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July 12, 2013

By Email

California Energy Commission
Dockets Office, MS-4
RE: Docket No. 12-EBP-1
1516 Ninth Street
Sacramento, CA 95814-5512
docket@energy.ca.gov



Re: Comments of the California Construction Industry Labor Management Cooperation Trust on the Draft Action Plan for the Comprehensive Energy Efficiency Program for Existing Buildings

Dear Commissioners and Staff:

We are writing on behalf of the California Construction Industry Labor Management Cooperation Trust ("Trust") to comment on the June 2013 Draft Action Plan for the Comprehensive Energy Efficiency Program for Existing Buildings ("Draft Action Plan"), prepared by the California Energy Commission pursuant to Assembly Bill 758 ("AB 758").

The Trust is a joint labor-management cooperation trust established pursuant to sections 205a and 302(c)(9) of the Labor Management Relations Act, 29 U.S.C. SS 175a, 186(c)(9). The Trust is comprised of a wide range of construction contracting firms working in the energy efficiency industry in California, together with the unions that represent their employees. The Trust promotes joint labor-management efforts to advance the economic growth and development of California's energy and power generation industries. In accordance with these purposes, the Trust seeks to advance the state's goal of pursuing energy efficiency and clean energy technology policies that benefit utility ratepayers, and to promote the contractor and workforce training necessary to meet the needs of the state's growing green economy.

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The comments below are organized in accordance with the Draft Action Plan chapters and subheadings for ease of reference.

I. Chapter 2 – No Regrets Strategies for Workforce Education and Training

The Draft Action Plan identifies “No Regrets” strategies to provide a foundation to support and secure the benefits for future energy efficiency programs and efforts for existing buildings. We are pleased that the Draft Action Plan identifies as a key strategy the streamlining of workforce education and training regionally and statewide in order to ensure that workers are adequately skilled to perform quality installations, assessments and inspections to support industry demand and meet the state’s energy efficiency goals.¹ The Trust also supports the Draft Action Plan’s commitment to creating strong partnerships with energy, labor, and education entities to establish cross-sector partnerships.² This sector strategy model is cited as best practice in the California Workforce Education and Training Needs Assessment prepared by the UC Berkeley Donald Vial Labor Center on Employment in the Green Economy, and was endorsed by the California Public Utilities Commission in its most recent decision providing guidance for the ratepayer-funded workforce education and training programs.

We are concerned, however, that the Draft Action Plan fails to identify the state-certified apprenticeship programs as a key resource and stakeholder in both streamlining and delivering the training that is needed to support industry demand, and in developing cross-sector partnerships for key technologies and occupations. The state-certified apprenticeship programs represent a significant private investment in state of the art education and training for the skilled construction trades-people in the arts and sciences of buildings and building systems. They make up the vast majority of the jobs needed in California’s energy efficiency industry. In fact, the Commission itself recognized in its Electric Program Investment Charge 2012-13 Investment Plan that leveraging the capacity and the expertise of the state-certified apprenticeship programs should be a fundamental component of the strategy for future investment in the state’s clean energy workforce.³

¹ See Draft Action Plan, at p. 35, Key Strategy NR 4.1.

² See *id.* at p. 36, Key Strategy NR 4.2.

³ See, e.g., California Energy Commission, Staff Final Report, *The Electric Program Investment Charge: Proposed 2012-14 Triennial Investment Plan*, Oct. 2012, available at <http://www.energy.ca.gov/2012publications/CEC-500-2012-082/CEC-500-2012-082-SF.pdf>.
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Accordingly, we recommend that the Draft Action Plan be revised to clarify that coordination with the state-certified apprenticeship programs is among the Commission's key initiatives in implementing AB 758. The Draft Action Plan should also be revised to include coordinating efforts with the California Division of Apprenticeship Standards ("DAS") as a key initiative for all strategies pertaining to workforce education and training.

II. Chapter 2 – No Regrets Strategies for Supporting Standards Compliance and Enforcement

There is widespread recognition that poor quality installations are a result of a market driven by low-bid contractors. Current incentive programs utilize a low bid process that provides no meaningful review of the qualifications, experience, and past performance of contractors prior to being awarded work. In recognition of these problems, the investor-owned utilities have already begun to set robust standards for contractor participation in the rate-payer funded HVAC incentives programs. Nevertheless, as the Draft Action Plan acknowledges, energy efficiency retrofit work continues to be performed without compliance with the most basic standard of all – securing a building permit and calling for inspections to ensure that the equipment is properly and lawfully installed.⁴ The Draft Action Plan notes that this problem is traceable, in part, to lack of understanding on the part of many of the contractors about Title 24 requirements.⁵

The Draft Action Plan identifies nonmonetary incentives for customers and installers to increase the motivation to obtain permits and comply with current energy efficiency requirements as an initiative that should be pursued to increase compliance and enforcement of California's Building Energy Efficiency Standards.⁶ The Commission should also consider supporting the deployment of other strategies to increase code compliance, such as contractor selection criteria and added incentives for end-users that utilize appropriately certified contractors and technicians.

Establishing meaningful contractor selection criteria, or "prequalification" of contractors, ensures that participating contractors are selected based upon

⁴ See Draft Action Plan, at p. 24.

⁵ *Ibid.*

⁶ See *id.* at p. 27.

qualifications, relevant experience, demonstrated record of regulatory compliance and appropriate certifications, including relevant contractor certifications, and workforce skill certifications for their employees. Public works construction and certain sectors of the private construction market provide examples of existing models for contractor selection.

Prequalification standards provide a systematic means of evaluating and ranking contractors based upon experience and past performance, employee qualifications, documented commitment to investment in worker training, code-compliance, and financial viability, among other factors. Determining contractor qualifications and competence through a standardized procedure before bids are submitted or financing is made available can be a highly effective way to ensure success in a fair and effective manner.

Another strategy for increasing code compliance that should be considered by the Commission with respect to advanced lighting systems is offering incentives for technicians and contractors that have been certified by the California Advanced Lighting Controls Training Program (“CALCTP”). Preliminary estimates from the state’s largest investor-owned utilities indicate higher levels of initial system performance for measures installed by CALCTP-certified technicians as a result of greater familiarity and expertise with advanced lighting controls and code requirements. The utilities have committed to offering added rate-payer incentives to business that utilize CALCTP-certified contractors and such incentives are starting to be offered by smaller utilities.

III. Chapter 3 – Voluntary Pathways for Upgrades in Small, Commercial and Public Buildings

The Draft Action Plan identifies job order contracting (“JOC”) as a preferred contracting model for small and medium commercial and public sector energy efficiency work.⁷ For public buildings, the Draft Action Plan identifies the development of “a municipal building job order contracting process” as one among several key initiatives in implementing AB 758.⁸ The Commission should ensure that any contracting model that is expressly endorsed by the Draft Action Plan also furthers the Plan’s workforce development and code compliance strategies and initiatives. These include, support for contractors that meet prequalification

⁷ See Draft Action Plan at p. 50.

⁸ *Id.* at p. 56.

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standards that will ensure code compliance, and the development of cross-sector partnerships to advance the state's energy efficiency and clean energy workforce goals.

Thank you for the opportunity to comment on the Draft Action Plan.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Elizabeth Klebaner', written in a cursive style.

Elizabeth Klebaner
Daniel L. Cardozo

EK:clv