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July 12, 2013

California Energy Commission
Dockets Office, MS-4
1516 Ninth Street
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California Energy Commission

DOCKETED
12-EBP-1

TN 71571

JUL 12 2013

**RE: Comprehensive Energy Efficiency Program for Existing Buildings Draft Action Plan Staff Workshop
Docket No. 12-EBP-1 Comments**

Dear Commissioners,

Thank you for providing my office with the opportunity to submit comments on the Comprehensive Energy Efficiency Program for Existing Buildings Draft Action Plan. The International Brotherhood of Electrical Workers Local Union 11 (IBEW Local 11) represents over 11,000 workers in Los Angeles County. Our Electrical Training Institute is also the largest electrical training facility in North America, and provides a wide variety of energy efficiency and renewable energy in-class and hands-on training opportunities (<http://www.laett.com/>). We look forward to partnering with the California Energy Commission to reduce energy consumption, to reduce greenhouse gas emissions, and to create quality career opportunities. We have reviewed the Draft Action Plan and have included detailed comments on two topics.

The first topic is the use of Job Order Contracting (JOC) in the public and private sectors. We believe that the challenges and pitfalls of JOC should be acknowledged and discussed in the Draft Action Plan, instead of presenting it as a successful model for energy efficiency contracting. We believe that additional contract deployment models beyond JOC should also be analyzed and utilized as part of the CEC's Action Plan.

The second topic is workforce development. We would like to see the Draft Action Plan include the use of existing construction industry infrastructure, in the form of registered apprenticeship programs, to develop a skilled workforce for energy efficient construction. Registered apprentices and journey-level construction workers who have graduated from registered apprenticeship programs are the most qualified people to perform energy efficient construction work. We also hope that CEC's Action Plan include discussions on the value of job quality and fair compensation for skilled workers, who can complete the highest quality energy efficiency retrofits and achieve the highest levels of energy and GHG reduction.

Comments on Job Order Contracting (JOC) in the “Voluntary Pathway 4: Public Sector Leadership” Section

Any contracting model for energy efficiency work in the public sector should ensure that the work performed is done with high quality, high safety, high accountability, and high levels of public benefits. It is concerning that Job Order Contracting is the only contracting model that is mentioned in the draft action plan in the public sector (Pp. 54-5). It is also concerning that there is not mention of any of the risks and challenges of using the JOC model.

1. The draft action plan currently describes Job Order Contracting (JOC) as a “successful method to propel energy efficiency in public buildings that was piloted under the ARRA contract by the San Francisco Public Utilities Commission, has had success in reducing costs, improving materials quality, reducing construction time, and replicating costs for other project” (Page 54). We do not believe that this statement takes into consideration many of the demonstrated problems that JOC has created at public agencies.
2. The CEC Action Plan should also take into consideration that JOCs have the potential to significantly increase project costs, reduce the abilities for public contracts to achieve public benefits such as small business utilization, local hire and apprenticeship, and reduce the abilities of public agencies and other groups to execute labor and contract compliance.
 - JOCs can significantly reduce the abilities for small and medium-sized contractors to compete. JOC is also called “Indefinite Quantity Construction Contracting.” As such, JOC requires that contractors carry bonds for very large contract amounts without actually knowing specifics on what the actual projects are. For example, the San Francisco Public Utilities Commission JOC program listed a cumulative value of \$4.5 million for one JOC contract. In order to bond this type of contract, it would tie up the bonding capacity for all but the largest contractors. They must carry this bond throughout the life of the JOC, which could be for multiple years. Thus, JOC excludes many contractors, especially small and medium-sized contractors who do not have high bonding capacity, from participating in these public contracts. The way that JOCs are typically bid, which is based on a multiplier score, can also be confusing for many contractors who are not familiar with the model. This may also result in lower participation for contractors.
 - Because the number of projects and the types of projects in a JOC are not clearly described during the bidding processes, the cost to bond these projects are higher due to the many unknowns and risks that a contractor must assume. Bond companies typically charge more to bond contractors, such as JOCs, that have many unknowns.
3. JOC also has the potential to increase project costs in other ways.
 - If the information regarding total scope, size, timeline, and number of projects is not clear to a contractor before he/she places a bid, then the contractor may over-estimate the cost of materials, administrative and field personnel, equipment costs, etc. needed to complete the JOCs.
 - JOCs can also result in owners breaking up what is typically one construction project into many “mini-projects.” This results in unpredictable timelines and a patchwork of un-organized projects that can make long-term planning difficult. The inability for contractors to plan and coordinate projects over the long-term will increase costs to execute each part

of a construction project. For example, JOC may make it harder for contractors to plan ahead and to buy materials in bulk, even though buying in bulk often helps to reduce costs.

