation of 21.99 direct job-years.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issue:

Projected energy savings not identified and/or no signed contracts

We reviewed the district's contracts with West Coast Air Conditioning Co., Inc., and Precision Electric Company, and determined that the contracts do not identify the projected energy savings.

PRC section 26206(d) states, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit finding via email on March 9, 2020. Sharon Dobbins, Director, Long-Range Planning, responded on March 9, 2020. The response letter is included as Attachment A.

The district's response to the finding is as follows:

The Cajon Valley Union School District conducted a thorough ASHRAE [American Society of Heating, Refrigerating and Air-Conditioning Engineers] level 2 audit of all its sites in order to assess potential energy-saving measures and determine the most efficient use of its Prop 39 funding. The projected energy savings was calculated and included in the District's Prop 39 Energy Expenditure Plan approved by the California Energy Commission. We were not aware of the code requiring [that] each individual project's contract language specifically include projected energy savings.

This is a technicality that has no effect on the projects, cost, or actual energy savings. The District's efficient use of its allocated Proposition 39 funding has resulted in ongoing energy reduction and cost savings, as intended.

SCO Comment

Our finding remains unchanged.

Corona-Norco Unified School District Proposition 39 Program

Background

The CEC approved Corona-Norco Unified School District's EEP for \$8,588,274. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Auburndale Intermediate	\$ 14,673	Exterior lighting retrofit and lighting controls	\$ 3,425
Benjamin Franklin Elementary	49,547	Exterior lighting retrofit	6,796
Cesar Chavez Academy	22,498	Exterior lighting retrofit	5,155
Citrus Hills Intermediate	80,501	Interior/exterior lighting retrofit and lighting controls	14,510
Clara Barton Elementary	26,094	Exterior lighting retrofit and lighting controls	5,746
Corona Fundamental Intermediate	4,024,339	HVAC system, HVAC controls, Interior/exterior lighting retrofit	39,410
Corona High	70,251	Exterior lighting retrofit	17,392
Corona Ranch Elementary	70,314	Exterior lighting retrofit	8,551
Coronita Elementary	17,485	Exterior lighting retrofit and lighting controls	4,174
Dr. Augustine Ramirez Intermediate	29,702	Exterior lighting retrofit	9,116
Dr. Bernice Jameson Todd Elementary	32,116	Exterior lighting retrofit	7,972
Eastvale Elementary	31,261	Exterior lighting retrofit and lighting controls	6,797
El Cerrito Middle	69,033	Interior/exterior lighting retrofit	17,129
Eleanor Roosevelt High	231,641	Exterior lighting retrofit	41,799
Foothill Elementary	37,201	Exterior lighting retrofit	10,315
George Washington Elementary	25,326	Exterior lighting retrofit	4,615
Highland Elementary	19,718	Exterior lighting retrofit and lighting controls	4,803
Home Gardens Academy	21,695	Exterior lighting retrofit	5,357
Jefferson Elementary	14,080	Exterior lighting retrofit and lighting controls	4,805
John F. Kennedy High	56,951	Exterior lighting retrofit	13,456
John Stallings Elementary	7,097	Exterior lighting retrofit	1,771
Lee V. Pollard High	103,910	Exterior lighting retrofit	11,895
Letha Raney Intermediate	16,559	Exterior lighting retrofit and lighting controls	3,902
Lincoln Alternative Elementary	4,089	Exterior lighting retrofit	1,214
Norco Elementary	9,664	Exterior lighting retrofit and lighting controls	2,540
Norco High	1,320,861	HVAC system, interior/exterior lighting retrofit, and lighting controls	44,035
Norco Intermediate	3,439	Exterior lighting retrofit	1,216
Orange Elementary	22,772	Exterior lighting retrofit	6,211
Orange Grove High	78,207	Exterior lighting retrofit and lighting controls	13,037
Parkridge Elementary	22,410	Exterior lighting retrofit and lighting controls	5,609
Prado View Elementary	41,532	Exterior lighting retrofit	10,173
River Heights Intermediate	107,779	Interior/exterior lighting retrofit	22,105
Riverview Elementary	19,014	Exterior lighting retrofit and lighting controls	4,843
Rosa Parks Elementary	32,684	Interior/exterior lighting retrofit	8,318
Santiago High	1,644,279	Interior/exterior lighting retrofit, HVAC controls, HVAC system, and lighting controls	81,506
Sierra Vista Elementary	15,190	Exterior lighting retrofit and lighting controls	2,952
Susan B. Anthony Elementary	11,894	Exterior lighting retrofit	3,549
Temascal Valley Elementary	33,781	Exterior lighting retrofit	8,696
Vicentia Elementary	29,970	Exterior lighting retrofit and lighting controls	6,785
Victress Bower School for Exceptional Students	5,240	Exterior lighting retrofit	2,129
Woodrow Wilson Elementary	61,356	Exterior lighting retrofit	7,308
William McKinley Elementary	52,121	Exterior lighting retrofit and lighting controls	10,341
Total	\$ 8,588,274		\$ 491,458

With these energy efficiency measures, the district reported a combined SIR of 1.16 and the creation of 48.09 direct job-years.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issue:

Final project completion reports submitted after the deadline

The district's final report was submitted on January 25, 2019, 16 months after the reported project completion date of September 4, 2017.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit finding via email on March 5, 2020. Michael Wood, Energy Manager, Support Services, responded via email on March 16, 2020.

The district's response to the finding is as follows:

The final report was submitted a little late [because] some of the data needed from SoCalGas took a lot longer to receive than expected.

SCO Comment

Our finding remains unchanged.

Fort Bragg Unified School District Proposition 39 Program

Background

The CEC approved Fort Bragg Unified School District's EEP for \$586,437, consisting of \$15,364 for energy management services and \$571,073 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Coastal Adult	\$ 3,166	Interior/exterior lighting retrofit	\$ 175
Dana Gray Elementary	82,853	Interior/exterior lighting retrofit and LED exit signs	10,038
District Office	13,881	Interior/exterior lighting retrofit	1,218
Fort Bragg High	241,370	Interior/exterior lighting retrofit	22,865
Fort Bragg Middle	141,593	Interior/exterior lighting retrofit	13,519
Lighthouse Community Day	6,933	Interior/exterior lighting retrofit	647
Noyo High (Continuation)	13,312	Interior/exterior lighting retrofit	982
Redwood Elementary	64,158	Interior/exterior lighting retrofit	3,962
Shelter Cove	3,807	Interior/exterior lighting retrofit	362
Total	<u>\$ 571,073</u>		<u>\$ 53,768</u>

With these energy efficiency measures, the district reported a combined SIR of 1.94 and the creation of 3.20 direct job-years.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issue:

Projected energy savings not identified and/or no signed contracts

We reviewed the district's contracts with Indoor Environmental Services (IES) and determined that the contract does not identify the projected energy savings.

PRC section 26206(d) states, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit finding via email on March 10, 2020. Barry Silva, Director of Facilities, Maintenance and Operations, responded by letter dated March 11, 2020, and via email on March 11, 2020. The district's response letter is included as Attachment B.

The district's response to the finding is as follows:

The District included the projected energy savings as an attachment to the Board Resolution that was approved by the Board. Additionally, energy savings calculations were performed with the help of the on-line Energy Saving Calculators developed by California Energy Commission (CEC). These on-line calculators are offered by CEC as a part of [the] Proposition 39 program. The projected savings were then submitted as part of the process and approved by the CEC. All documents were approved as part of the project. We think the District acted within the spirit and guidelines of the program. We will include projected savings in future contracts moving forward.

SCO Comment

Our finding remains unchanged.

Although we recognize that the district participated in the program to the best of its ability, the scope of our audit is to ensure compliance with state statutes and regulations, which require that the projected energy savings be identified in the awarded contract.

Grizzly ChalleNGe Charter School (San Luis Obispo County Office of Education) Proposition 39 Program

Background

The CEC approved Grizzly ChalleNGe Charter School’s EEP for \$249,680. The charter school used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Grizzly ChalleNGe Charter	\$ 249,680	Interior/exterior lighting retrofit, and HVAC system and controls	\$ 13,183
	\$ 249,680		\$ 13,183

With these energy efficiency measures, the charter school reported a combined SIR of 1.11 and the creation of 1.40 direct job-years.

In addition, the charter school received \$11,577 in planning funds directly from the CDE, which it used for screening and audits, and program assistance.

Audit Results

We audited the Proposition 39 program costs and found that all costs reported were in compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook.

Charter School’s Response

We informed San Luis Obispo County Office of Education via email on March 2, 2020, that all costs reported for Grizzly ChalleNGe Charter School were in compliance with the program guidelines. We did not receive a response from San Luis Obispo County Office of Education.

Lemoore Union High School District Proposition 39 Program

Background

The CEC approved Lemoore Union High School District’s EEP for \$546,344, consisting of \$14,821 for energy management services and \$531,523 for program implementation. The district used its program implementation funds for the following efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
District Office, Maintenance	\$ 46,960	Exterior lighting retrofit, HVAC system	\$ 3,140
Jamison (Donald C.) High (Continuation)	10,542	Exterior lighting retrofit	504
Lemoore High	474,021	Exterior lighting retrofit, HVAC systems	39,995
	\$ 531,523		\$ 43,639

With these energy efficiency measures, the district reported a combined SIR of 1.53 and the creation of 2.98 direct job-years.

In addition, the district received \$22,297 in planning funds directly from the CDE, which it used for screening and audits.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Projected energy savings identified and/or no signed contracts

We reviewed the district’s contract with IES and determined that the contract does not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Final project completion reports submitted after the deadline

The district’s final report was submitted on March 1, 2019, 16 months after the reported project completion date of October 31, 2017.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the two audit findings on March 18, 2020. Mark Howard, Director, Business Services, responded via email on March 18, 2020.

The district's response to the projected energy savings and/or signed contracts finding is as follows:

The District acknowledges this missing information in the contract. However, a Project Financial Analysis was provided by the contractor and reviewed prior to the Governing Board's award of the contract. Although the projected energy savings was not included in the contract, it was included as a document in the board packet along with the contract on November 10, 2016. The intent of PRC section 26206(d) was fulfilled.

The district's response to the final project report finding is as follows:

The District acknowledges that the final report was submitted after the deadline. The District was relying on the contractor to file this report on time. The contractor has been informed of the late report and assures us it will not happen again. The late submittal of the report has resulted in no change or error to the final reporting data or the project outcomes.

SCO Comment

Our findings remain unchanged.

McSwain Union Elementary School District Proposition 39 Program

Background

The CEC approved McSwain Union Elementary School District’s EEP for \$253,487. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
McSwain Elementary	\$ 253,487	Interior/exterior lighting retrofit and HVAC heat pumps	\$ 14,085
	\$ 253,487		\$ 14,085

With these energy efficiency measures, the district reported a combined SIR of 1.15 and the creation of 1.42 direct job-years.

In addition, the district received \$19,800 in planning funds directly from the CDE, which it used for program assistance.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Sole-sourced project costs

The district contracted Terra Verde Renewable Partners (\$21,269) for consulting services, Lozano Smith, LLP (\$10,222) for legal services, and Pacific Gas & Electric (PG&E) (\$15,459) for the interior lighting project. The district did not provide supporting documentation to show that it considered other vendors before awarding contracts to Terra Verde Renewable Partners, Lozano Smith, LLP., and PG&E. Therefore, we found that the district sole-sourced these Proposition 39 contracts, totaling \$46,950.

PRC section 26235(c) states, in part, “A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter.”

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contracts with T.A. General Electric, Inc. and Emcor (Mesa) Energy Systems, Inc., and determined that the contracts do not identify the projected energy savings.

In addition, the district did not have signed contracts with Terra Verde Renewable Partners or Lozano Smith, LLP.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

We recommend that the CDE take appropriate action in response to funds paid to the district that did not meet the sole-source requirement.

No additional recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the two audit findings via email on March 10, 2020. Mike Crass, Interim Superintendent, responded via email on April 8, 2020.

The district did not respond to the projected energy savings and/or signed contracts finding.

The district's response to the sole-source finding is as follows:

At the time the Proposition 39 funding was received and the project planning began, the district's Superintendent was Stan Mollart. Mr. Mollart had been the superintendent for over 15 years and was very familiar [with, and followed, Public Resources Code (PRC)]. At the time of your audit we were unable to find any documentation to show that the district had requested bids for legal or consulting services; however, we believe that Mr. Mollart had in fact made an effort to adhere to PRC section 26235(c).

Unfortunately, not only is Mr. Mollart not with the district any longer, he has since passed away, and we are unable to find documentation to show that our district followed Public Resource Code section 26235(c). We are requesting that your agency reconsider the audit issues related to services with Terra Verde and Lozano Smith. The district does acknowledge that the funds paid to PG&E were sole-sourced. This was not done by the district with disregard to PRC section [26235(c)]; unfortunately, PG&E is our only energy provider in our area that had the opportunity that was provided to us.

SCO Comment

Our findings and recommendation remain unchanged.

Although we recognize that the district participated in the program to the best of its ability, the scope of our audit is to ensure compliance with state statutes and regulations. These requirements state, in part, that districts cannot use a sole-source process to award funds for energy management, planning, or implementation services and that districts must identify projected energy savings in the awarded contracts.

Nestor Language Academy Charter School (South Bay Union School District) Proposition 39 Program

Background

The CEC approved Nestor Language Academy Charter School’s EEP for \$290,230. The charter school used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Nestor Language Academy Charter	\$ 290,230	HVAC, plug loads, interior/exterior lighting retrofit, and lighting controls	\$ 32,173
	\$ 290,230		\$ 32,173

With these energy efficiency measures, the charter school reported a combined SIR of 1.85 and the creation of 1.63 direct job-years.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Projected energy savings not identified and/or no signed contracts

We reviewed the charter school’s contract with Balfour Beatty Construction, LLC and determined that the contract does not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Final project completion reports submitted after the deadline

The charter school’s final report was submitted on July 27, 2018, 16 months after the reported project completion date of March 30, 2017.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board

We also identified the following observation:

Unused planning funds

We found that the charter school applied unused planning funds to program implementation. However, these funds were not included in its approved EEP. As a result, the charter school received funding that exceeded its approved EEP by \$2,413. We informed the CDE of our observation via email on April 17, 2020.

Recommendation

We recommend that the CDE take appropriate action in response to the unused planning funds identified.

No additional recommendation is applicable, as the Proposition 39 program has ended.

Charter School's Response

We informed the charter school of the audit findings and observation via email on March 10, 2020. Bradley Wilkinson, Director Fiscal Services/Purchasing, South Bay Union School District, responded by letter dated March 18, 2020. The district's response letter is included as Attachment C.

The charter school's response to the projected energy savings and/or signed contracts finding is as follows:

We concur that the contract with Balfour Beatty Construction did not include the projected energy savings. In order to not allow this to happen again we have made internal notes and communicated [these] results [to] our projects and facilities team.

The charter school's response to the final project report finding is as follows:

We recognize that the report was submitted July 27, 2018, which is 16 months after the completion date of March 30, 2017. Upon review of this finding, we [requested an explanation from our consultant for] the late submittal; however...we did not receive [an explanation].

The charter school's response to the unused planning funds observation is as follows:

Fiscal Services reviewed this with [the auditor], and provided all backup and documentation to show funds received/spent on the project vs. what was approved. We are not entirely sure why more funds were received than approved for; however, all funds were spent in accordance [with] the plan.

Norwalk-La Mirada Unified School District Proposition 39 Program

Background

The CEC approved Norwalk-La Mirada Unified School District's EEP for \$4,258,041, consisting of \$325,000 for energy management services, \$25,000 for training, and \$3,908,041 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
District Office/Maintenance & Operations	\$ 254,967	HVAC controls	\$ 38,375
Escalona Elementary	299,711	HVAC controls	3,839
Eastwood Elementary	1	HVAC controls	6,922
Gardenhill Elementary	349,743	HVAC controls	6,194
John H. Glenn High	1,217,463	Exterior lighting retrofit and HVAC controls	47,933
La Mirada High	1,171,232	HVAC controls and exterior lighting retrofit	51,031
Nettie L. Waite Middle	379,112	HVAC controls	8,906
Norwalk High	166,938	Exterior lighting retrofit	11,101
Nutrition	68,873	HVAC controls	1,048
Ramona Head Start/State Preschool	1	HVAC controls	6,391
Total	<u>\$ 3,908,041</u>		<u>\$ 181,740</u>

With these energy efficiency measures, the district reported a combined SIR of 1.03 and the creation of 21.89 direct job-years.

In addition, the district received \$289,023 in planning funds directly from the CDE, which it used for screening and audits.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Sole-sourced project costs

The district contracted Bowie, Arneson, Wiles & Giannone Attorneys at Law (\$16,331) and Atkinson, Andelson, Loya, Ruud & Romo Attorneys at Law (\$4,113) for legal services. The district did not provide supporting documentation to show that it considered other agencies before awarding contracts to Arneson, Wiles & Giannone Attorneys at Law and Atkinson, Andelson, Loya, Ruud & Romo Attorneys at Law. Therefore, we found that the district sole-sourced these Proposition 39 contracts, totaling \$20,444.

PRC section 26235(c) states, in part, "A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter."

Projected energy savings not identified and/or no signed contracts

We reviewed the district's documentation and determined that no contract was prepared for services provided by Atkinson, Andelson, Loya, Ruud & Romo Attorneys at Law. Due to the scope of the work provided to the district, the projected energy savings is not required. However, as no contract was prepared, the project specifications and contracted costs remain unknown.

PRC section 26206(d) states, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

Proposition 39 funds applied to ineligible expenditures

The district used Proposition 39 funds to pay Sunbelt Controls, Inc. \$1,980 and California's Coalition \$274, for conferences and seminars; and School Energy Coalition \$780 for dues and memberships. We found that a total of \$3,034 of these services were not related to the approved project costs in the district's EEP.

The district self-certified in its EEP that "The LEA commits to use the funds for the eligible energy project(s) approved in its energy expenditure plan."

The CEC's Proposition 39 Program Implementation Guidelines state, "LEAs can only use Proposition 39 funding for the eligible energy projects approved in their energy expenditure plans."

District's Response

We informed the district of the audit findings and observation via email on March 10, 2020. Estuardo A. Santillan, Assistant Superintendent, Business Services, responded via email on April 13, 2020, stating that SCO may move forward with the audit exceptions and finalize the audit.

Panama-Buena Vista Union School District Proposition 39 Program

Background

The CEC approved Panama-Buena Vista Union School District’s EEP for \$3,406,613, consisting of \$286,774 for energy management services, \$57,354 for training, and \$3,062,485 for program implementation. The district used its program implementation funds for the following energy efficiency and renewable energy generation measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency and Renewable Energy Generation Measures	Reported Annual Cost Savings
District Office, Special Services, and MOT	\$ 1,601,469	Interior/exterior lighting retrofit and photovoltaic (solar) panels	\$ 147,729
Ronald Reagan Elementary	1,461,016	Interior/exterior lighting retrofit and photovoltaic (solar) panels	118,033
	<u>\$ 3,062,485</u>		<u>\$ 265,762</u>

With these energy efficiency and renewable energy generation measures, the district reported a combined SIR of 1.40 and the creation of 13.54 direct job-years.