- JOCs typically have specific requirements regarding the utilization of products that are only made and distributed by one manufacturer, which means that contractors and public agencies are beholden to that manufacturer's/distributor's product lines. This can also potentially increase costs under JOC programs by limiting competition between manufacturers.
4. JOCs generally do not contain language on workforce development and workforce standards, so the public agencies and ratepayers lose out on opportunities to have their public investments generate quality jobs outcomes.
 - Especially considering the random nature of projects in a JOC and the many unknowns about those projects, it is difficult to have workforce development programs coordinate with JOC programs. In addition, public agencies have historically used public works projects to create local jobs, to focus on unemployed workers from disadvantaged communities, and to require high training and safety standards of workers. The JOC model does not have a strong record of incorporating these types of public benefits outcomes and investments. Public agencies who consider using JOC should be made aware of the workforce issues stated above.
 - In the San Francisco Public Utilities Commission JOC program, which the CEC draft Action Plan points to as a successful model for JOC, the CEC should review the workforce development outcomes of that program. This should include how much of the total work was done by local workers and disadvantaged workers, even in a city like San Francisco which has a local hire policy.
 5. Labor compliance and contract compliance for JOC projects are very difficult and are often not done. Because contractors are doing work on a short time-frame and on an "on-call" basis for many different projects, it is very difficult to create a compliance structure that can track all of this work over a geographic area. Especially when there is high pressure for contractors to bid on projects that are un-known to them at the time of bid while also bidding low to be competitive, contractors will have more incentives to cut corners with regards to job quality as well as worker compensation/training in order to stay competitive.
 6. The California Energy Commission should consider multiple models for contracting out energy efficiency work, not just Job Order Contracting (JOC). The California Energy Commission should also present the potential risks and challenges associated with JOC instead of highlighting it as a successful model.

Comments on Workforce Development in the "No Regrets Strategy 4: Foundational Workforce Resources" Section

Building practices have been becoming more efficient for centuries, and the industry that actually performs the efficiency work is the construction industry. This new focus on energy efficient construction is an evolution of the existing construction industry. We should be focused on existing resources, capacity, and infrastructure in the construction industry instead of creating a new short-term, narrowly-

skilled workforce that will not achieve the CEC's goals of energy savings, GHG reduction, and lasting economic impacts.

1. The workforce development strategies at the CEC should be focused not on training workers, but integrating the existing workforce resources that can prepare and deploy a highly-skilled workforce to perform energy efficient construction work.
2. Registered apprenticeship programs provide a huge workforce resource for energy efficiency. It is very concerning that this huge workforce resource in the State of California is not even mentioned in the workforce section. Registered apprenticeship curriculum and trainings meet stringent CA apprenticeship standards that can ensure high quality work performance
 - The bulk of the energy efficiency work will be done by construction workers, and registered apprenticeship is the best proven model for training construction workers. The apprenticeship training prepares workers with a well-rounded in-class and on-the-job training, which is very critical when workers are expected to perform high quality energy efficiency construction and to produce high quality results each time.
 - CEC staff should invest more resources in developing additional expertise about registered apprenticeship programs and prioritize the use of registered apprenticeships to train the most skilled workforce for energy efficiency installation and maintenance.
3. The Draft Action Plan's recommendations for "stackable credentials" to increase skills for workers is vague, while apprenticeships, with its focus on teaching workers important foundational knowledge as well as the most cutting-edge technology, is a time-tested model for creating a skilled workforce.
 - Policy-makers and regulators must commit to working with the construction industry to improve building efficiency instead of trying to create a new industry that will confuse consumers even more and that do not have the same safety, workforce, and quality standards.
4. There is no mention of the quality of the jobs in the workforce resource section. Job quality includes the payment of prevailing wages that include health and retirement contributions.
 - Workers who perform this work should be compensated fairly. This will increase the level of interest for skilled workers to work in energy efficiency, helping the industry to recruit the best workers for the jobs. This will also increase the energy savings and GHG reduction for energy efficiency projects, since workers who are well-skilled and fairly compensated for their skills will perform better on the job-site.
5. ARRA money funded many different programs, but it is unclear what kinds of jobs training, the quality of the training, and how well-prepared workers are to actually perform retrofits. We should not assume that all of the 8,000 workers trained under ARRA are ready for work and we should focus in on programs with documented levels of success for training and placement into high-quality careers, such as registered apprenticeship programs.

Quality contracting procedures and quality workforce development are the cornerstones for successful deployment of energy efficiency programs in the State of California. We hope that the California Energy Commission will consider and act on our comments, which we believe will lead to high levels of success

for energy efficiency efforts throughout the state. Please do not hesitate to reach out to my office with additional questions and discussions points. You can contact Dick Reed, Senior Assistant Business Manager, at reed@joinlocal11.org or by phone at 626-243-9700.

Sincerely,

A handwritten signature in black ink, appearing to read "Marvin Kropke". The signature is written in a cursive style with a large, sweeping initial "M".

Marvin Kropke
Business Manager
International Brotherhood of Electrical Workers Local Union 11