In addition, the district received \$124,191 in planning funds directly from the CDE, which it used for screening and audits.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issue:

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contract with IES and determined that the contract does not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District’s Response

We informed the district of the audit finding via email on March 5, 2020. Glenn Imke, CPA, Assistant Superintendent, Business Services, responded via email on March 16, 2020.

The district's response to the finding is as follows:

The project contract was agreed to in conjunction with the Energy Expenditure Plan approved by the California Energy Commission. The EEP contains detailed energy savings information regarding the project including measure by measure cost and anticipated utility cost savings in addition to site by site energy savings. Since completion of the projects, the District has performed energy savings verifications demonstrating energy savings success and has operated within the program guidelines to achieve projected energy efficiency.

SCO Comment

Our finding remains unchanged.

Penn Valley Union Elementary School District Proposition 39 Program

Background

The CEC approved Penn Valley Union Elementary School District’s EEP for \$270,717, consisting of \$13,578 for energy management services and \$257,139 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Ready Springs Elementary	\$ 128,358	HVAC system and controls	\$ 5,957
Williams Ranch Elementary	128,781	HVAC system and controls	6,090
	\$ 257,139		\$ 12,047

With these energy efficiency measures, the district reported a combined SIR of 1.02 and the creation of 1.44 direct job-years.

In addition, the district received \$105,292 in planning funds directly from the CDE, which it used for screening and audits, and program assistance.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issue:

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contract with IES and determined that the contract does not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District’s Response

We informed the district of the audit finding via email on March 2, 2020. We did not receive a response from the district.

Ralph A. Gates Elementary School (Saddleback Valley Unified School District) Proposition 39 Program

Background

The CEC approved Ralph A. Gates Elementary School’s EEP for \$262,577, consisting of \$218,663 for program implementation and \$43,914 for energy management services. The charter school¹ used its program implementation funds for the following energy efficiency measure:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Ralph A. Gates Elementary	\$ 218,663	Lighting Interior/Exterior fixture retrofit, HVAC packaged/split system AC/Heat Pump/VRF	\$ 13,585
	<u>\$ 218,663</u>		<u>\$ 13,585</u>

With these energy efficiency measures, the charter school reported a combined SIR of 1.25 and the creation of 1.22 direct job-years.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Sole-sourced project costs

The charter school contracted with Climatec Building Technologies Group (Phase III) for Energy Conservation services. The charter school did not provide any documentation to show that it considered other vendors before awarding the contract to Climatec Building Technologies for \$2,886,662. However, CEC approved only \$262,577 for Ralph A. Gates Elementary. Therefore, because we audited only the amount approved by CEC in the charter school’s final project completion report, we found that the charter school sole-sourced a total of \$262,577 of the Proposition 39 funds.

PRC section 26235(c) states, in part, “A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter.”

Projected energy savings not identified and/or no signed contracts

We reviewed the charter school’s contract with Climatec Building Technologies (Phase III), and determined that the signed contract agreement did not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

¹ As of July 1, 2018, Ralph A Gates Elementary School became an LEA within Saddleback Valley USD. The school was a charter school when the CEC approved its EEP, when the energy project was underway, and when the project was completed in 2016.

Final project completion reports submitted after the deadline

The charter school's final report was submitted on May 4, 2018, 20 months after the reported project completion date of September 30, 2016.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board

Recommendation

We recommend that the CDE take appropriate action in response to funds paid to the charter school that did not meet the sole-source requirement.

No additional recommendation is applicable, as the Proposition 39 program has ended.

Charter School's Response

We informed the charter school of the audit findings via email on March 27, 2020. Susan Cortum, Director, Fiscal Services, Saddleback Valley Unified School District, responded by letter dated April 15, 2020. The district's response letter is included as Attachment D.

The charter school's response to the sole-source finding is as follows:

It is the district's position that the formal bid process is not required in selecting a vendor to perform projects funded by Proposition 39. The district is able to use a "best value" selection process which is the method the district used when selecting Climatec, Inc. Attachment 1 outlines the process used to select Climatec, Inc.

The charter school's response to the projected energy savings and/or signed contracts finding is as follows:

Climatec, Inc. contracts include the scope of work, which outlines current equipment and replacements with various energy usage comparisons. The contracts do not specifically state projected fiscal savings; however, the new, more efficient equipment implies energy savings [that] will result in a reduced fiscal impact to the district. The district believes the contracts (Attachment 3) provide the required projected energy savings for the Proposition 39 projects.

The charter school's response to the final project report finding is as follows:

The Final Energy Expenditure Plan filed on September 11, 2018 shows a completion date of October 28, 2016; however, the project was actually completed as of November 15, 2017 (Attachment 4) which makes the final report filing within the 12-15 month requirement. The district believes the date discrepancy was a clerical error on the California Energy Commission document and is currently working with the district's assigned California Energy Commission reviewer to correct the final report.

SCO Comment

Our findings and recommendation remain unchanged.

We disagree with the charter school's conclusions. The scope of our audit was to ensure compliance with state statutes and regulations. The charter school cites the best value criteria in Government Code (GC) sections 4210.10 through 4217.18 to support its use of sole-sourced contracts. However, PRC section 26235(c) states:

A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter. A community college or LEA may use the best criteria as defined in paragraph (1) of subdivision (c) of section 20133 of Public Contract Code to award funds pursuant to this chapter.

To fully comply with the best value criteria specified in PCC section 20133(c)(1) and the prohibition against sole-source contracting when using Proposition 39 funds, LEAs must engage in a two-step process. Specifically, LEAs must use a comprehensive request for quotation/request for proposal evaluation process. The charter school did not follow this process for awarding the contracts in question.

The requirement that contracts identify projected energy savings is pursuant to PRC section 26206(d). In addition, the CEC's Proposition 39 Program Implementation Guidelines, and all subsequent revisions to those guidelines, include the same requirements for Proposition 39 contracts.

Saddleback Valley Unified School District Proposition 39 Program

Background

The CEC approved Saddleback Valley Unified School District's EEPs (Nos. 1164, 1440, and 2033) for \$4,753,967, consisting of \$344,043 for energy management services and \$4,409,924 for program implementation. The district used its program implementation funds for the following energy efficiency measure:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Robinson Elementary ¹	\$ 241,053	Lighting interior/exterior fixture retrofit	\$ 17,088
Cielo Vista Elementary ²	272,418	HVAC controls and lighting exterior fixture retrofit	12,742
La Madera Elementary ²	91,169	Exterior/interior lighting retrofit, lighting controls	8,210
Laguna Hills High ²	35,761	Pumps, Motors, Drives - Variable Frequency Drives	10,524
Lamorena Elementary ²	12,039	Lighting exterior fixture retrofit	949
Mission Viejo High ²	212,205	Lighting controls, lighting interior/exterior retrofit, HVAC system, Pumps, motors, drives-variable frequency drives	17,718
Olivewood Elementary ²	77,102	Lighting controls, lighting interior/exterior retrofit	5,792
San Joaquin Elementary ²	93,302	Lighting controls, lighting interior/exterior retrofit	11,151
Trabuco Hills High ²	383,722	Lighting controls, lighting interior/exterior retrofit, pumps, motors, drives - variable frequency drives	28,940
Trabuco Mesa Elementary ²	558,346	HVAC controls, HVAC system, Lighting exterior fixture retrofit	27,072
District Office ³	64,321	Lighting exterior fixture retrofit	12,303
El Toro High ³	25,738	Lighting exterior fixture retrofit	2,226
Lguna Hills High ³	25,271	Lighting exterior fixture retrofit	2,147
La Paz Intermediate ³	865,421	Lighting exterior fixture retrofit, HVAC system	12,386
Linda Vista Elementary ³	127,861	Lighting interior/exterior fixture retrofit	16,083
Valencia Elementary ³	175,966	Lighting interior/exterior fixture retrofit	21,217
Rancho Canada Elementary ³	179,387	Lighting interior/exterior fixture retrofit	17,619
Cielo Vista Elementary ³	488,388	HVAC system	19,328
Rancho Santa Margarita Intermediate ³	480,454	Lighting interior/exterior fixture retrofit	40,630
Total	<u>\$ 4,409,924</u>		<u>\$ 284,125</u>

¹EEP No. 1440

²EEP No. 2033

³EEP No. 1164

With this energy efficiency measure, the district reported a combined SIR of 1.20 and the creation of 13.62 direct job-years.

In addition, the district received \$1,062,261 in planning funds directly from the CDE, which it used for screening and audits, and an energy manager.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Sole-sourced project costs

The district contracted with Climatec Building Technologies Group (\$5,414,643) for energy conservation services and energy planning; Atkinson, Andelson, Loya, Ruud & Romo Attorneys at Law (\$2,838) for

legal services; and Pacific Rim Mechanical (\$588) for HVAC services. The district did not provide any documentation to show that it considered other vendors/agencies before awarding the contracts to Climatec Building Technologies, Atkinson, Andelson, Loya, Ruud & Romo Attorneys at Law, and Pacific Rim Mechanical. Therefore, we found that the district sole-sourced these Proposition 39 contracts, totaling \$5,418,069.

PRC section 26235(c) states, in part, “A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter.”

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contracts with Climatec Building Technologies, and determined that Phase III of the signed contract agreements do not identify the projected energy savings.

In addition, the district did not have signed contracts for Pacific Rim Mechanical and Atkinson, Andelson, Loya, Ruud & Romo Attorneys at Law.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Final project completion reports submitted after the deadline

The district’s final report was submitted on September 11, 2018, 23 months after the reported project completion date of October 28, 2016.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board

We also identified the following observation:

Unused planning funds

We found that the district applied unused planning funds to program implementation. However, these funds were not included in its approved EEP. As a result, the district received funding that exceeded its approved EEP by \$230,300. We informed the CDE of our observation via email on April 17, 2020.

Recommendation

We recommend that the CDE take appropriate action in response to funds paid to the district that did not meet the sole-source requirement and the unused planning funds identified in this audit.

No additional recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit findings and observation via email on March 27, 2020. Susan Cortum, Director, Fiscal Services, responded by letter dated April 15, 2020. The district's response letter is included as Attachment D.

The district's response to the sole-source finding is as follows:

It is the district's position that the formal bid process is not required in selecting a vendor to perform projects funded by Proposition 39. The district is able to use a "best value" selection process which is the method the district used when selecting Climatec, Inc. Attachment 1 outlines the process used to select Climatec, Inc.

The district engages with Atkinson, Andelson, Loya, Ruud, and Romo (AALRR) for legal services. AALRR was consulted on a matter related to a Proposition 39 project and the fees for that consultation were charged to the project funded with Proposition 39 dollars. It is the district's opinion this type of service does not require a formal bid process.

The district agrees [that] the charges for Pacific Rim Mechanical were incorrectly charged to a Proposition 39 project and should be disallowed.

The district's response to the projected energy savings and/or signed contracts finding is as follows:

Energy Expenditure Plans #1164, #1440, #2033 (Attachment 2) all identify projected annual energy savings.

Climatec, Inc. contracts include the scope of work, which outlines current equipment and replacements with various energy usage comparisons. The contracts do not specifically state projected fiscal savings; however, the new, more efficient equipment implies energy savings [that] will result in a reduced fiscal impact to the district. The district believes the contracts (Attachment 3) provide the required projected energy savings for the Proposition 39 projects.

Atkinson, Andelson, Loya, Ruud and Romo's services are rendered via a legal services agreement annually.

As stated above, the district agrees [that] the charges for Pacific Rim Mechanical were incorrectly charged to a Proposition 39 project and should be disallowed.

The district's response to the final project report finding is as follows:

The Final Energy Expenditure Plan filed on September 11, 2018 shows a completion date of October 28, 2016; however, the project was actually completed as of November 15, 2017 (Attachment 4), which makes the final report filing within the 12-15 month requirement. The district believes the date discrepancy was a clerical error on the California Energy Commission document and is currently working with the district's assigned California Energy Commission reviewer to correct the final report.

The district did not respond to the observation regarding unused planning funds.

SCO Comment

Our findings and recommendation remain unchanged.

We disagree with the district's conclusions. The scope of our audit was to ensure compliance with state statutes and regulations. The district cites the best value criteria in GC sections 4210.10 through 4217.18 to support its use of sole-sourced contracts. However, PRC section 26235(c) states:

A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter. A community college or LEA may use the best criteria as defined in paragraph (1) of subdivision (c) of section 20133 of Public Contract Code to award funds pursuant to this chapter.

To fully comply with the best value criteria specified in PCC section 20133(c)(1) and the prohibition against sole-source contracting when using Proposition 39 funds, LEAs must engage in a two-step process. Specifically, LEAs must use a comprehensive request for quotation/request for proposal evaluation process. The district did not follow this process for awarding the contracts in question.

The requirement that contracts identify projected energy savings is pursuant to PRC section 26206(d). In addition, the CEC's Proposition 39 Program Implementation Guidelines, and all subsequent revisions to those guidelines, include the same requirements for Proposition 39 contracts.

Siskiyou County Office of Education Proposition 39 Program

Background

The CEC approved Siskiyou County Office of Education’s (COE) EEP for \$149,071, consisting of \$8,000 for energy management services and \$141,071 for program implementation. Siskiyou COE used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Early Childhood Center	\$ 53,456	HVAC system and controls	\$ 3,147
Main Office	87,615	Interior/exterior lighting retrofit	4,886
	\$ 141,071		\$ 8,033

With these energy efficiency measures, Siskiyou COE reported a combined SIR of 1.22 and the creation of 0.79 direct job-years.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC’s Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issue:

Projected energy savings not identified and/or no signed contracts

We reviewed Siskiyou COE’s contract with IES and determined that the contract does not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

COE’s Response

We informed the county office of the audit finding via email on February 27, 2020. Deborah Pendley, Associate Superintendent, Business Services, responded via email on March 4, 2020.

The county office’s response to the finding is as follows:

IES did perform the work that provided project specifications, costs, and projected energy savings. However, they did not include that information in the contract. Unfortunately, the Siskiyou County Office of Education staff was unaware of the requirement at the time the contract was signed.

SCO Comment

Our finding remains unchanged.

Stockton Unified School District Proposition 39 Program

Background

The CEC approved Stockton Unified School District's EEP for \$2,223,853. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Adams Elementary	\$ 340,625	Exterior lighting retrofit, lighting controls, HVAC system and controls	\$ 11,209
Alexandar Hamilton Elementary	34,356	HVAC controls and lighting controls	893
August Elementary	256,622	Exterior lighting retrofit, lighting controls, HVAC system and controls	7,458
Cesar Chavez High	84,637	Interior lighting retrofit and HVAC controls	14,351
Commodore Stockton Skills	100,080	Lighting controls and exterior lighting retrofit	8,675
El Dorado Elementary	95,735	Exterior lighting retrofit, HVAC system and controls	4,483
Franklin High	82,954	HVAC controls, pumps, plug loads, and interior lighting retrofit	12,697
Hazelton Elementary	149,357	Exterior lighting retrofit, HVAC system and controls	9,010
Hoover Elementary	176,559	HVAC system and controls	10,952
Kohl Open Elementary	20,294	HVAC controls	1,337
Madison Elementary	156,045	HVAC system and controls	8,360
Monroe Elementary	22,349	HVAC controls	847
Rio Calveras Elementary	268,584	Exterior lighting retrofit, lighting controls, HVAC system and controls	12,345
Roosevelt Elementary	94,716	Exterior lighting retrofit, lighting controls, and HVAC system	3,190
Stagg Senior High	257,790	HVAC controls and plug loads	16,871
Wilhelmina Henry Elementary	83,150	Exterior lighting retrofit and HVAC controls	7,456
Total	\$ 2,223,853		\$ 130,134

With these energy efficiency measures, the district reported a combined SIR of 1.08 and the creation of 12.45 direct job-years.

In addition, the district received \$200,000 in planning funds directly from the CDE, which it used for screening and audits.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issue:

Final project completion reports submitted after the deadline

The district's final report was submitted on January 30, 2019, 26 months after the reported project completion date of December 1, 2016.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed Stockton Unified School District of the audit finding via email on February 27, 2020. Steve Breakfield, Director, Facilities and Planning, responded via email on March 11, 2020.

The district's response to the finding is as follows:

An amendment [to the Energy Expenditure Plan was required] in order to match the scope of work that was installed in the phase 1 project. This amendment was requested in June 2017 but we were not able to get it submitted until early 2018 when we got final confirmation of utility rebates on the scope of work. The amendment was approved in Spring 2018, and then an Annual Report was required to be submitted in Q3 2018. We completed this in September, at which point the Final Report opened up for us to work on. 3 months after the final report opened up, we submitted it and it was approved about 3 months later.

[December 1, 2016] was selected as the final completion date based on when the construction work was done. However, given the delay in getting rebates, the full information for the project was not available until later in 2017. Annual report requirements were such that the final report did not even open up until the end of September 2018. All of this work happened with the CEC project manager being fully aware of the situation and giving approvals on amendments and reports, so this [situation] was not a surprise to them.

SCO Comment

Our finding remains unchanged.

West Contra Costa Unified School District Proposition 39 Program

Background

The CEC approved West Contra Costa Unified School District's EEP for \$1,634,936, which consists of \$120,000 for an energy manager and \$1,514,936 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Collins Elementary	\$ 93,517	Interior lighting retrofit and lighting controls	\$ 11,616
Grant Elementary	107,412	Interior lighting retrofit and lighting controls	15,123
Hannah Ranch Elementary	216,972	Interior lighting retrofit and lighting controls	12,523
Lake Elementary	61,627	Interior lighting retrofit and lighting controls	13,228
Richmond High	1,035,408	Interior lighting retrofit and lighting controls	109,353
	<u>\$ 1,514,936</u>		<u>\$ 161,843</u>

With these energy efficiency measures, the district reported a combined SIR of 1.79 and the creation of 8.48 direct job-years.

In addition, the district received \$195,097 in planning funds directly from the CDE, which it used for screening and audits, program assistance, and an energy manager.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Projected energy savings not identified and/or no signed contracts

We reviewed the district's contracts with Energy Conservation Options (ECO), and Energy Management Technologies (EMT) and determined that the contracts do not identify the projected energy savings.

PRC section 26206(d) states, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

Final project completion reports submitted after the deadline

The district's final report was submitted on December 21, 2017, 25 months after the reported project completion date of November 15, 2015.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board . . .

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the two audit findings via email on March 10, 2020. Luis Freese, Associate Superintendent, Operations, responded by letter dated March 19, 2020. The district's response letter is included as Attachment E.

The district's response to the projected energy savings and/or signed contract finding is as follows:

The District agrees with the recommendation. Although the contract did not specify the expected project savings, the Final Project Report demonstrates that the projects achieved an annual savings of 950,983 kWh [kilowatt-hours].

The district's response to the final project report finding is as follows:

The District agrees with the recommendation. Currently, the District is actively tracking all completed expenditure plans to ensure that the remaining final reports will meet the filing deadline within 15 months of the project completion.

William S. Hart Union High School District Proposition 39 Program

Background

The CEC approved William S. Hart Union High School District's EEP for \$3,732,185, which consists of \$234,000 for energy management services and \$3,498,185 for program implementation. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Reported Annual Cost Savings
Bowman (Jereann) High (Continuation)	\$ 220,865	Interior/exterior lighting retrofit and HVAC system	\$ 7,759
Canyon High	703,461	Interior/exterior lighting retrofit	62,404
Rancho Pico Junior High	300,203	Interior/exterior lighting retrofit	23,958
Rio Norte Junior High	413,180	Interior/exterior lighting retrofit	27,942
Sierra Vista Junior High	327,064	Interior/exterior lighting retrofit	26,417
Valencia High	<u>1,533,412</u>	Interior/exterior lighting retrofit and HVAC	<u>84,432</u>
Total	<u>\$ 3,498,185</u>		<u>\$ 232,912</u>

With these energy efficiency measures, the district reported a combined SIR of 1.31 and the creation of 19.59 direct job-years.

In addition, the district received \$277,781 in planning funds directly from the CDE, which it used for screening and audits.

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CEC's Proposition 39 Program Implementation Guidelines and EEP Handbook. We identified the following audit issues:

Sole-sourced project costs

The district contracted K12 Energy Services, LLC (\$234,000) for an energy manager, and Alliance Building Solutions (\$3,498,185) for energy conservation services. The district did not provide supporting documentation to show that it considered other vendors before awarding contracts to K12 Energy Services, LLC and Alliance Building Solutions. Therefore, we found that the district sole-sourced these Proposition 39 contracts, totaling \$3,732,185.

PRC section 26235(c) states, in part, "A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter."

Final project completion reports submitted after the deadline

The district's final report was submitted on August 22, 2018, 16 months after the reported project completion date of March 31, 2017.

PRC section 26240(b) states, in part:

As a condition of receiving funds from the Job Creation Fund or pursuant to subdivision (c) of Section 26227.2, 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 or pursuant to subdivision (c) of Section 26227.2, the entity shall submit a report of its project expenditures to the Citizens Oversight Board

Recommendation

We recommend that the CDE take appropriate action in response to funds paid to the district that did not meet the sole-source requirement.

No additional recommendation is applicable, as the Proposition 39 program has ended.

District's Response

We informed the district of the audit findings via email on March 10, 2020. Ralph Peschek, Chief Business Officer, responded by letter through email dated March 23, 2020. The district's response letter is included as Attachment F.

The district's response to the sole-sourced finding is as follows:

Per guidance provided by the Los Angeles County Office of Education / Commercial Claims Manual; Pg.38, the District acted accordingly in utilizing PCC [section] 20118.2 in securing and Section 388 of the Public Utilities Code in selecting and contracting with a sole-source provider...

The process engaged in by the District was widely accepted as the proper process at the time of implementation. Any guidance issued after the process of selection, design, and build does not negate guidance commonly being provided to LEAs [by] the State, County, and professional organizations.

The district's response to the final project report finding is as follows:

The report was submitted to the CA Energy Commission on July 16, 2017. The commission required adjustments to the report that extended the submission timeline. Additionally, the information being provided [by] Southern California Edison was inaccurate and required reformatting by SCE to meet the needs of CEC.

SCO Comment

Our findings and recommendation remain unchanged.

Although we recognize that the district participated in the program to the best of its ability, the scope of our audit is to ensure compliance with state statutes and regulations. The district uses page 38 of the *Los Angeles County Office of Education's (LACOE) Commercial Claims Manual*, which cites GC sections 4217.10 through 4217.16 and Public Utilities Code section 388 to support its use of sole-source contracts.

The manual states that districts “may request proposals from qualified persons” and “utilize the pool of qualified energy service companies established pursuant to PUC section 388 and procedures contained in that section in awarding the contract.” However, it appears that, by selecting a vendor without soliciting bids, the district may not have followed the process outlined in PUC section 388.

Specifically, we noted the following guidelines in PUC section 388 (b):

The Department of General Services or any other state or local agency intending to enter into an energy savings contract or a contract for an energy retrofit project may establish a pool of qualified energy service companies based on qualifications, experience, pricing, or other pertinent factors. Energy service contracts for individual projects undertaken by any state or local agency may be awarded through a competitive selection process to individuals or firms identified in the pool. The pool of qualified energy service companies and contractors shall be reestablished at least every two years or shall expire.

Therefore, we believe that the district should have solicited bids from vendors selected from a “pool of qualified energy companies” rather than simply selecting a vendor from the pool. Regardless of possible interpretations of the information contained in LACOE’s Commercial Claims Manual, the district did not follow the minimum standards contained in PRC section 26235(c).

We emailed the district on March 25, 2020, requesting that the district submit additional documentation showing that corrections made by SCE were submitted to CEC after August 22, 2018 (date of final report). On March 25, 2020, the district responded stating that no other documentation was available.

Chaffey Community College District Proposition 39 Program

Background

The California Community Colleges Chancellor’s Office (CCCCO) approved Chaffey Community College District’s Proposition 39 Funding Application (Form B) for \$1,538,729. The district used its program implementation funds for the following renewable energy generation measure:

School Site	Proposition 39 Share Used at School Site	Renewable Energy Generation Measures	Year 1 Cost Savings	Savings-to-Investment Ratio	Direct Job-Years Created
CHAFFE-1617-001 Chaffey College - Rancho Cucamonga	1,538,729	Photovoltaic (solar) panel installation	1,215,083	1.46	81.04
	<u>\$ 1,538,729</u>		<u>\$ 1,215,083</u>		

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CCCCCO’s Energy Project Guidance. We identified the following audit issue:

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contracts with Borrego Solar Systems and determined that the contracts do not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District’s Response

We informed the district of the audit finding via email on March 3, 2020. Patrick Cabildo, CPA, Internal Auditor, responded via email on March 12, 2020.

The district’s response to the finding is as follows:

On May 25, 2017, the Governing Board of the District adopted a resolution authorizing the execution of energy service contract 16P39 for the solar project which included Exhibit A providing a savings analysis of the project. Although the contracts did not contain the projected savings information, it was communicated throughout the district through various means and was presented to the Board in a public meeting.

SCO Comment

Our finding remains unchanged.

Sierra Joint Community College District Proposition 39 Program

Background

The CCCCO approved Sierra Joint Community College District’s Proposition 39 Funding Application (Form B) for \$1,253,188. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Year 1 Cost Savings	Savings-to-Investment Ratio	Direct Job-Years Created
SIERRA-1718-001 Sierra College	\$ 172,452	LRC interior LED lighting upgrade	\$ 9,826	1.85	1.06
SIERRA-1718-003 Sierra College	762,158	Campus wide EMS upgrade	78,075	1.85	4.27
SIERRA-1718-005 Sierra College	96,867	Chiller replacements	22,625	1.86	0.54
SIERRA-1718-006 Sierra College – Nevada County Campus	181,795	NCC chiller replacement	22,947	1.85	1.02
SIERRA-1718-007 Sierra College	39,916	Building N and Corp Yard LED upgrade	7,277	1.86	0.22
	<u>\$ 1,253,188</u>		<u>\$140,750</u>		

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CCCCO’s Energy Project Guidance. We identified the following audit issues:

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contracts with Intech Mechanical Company, and Trane, Inc. and determined that the contracts do not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District’s Response

We informed the district of the audit finding via email on March 10, 2020. Su-Lin Shum, Director of Finance, responded via email on April 13, 2020.

The district’s response to the finding is as follows:

For any future contracts, we will include the required energy savings directly within the contract.

State Center Community College District Proposition 39 Program

Background

The CCCCO approved State Center County Community College District’s Proposition 39 Funding Application (Form B) for \$1,914,406. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Year 1 Cost Savings	Savings-to-Investment Ratio	Direct Job-Years Created
STATEC-1718-001					
Fresno City College	\$ 876,830	Interior lighting retrofit	\$ 125,657		
Reedley College	1,037,576	Interior lighting retrofit	112,917	1.09	21.42
	<u>\$ 1,914,406</u>		<u>\$238,574</u>		

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CCCCO’s Energy Project Guidance. We identified the following audit issue:

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contracts with Contra Costa Electric and determined that the contracts do not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District’s Response

We informed the district of the audit finding via email on March 10, 2020. Glynn Billings, Accounting Manager, responded via email on April 3, 2020.

The district’s response to the finding is as follows:

We agree with the auditors’ determination that the Contra Costa Electric construction contract does not include the projected energy savings for this project. The projected energy savings were identified by Newcomb Anderson McCormick, Inc., as required to obtain Prop 39 funding for this project. Post-construction installation calculations have also been performed as required. We would be happy to provide these schedules upon request. While projected energy savings were identified and confirmed as required prior to bidding, these projected energy savings were not placed in the construction contract. We will incorporate into existing procedures the requirement that all projects utilizing Clean Energy Job Creation Funds will comply with Public Resource Code section 6206(d).

Yosemite Community College District Proposition 39 Program

Background

The CCCCO approved Yosemite Community College District’s Proposition 39 Funding Application (Form B) for \$2,695,789. The district used its program implementation funds for the following energy efficiency measures:

School Site	Proposition 39 Share Used at School Site	Energy Efficiency Measures	Year 1 Cost Savings	Savings-to-Investment Ratio	Direct Job-Years Created
YOSEMI-1314-001					
Modesto Junior College – East	\$ 751,700	Lighting retrofit			
Modesto Junior College – West	43,112	Lighting retrofit			
	<u>794,812</u>		<u>\$ 67,673</u>	<u>1.35</u>	<u>4.45</u>
YOSEMI-1415-001					
Columbia College – Tennis Court	\$ 179,590	LED Floods			
Columbia College	26,102	Interior lighting occupancy sensors			
Columbia College – Maintenance	6,330	High bay T5			
	<u>212,022</u>		<u>\$ 13,533</u>	<u>1.35</u>	<u>1.46</u>
YOSEMI-1516-001					
Modesto Junior College – East	\$ 114,175	Interior lighting			
Modesto Junior College – West	69,581	Interior lighting			
Modesto Junior College – Parking Lot	146,161	LED lighting			
Modesto Junior College	144,251	Exterior LED			
	<u>474,168</u>		<u>\$ 43,959</u>	<u>1.34</u>	<u>2.66</u>
YOSEMI-1617-001					
Modesto Junior College	515,970	Exterior lighting			
	<u>515,970</u>		<u>39,924</u>	<u>1.35</u>	<u>2.89</u>
YOSEMI-1617-002					
Modesto Junior College	89,427	Exterior LED lighting			
	<u>89,427</u>		<u>8,167</u>	<u>1.35</u>	<u>0.50</u>
YOSEMI-1718-001					
Columbia College	560,833	Various lighting fixtures			
	<u>560,833</u>		<u>54,195</u>	<u>1.35</u>	<u>3.14</u>
YOSEMI-1718-004					
Modesto Junior College	40,609	Exterior LED lighting			
Columbia College	7,948	Exterior LED lighting			
	<u>48,557</u>		<u>6,741</u>	<u>1.36</u>	<u>0.27</u>
	<u>\$ 2,695,789</u>		<u>\$ 234,192</u>		

Audit Results

We audited the Proposition 39 program costs to ensure compliance with the Job Creation Fund program guidelines, as well as the CCCCO’s Energy Project Guidance. We identified the following audit issue:

Projected energy savings not identified and/or no signed contracts

We reviewed the district’s contracts with Aircon Energy, Inc., and determined that two of the six contracts do not identify the projected energy savings.

PRC section 26206(d) states, “All projects shall require contracts that identify the project specifications, costs, and projected energy savings.”

Recommendation

No recommendation is applicable, as the Proposition 39 program has ended.

District’s Response

We informed the district of the audit finding via email on March 19, 2020. Jeremy Salazar, Controller, responded via email on April 14, 2020.

The district’s response to the finding is as follows:

I would like to request that the attached items be reviewed. Although the information is not presented in the requested format, the attached documentation shows that the projected energy savings analysis was in fact reviewed prior to accepting the contract and prior to any work being performed.

For year one of the program, the attached Yosemite CCD EEM Table – Preliminary Proposal dated April 10, 2013 identifies the projected energy savings to be \$1,002,583. This table prepared by Aircon Energy also includes the project specifications and costs, and the information within the table was used as a deciding factor in project selection and vendor selection.

For year three of the program, the attached email between Tim Nesmith of YCCD, Ben Stevens of Aircon Energy, and Lance Kincaid of Newcomb Anderson McCormick dated April 03, 2015 included an attachment. The attachment was a list of projects to be completed, and included the project specifications and cost, as well as the projected savings of \$23,312.87.

Since the provided information was used as a deciding factor when identifying the projects that were to be completed, as well as choosing a vendor to complete the projects, I would like to request that they be used as verification that both projects did identify the projected energy savings prior to project and vendor selection, and prior to the work being performed. With this additional verification I would also like to request that the issue be removed from the audit.

SCO Comment

Our finding remains unchanged.

We agree that the additional documentation provided includes the projected energy savings prior to the project and vendor selection, and prior to the work being performed. However, the scope of our audit was to ensure compliance with state statutes and regulations, which require that the projected energy savings be identified in the awarded contract.

**Attachment A—
Cajon Valley Union School District's Response
to Audit Results**

Sharon Dobbins, Director
Long-Range Planning

Phone: (619) 588-3016
Email: dobbins@cajonvalley.net



Office Address:
750 E. Main St, El Cajon, CA. 92020
Mailing Address:
PO Box 1007, El Cajon CA 92022-1007
Website: www.cajonvalley.net

March 9, 2020

Christine Kwong
Office of the State Controller
Division of Audits, Compliance Audits Bureau
3301 C Street, Suite 725A
Sacramento, CA 95816

RE: Proposition 39 – Clean Energy Jobs Act Audit

Dear Christine:

This letter is in response to the following finding in our Proposition 39 CA Clean Energy Jobs Act Audit:

- Projected energy savings not included in contract

The Cajon Valley Union School District conducted a thorough ASHRAE level 2 audit of all its sites in order to assess potential energy saving measures and determine the most efficient use of its Prop 39 funding. The projected energy savings was calculated and included in the District's Prop 39 Energy Expenditure Plan approved by the California Energy Commission. We were not aware of the code requiring each individual project's contract language specifically include projected energy savings.

This is a technicality that has no effect on the projects, cost, or actual energy savings. The District's efficient use of its allocated Proposition 39 funding has resulted in ongoing energy reduction and cost savings, as intended.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SD', is placed above the typed name.

Sharon Dobbins
Director, Long-Range Planning
Cajon Valley Union School District

cc: Scott Buxbaum, CVUSD

**Attachment B—
Fort Bragg Unified School District’s Response
to Audit Results**



FORT BRAGG UNIFIED SCHOOL DISTRICT

Superintendent
Rebecca Walker

Board of Trustees
Kathy Babcock, President
Mary Makela
Jerry Matson
Diana Paoli, Vice President
Scott Schneider

312 South Lincoln Street, Fort Bragg, California 95437-4416

Telephone (707) 961-2850

Fax (707) 964-5002

March 11, 2020

Liliana Juarez, Auditor
Office of the State Controller Betty T. Yee
Division of Audits, Compliance Audits Bureau
3301 C Street, Suite 725A
Sacramento, Ca 95816

Dear Liliana,

The District included the projected energy savings as an attachment to the Board Resolution that was approved by the Board. Additionally, energy savings calculations were performed with the help of the on-line Energy Saving Calculators developed by California Energy Commission (CEC). These on-line calculators are offered by CEC as a part of Proposition 39 program. The projected savings were then submitted as part of the process and approved by the CEC. All documents were approved as part of the project. We think the District acted within the spirit and guidelines of the program. We will include projected savings in future contracts moving forward.

Sincerely,
Barry Silva, Director: Facilities, Maintenance and Operations

**Attachment C—
Nestor Language Academy Charter School’s Response
to Audit Results
(via South Bay Union School District)**



South Bay Union School District

A community dedicated to achievement for all

Fiscal Services
601 Elm Avenue
Imperial Beach, CA 91932
www.sbusd.org
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☎ (619) 628-1650

3/18/2020

To: Liliana Juarez, Office of the State Controller

Re: Prop 39 CA Clean Energy Jobs Act Audit

We have reviewed the audit findings for the above referenced audit. In our review, here are the comments from Southbay Union School District regarding the findings.

- 1) Projected energy savings not included in contract with Balfour Beatty Construction
 - a. *We concur that the contract with Balfour Beatty Construction did not include the projected energy savings. In order to not allow this to happen again we have made internal notes and communicated with these results with our projects and facilities team.*
- 2) The final report was not submitted within 12-15 months following the project completion
 - a. *We recognize that the report was submitted July 27, 2018, which is 16 months after the completion date of March 30, 2017. Upon review of this finding, we believe there was a reason behind the late submittal; however, in an attempt to understand why from our consultant we did not receive any understanding.*
- 3) Unused planning funds- more funds were received than approved
 - a. *Fiscal Services reviewed this with Liliana, and provided all backup and documentation to show funds received/spent on the project vs what was approved. We are not entirely sure why more funds were received than approved for; however all funds were spent in accordance to the plan.*

Bradley Wilkinson

Director Fiscal Services/Purchasing

Superintendent
Katie McNamara, Ed.D.

Board of Trustees
Marco Amara • Louis Barrios • Mary Doyle • Barbara Elliott-Sanders • Cheryl Quiñones



**Attachment D—
Saddleback Valley Unified School District and Ralph A
Gates Elementary School’s Response
to Audit Results**



Board of Education

Dr. Edward Wong, President · Amanda Morrell, Vice President ·
Suzie R. Swartz, Clerk · Greg Kunath, Member · Barbara Schulman, Member

Crystal Turner, Ed.D.
Superintendent

April 15, 2020

Betty T. Yee
California State Controller
P.O. Box 942850
3301 C Street, Suite 700,
Sacramento, CA 95816

Dear Ms. Yee:

In regard to the SCO's 2018-2019 California Clean Energy Jobs Act Program Expenditures – Proposition 39 audit of Saddleback Valley Unified School District and Ralph A. Gates Elementary School the following are the district's responses to the identified findings:

Finding 1 – Sole Sourced Funds

It is the district's position that the formal bid process is not required in selecting a vendor to perform projects funded by Proposition 39. The district is able to use a "best value" selection process which is the method the district used when selecting Climatec, Inc. Attachment 1 outlines the process used to select Climatec, Inc.

The district engages with Atkinson, Andelson, Loya, Ruud, and Romo (AALRR) for legal services. AALRR was consulted on a matter related to a Proposition 39 project and the fees for that consultation were charged to the project funded with Proposition 39 dollars. It is the district's opinion this type of service does not require a formal bid process.

The district agrees the charges for Pacific Rim Mechanical were incorrectly charged to a Proposition 39 project and should be disallowed.

Finding 2 – No Signed Contract and/or Projected Energy Savings Identified

Energy Expenditure Plans #1164, #1440, #2033 (Attachment 2) all identify projected annual energy savings.

Climatec, Inc. contracts include the scope of work which outlines current equipment and replacements with various energy usage comparisons. The contracts do not specifically state projected fiscal savings however, the new more efficient equipment implies energy savings which will result in a reduced fiscal impact to the district. The district believes the contracts (Attachment 3) provide the required projected energy savings for the Proposition 39 projects.

Atkinson, Andelson, Loya, Ruud and Romo's services are rendered via a legal services agreement annually.

As stated above, the district agrees the charges for Pacific Rim Mechanical were incorrectly charged to a Proposition 39 project and should be disallowed.

Finding 3 – Final Report not submitted within 12-15 months following the project completion date

The Final Energy Expenditure Plan filed on September 11, 2018 shows a completion date of October 28, 2016 however, the project was actually completed as of November 15, 2017 (Attachment 4) which makes the final report filing within the 12-15 month requirement. The district believes the date discrepancy was a clerical error on the California Energy Commission document and is currently working with the district's assigned California Energy Commission reviewer to correct the final report.

Sincerely,



Susan Cortum
Director, Fiscal Services

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

A PROFESSIONAL LAW CORPORATION

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OUR FILE NUMBER:

Brian.Smith@aalrr.com
BWS

April 15, 2020

VIA EMAIL ONLY

Office of the State Controller Betty T. Yee
Division of Audits, Compliance Audits Bureau
Attn: Liliana Juarez, Auditor
3301 C Street, Suite 725A
Sacramento, CA 95816

**Re: *Saddleback Valley Unified School District; Audit Relating to
Climatec Installation Agreement dated November 11, 2015***

Dear Ms. Juarez:

This firm represents the Saddleback Valley Unified School District ("District") with respect to the audit being conducted by Office of the Controller, Division of Audits, Compliance Audits Bureau ("State Controller") of that certain "Climatec Installation Agreement" dated November 11, 2015 ("Installation Agreement"). The Board of Trustees of the Saddleback Valley Unified School District ("Board") approved the Installation Agreement on December 10, 2015. The Installation Agreement provided for improvements to certain District facilities intended to result in more efficient uses of energy ("Project"). The District requested that we assist in responding to the State Controller's request for information relating to the District's procurement of the Installation Agreement.

Summary Conclusion

As discussed in more detail below in this letter, the District was aware that Clean Energy Jobs Act funding (a.k.a., Proposition 39 Funding") would be used to pay costs of the Project. Therefore, the District undertook a procurement process for purposes of selecting the contractor for the Project that would represent the "best value" to the District, as permitted by the Clean Energy Jobs Act. Although the District documented that procurement process and the determination that Climatec, LLC ("Climatec") represented the best value to the District, the District has not been able to locate the documents associated with this process. The District believes that, due to changes in personnel and office assignments, such documentation most likely has been lost or misplaced. However, as also discussed below, neither the Clean Energy Jobs Act nor the definition of "best value criteria" requires that the best value determination be a written process. Thus, whether documentation of the

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

Office of the State Controller Betty T. Yee

Attention: Liliana Juarez

April 15, 2020

Page 2

procurement process is presently available is not determinative of whether the District actually complied with requirements applicable to expenditure of Proposition 39 Funding.

The District actually does have documentation evidencing that the Installation Agreement was approved by the Board of Trustees of the District ("Board") on December 10, 2015, in accordance with the Clean Energy Jobs Act and, additionally, pursuant to Government Code ("GC") Section 4217.10 *et seq.* As described below in this letter, such documentation consists of a copy of the relevant portions of the agenda for the Board's December 10 meeting, and a resolution approved by the Board following that public hearing. The District also has an audio recording documenting that, in connection with the approval of that resolution, District staff discussed with the Board, among other things as discussed below in this letter, the District's review of three separate energy services companies (each an "ESCO"), and District staff's recommendation that the Board award the Installation Agreement to Climatec. The resolution references the "best value" requirement of the Clean Energy Jobs Act, and the Board's approval of the resolution constitutes a determination by the Board that Climatec represented the best value to the District. Nothing in the Clean Energy Jobs Act or elsewhere prohibits the District from approving the Installation Agreement based on both a best value procurement process and pursuant to GC Section 4217.10 *et seq.*, as long as statutory requirements for both have been satisfied. As discussed below, those statutory requirements were fully satisfied in connection with the Board's approval of the Installation Agreement.

Thus, we believe that sufficient facts are available to support a conclusion by the State Controller that the District employed a procurement process based on "best value criteria" to select Climatec as the contractor for the Project, notwithstanding that the District no longer can locate that documentation, and notwithstanding that the District also approved the Installation Agreement pursuant to GC Section 4217.10 *et seq.*

We understand that the State Controller contemplates a determination or finding that the District failed to comply with the prohibition against sole-sourcing of contracts involving the expenditure of Proposition 39 Funding. As noted, we believe sufficient facts are available to establish the District's compliance, and we would appreciate the opportunity to address this matter directly with you, as well as information regarding how to administratively appeal any such determination or finding.

Factual Background

Prior to Board approval of the Installation Agreement, District staff, including, among others, Jeff Starr, the then-Director of Business Services for the District, had engaged in discussions with three ESCOs that expressed an interest in contracting with the District for the Project. These ESCOs included Siemens Building Technologies ("Siemens"), Honeywell Building Solutions ("Honeywell"), and Climatec. The discussions with Siemens, Honeywell, and Climatec focused on the factors that, for purposes of the Project, allowed District staff to determine that Climatec would be the ESCO representing the best value to the District.

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On December 10, 2015, the Board held a public hearing regarding the proposed Installation Agreement. Mr. Starr then discussed with the Board the background and purposes of the Clean Energy Jobs Act, the District's application for and intended uses of the Proposition 39 Funding, the District's evaluation of three different ESCOs, and District staff's recommendation that the Board award the Installation Agreement to Climatec. Thereafter, the Board adopted Resolution No. 22: 15-16, thereby approving the Installation Agreement. A copy of the relevant portion of the agenda for the December 10, 2015, Board meeting (see, specifically, items XIII.b.1 and XIII.b.2) and a copy of the Board's Resolution No. 22: 15-16 are enclosed with this letter. An audio recording of the December 10, 2015, Board meeting may be reviewed by clicking on the following link: http://www.mediafire.com/file/7mdz4ybtn1i7p3z/12-10-15_Board_Meeting.mp3/file. We also included this link in the email that transmitted this letter to you. The portion of the audio recording relating to this matter commences at approximately one hour, thirty-one minutes, and thirty seconds into the recording.

The first recital of Resolution No. 22: 15-16 provides that "WHEREAS, the Board of Trustees of the Saddleback Valley Unified School District ('District') is authorized to utilize the best value criteria as defined in paragraph (1) of subdivision (c) of Section 20133 of the California Public Contract Code to award funds pursuant to this chapter to acquire equipment and services to reduce energy use or make for a more efficient use of energy...."

The second recital of Resolution No. 22: 15-16 provides that "WHEREAS, California Government Code Sections ... 4217.10 through ... 4217.18 authorizes public agencies such as community college districts or LEAs to use the best value criteria to enter into energy services contracts on such terms as their governing bodies determine are in the best interest of the district if the determination is made at a regularly scheduled public meeting...." (Emphasis added.)

By approving Resolution No. 22: 15-16, the Board thereby accepted District staff's recommendation and found that Climatec represented the best value to the District, the Board made the finding required pursuant to Government Code Section 4217.12 that anticipated energy savings would exceed anticipated costs of the Energy Efficiency Project, and the Board determined that approval of the Installation Agreement would be in the best interests of the District.

Statutory Background

Clean Energy Jobs Act

Approval by the California voters of Proposition 39 in 2012, and enactment of Senate Bill No. 73 in 2013, resulted in establishment and implementation of the California Clean Energy Jobs Act, which is set forth in California Public Resources Code ("PRC") Section 26200 *et seq.* As described in PRC Section 26201, the objectives underlying the Clean Energy Jobs Act include, among others, to improve the energy efficiency of buildings in this State, and to supplement, complement, and leverage existing energy efficiency and clean energy programs. In other words, it is consistent with California law to implement an energy efficiency project through reliance on more than just a single State energy program.

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The Clean Energy Jobs Act provides, in PRC Section 26235(c), that “A community college district or LEA shall not use a sole source process to award funds pursuant to this chapter. A community college district or LEA may use the best value criteria as defined in paragraph (1) of subdivision (c) of Section 20133 of the Public Contract Code to award funds pursuant to this chapter.” The District is an LEA, or “Local Educational Agency,” for purposes of the Clean Energy Jobs Act.

At the time the Clean Energy Jobs Act took effect, Public Contract Code (“PCC”) Section 20133(c)(1) provided that “[b]est value’ means a value determined by objective criteria related to price, features, functions, and life-cycle costs.” Subsequently, PCC Section 20133 was repealed by Senate Bill No. 785, chaptered in September of 2014. The definition of “best value” in effect when the Clean Energy Jobs Act took effect remained the same at all times prior to the repeal of PCC Section 20133. In addition, at the time the District approved the Project in December of 2015 and still to this day, PRC Section 26235(c) retains the reference to award of Clean Energy Jobs Act funds based on the best value criteria as defined in PCC Section 20133. (Certain Government Code (“GC”) provisions also currently refer to PCC Section 20133, including, among others, GC Sections 6532 and 15820.906.)

Thus, the authorization in PRC Section 26235 to use “best value criteria” when expending Proposition 39 funds was in effect when the Board approved the Installation Agreement, despite PCC Section 20133 having been repealed. Notably, nothing in either the Clean Energy Jobs Act or the applicable definition of “best value criteria” requires that the process of determining “best value” be a written process.

Energy Conservation Contracts

The California Legislature enacted GC Section 4217.10 *et seq.* in order to extend, to local public agencies, the State policy of promoting all feasible means of energy conservation and alternative energy sources (see GC Section 4217.10 and PRC Section 25008). In doing so, the Legislature authorized a mechanism for a local public agency, such as a school district, to enter into an energy conservation contract determined by the governing body of the agency to be in the best interests of that agency. A prerequisite to approval of an energy conservation contract using this authority is that, essentially, after a public hearing, the governing body must find that the savings attributable to an energy conservation project will exceed the cost to the agency of the project (see GC Section 4217.12). The ability to contract on this basis applies “notwithstanding any other provision of law” (see GC Section 4217.12). In other words, the approval of a contract pursuant to GC Section 4217.10 *et seq.* does not require any bidding or other competitive process. Thus, the authority set forth in GC Section 4217.10 *et seq.* arguably would not, by itself, be sufficient to satisfy the prohibition against sole sourcing set forth in the Clean Energy Jobs Act. However, there is nothing in the Clean Energy Jobs Act or GC Section 4217.10 *et seq.* that prohibits a local agency from employing a best value procurement in conjunction with a GC Section 4217.10 *et seq.* procurement, as long as the statutory requirements for both are satisfied.

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Discussion/Conclusion

Based on applicable law and the facts described above, it is apparent that the Board's award of the Installation Agreement to Climatec was consistent with the Clean Energy Jobs Act authorization to use "best value criteria" to award that contract. District staff evaluated Siemens, Honeywell and Climatec, and based on those evaluations, determined that Climatec would represent the best value to the District, and the District documented this "best value procurement." District staff thereafter recommended that the Board award the Installation Agreement to Climatec, and the Board's approval of Resolution No. 22: 15-16 constitutes its finding that Climatec represented the best value to the District.

However, neither the Clean Energy Jobs Act nor the incorporated definition of "best value criteria" requires that the best value procurement process be a written process. Thus, it does not diminish the fact that the District procured the Installation Agreement through a best value process because the District no longer has that documentation. In other words, the absence of such documentation is not evidence of a failure by the District to observe the prohibition against sole-sourcing of contracts involving an expenditure of Proposition 39 Funding. As noted above, the District actually undertook a procurement process based on best value criteria before it recommended Climatec, from among the three ESCOs the District evaluated, as the contractor for the Project.

As also noted above, after the public hearing regarding the Installation Agreement, the Board adopted Resolution No. 22: 15-16 to thereby award the Installation Agreement to Climatec. Because Resolution 22: 15-16 specifically references the authority to award the Installation Agreement based on a best value determination, the Board's approval of Resolution 22: 15-16 constitutes the Board's acceptance of the recommendation and a finding by the Board that Climatec represented the best value to the District.

The fact that the District also approved the Installation Agreement pursuant to Government Code Section 4217.10 *et seq.* does not diminish the Board's approval of the Installation Agreement based on Climatec representing the best value to the District. The basic finding required for energy conservation agreements approved pursuant to Section 4217.10 *et seq.* is, essentially, that the energy savings attributable to a project will exceed the costs of the project to the public agency. That finding is entirely consistent with use of funding made available pursuant to the Clean Energy Jobs Act, i.e., to improve the energy efficiency of buildings in this State, and to supplement, complement, and leverage existing energy efficiency and clean energy programs. Because the Board, when it adopted Resolution No. 22: 15-16 and thereby approved the Installation Agreement, accepted District staff's recommendation and found that Climatec represented the best value to the District, it was not necessary for the Board to also approve the Installation Agreement based on GC Section 4217.10 *et seq.* However, the steps taken by the District and the Board to approve the Installation Agreement were consistent with both a competitive best-value process to select Climatec and the policies and objectives underlying the Clean Energy Jobs Act.

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April 15, 2020

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Please confirm that this letter adequately responds to the State Controller's request for information relating to the District's procurement of the Installation Agreement. In the event the State Controller contemplates a determination or finding that the District failed to comply with the prohibition against sole-sourcing of contracts involving the expenditure of Proposition 39 Funding, we hereby request notice and the opportunity to address this matter directly with the auditors, as well as information regarding how to administratively appeal any such determination or finding.

Thank you for your attention to the foregoing. Please do not hesitate to contact the undersigned if you have any questions or comments.

Sincerely,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO



Brian W. Smith

BWS:ad

Cc: Connie Cavanaugh, Assistant Supt., Human Resources & Fiscal Services, SVUSD (via email only)
Susan Cortum, Director of Fiscal Services, SVUSD (via email only)

Encl: Agenda (portion) for December 10, 2015, Board meeting
Board Resolution 22: 15-16

**Attachment E—
West Contra Costa Unified School District’s Response
to Audit Results**



WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT
Facilities Operation Center
1400 Marina Way South
Richmond, CA 94804

Luis Freese
Associate Superintendent, Operations

Phone (510) 231-1105

March 19, 2020

Liliana Juarez, Auditor
Office of the State Controller Betty T. Yee
Division of Audits, Compliance Audits Bureau
3301 C Street, Suite 725A
Sacramento, Ca 95816
Office: 916.327.1228
E-mail: ljuarez@sco.ca.gov

Sent via electronic mail

Re: West Contra Costa USD - Prop 39 CA. Clean Energy Jobs Act Audit findings

Liliana,

In response to the email we received on March 10, 2020, the following is the District response to the two findings from the audit.

Finding #1

1. Projected energy savings not included in the contracts we reviewed the district's contracts with Energy Conservation Options, Energy Management Technologies, and Syserco, Inc. and determined that the contracts do not include the projected energy savings. Public Resource Code (PRC) Section 26206(d) states, in part, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

Recommendation

Adhere to Public Resource Code (PRC) Section 26206(d) states, in part, "All projects shall require contracts that identify the project specifications, costs, and projected energy savings."

Districts response

The District agrees with the recommendation. Although the contract did not specify the expected project savings, the Final Project Report demonstrates that the Projects achieved an annual savings of 950,983 kWh.

Finding #2

"Final report not submitted within 12-15 months following the project completion date. We found that the district's final report was submitted on December 21, 2017, which is 25 months after the reported project completion date of November 15, 2015. Public Resource Code (PRC) Section 26240(b) states in part, "as a condition of receiving funds from the Job Creation Fund, not sooner than one year but not later than 15

months after the 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....”

Recommendation

File final report within 12-15 months following the project completion date.

Districts response

The District agrees with the recommendation. Currently, the District is actively tracking all completed expenditure plans to ensure that the remaining final reports will meet the filing deadline within 15 months of the project completion.

Thank you for the opportunity to submit a response and please contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Luis Freese".

Luis Freese
Associate Superintendent, Operations

**Attachment F—
William S. Hart Union High School District's Response
to Audit Results**



William S. Hart Union High School District

March 23, 2020

Liliana Juarez
Auditor
Office of the State Controller
3301 C Street, Suite 725A
Sacramento, CA 95816

Dear Liliana Juarez,

In response to your email dated March 10, 2020, the District is exercising its right to respond to your interpretation of regulations related to the California Clean Energy Jobs Act Program Expenditure audit. Specifically, the District submits the following responses in response to the audit opinions listed below:

Audit Opinion 1: Sole-sourced funds

The district contracted with the firms of Alliance Building Solutions for Energy Conservation services; and K12 Energy Services, LLC. for Energy Manager services. The district did not provide any documentation to show that it considered other vendors/agencies when it awarded the contracts to Alliance Building Solutions for \$3,498,185, and K12 Energy Services, LLC. for \$234,000. Therefore, we found that \$3,732,185 of Proposition 39 funds were sole-sourced.

Public Resource Code (PRC) section 26235(c) states, in part, "A community college or LEA shall not use a sole source process to award funds pursuant to this chapter."

Public Resource Code (PRC) section 26240(h)(1) states, in part, "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..."

District Response to Audit Opinion 1:

Per guidance provided by the Los Angeles County Office of Education / Commercial Claims Manual; Pg. 38, the District acted accordingly in utilizing PCC 20118.2 in securing and Section 388 of the Public Utilities Code in selecting and contracting with a sole source provider. (see attachment)

The process engaged in by the District was widely accepted as the proper process at the time of implementation. Any guidance issued after the process of selection, design, and build does not negate guidance commonly being provided to LEA's from the State, County, and professional organizations.

Audit Opinion 2: Final report not submitted within 12-15 months following the project completion date

We found that the district's final report was submitted on August 22, 2018, which is 16 months after the reported project completion date of March 31, 2017.

Public Resource Code (PRC) section 26240(b) states, in part, "as a condition of receiving funds from the Job Creation Fund, not sooner than one year but not later than 15 months after the 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...."

District Response to Audit Opinion 2:

The report was submitted to the CA Energy Commission on July 16, 2017. The commission required adjustments to the report that extended the submission timeline. Additionally, the information being provided from Southern California Edison was inaccurate and required reformatting by SCE to meet the needs of CEC.

As you can see from the attached email string, our energy manager was in continuous contact with Nelson Pena at CEC during the process.

Sincerely,



Ralph Peschek
Chief Business Officer
William S. Hart Union High School District

Cc: Wendy Wiles, Partner, Atkinson, Andelson, Loya, Ruud, and Romo (AALRR)
Collyn Nielsen, Chief Administrative Officer, William S Hart UHSD
Karen Bladen, Facilities Accountant, William S Hart UHSD
Brad Chapman, Alliance Business Solutions, Inc.

**State Controller's Office
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