

-----Original Message-----

From: Douglas Kolozsvari [mailto: [REDACTED]]

Sent: Thursday, September 03, 2015 7:55 AM

To: Doraj, Kavita@CSD

Cc: Abby Young

Subject: RE: Public Notice: Low Income Weatherization Program Guidelines for Large Multi-Family Dwellings

Dear Kavita,

My name is Doug Kolozsvari with the Bay Area Air Quality Management District. We would like to provide comments about the Low Income Weatherization Program Guidelines for Large Multi-Family Dwellings and would like to know whether your agency would like a formal comment letter or whether feedback can be provided at the staff level.

Our comments are as follows:

1. The definition of a Large Multi-Family Dwelling should explicitly include group homes and shelters that house populations that tend to be transient. Shelters and group homes may not necessarily organize their residents into traditional units, but they still provide essential housing services for families and individuals.
2. The definition of a "vulnerable" population should also include populations that use shelters and group homes including "homeless" or "transient" populations as well as "refugees" or people with "displaced person" status. It should also include "victims of crimes" who are seeking a safer housing situation.
3. Every project that has a building with separate units that are not currently metered individually should make the metering of individual units a mandatory improvement.

Please let me know if you would prefer that we submit the above comments in official letter from our Air Pollution Control Officer and, if necessary, what the deadline for receiving that comment letter would be.

Sincerely,  
Doug

Douglas Kolozsvari, Ph.D.  
Principal Environmental Planner  
Bay Area Air Quality Management District  
939 Ellis Street, San Francisco, CA 94109  
(415) 749-4783

---

From: California Department of Community Services and Development [dcsd=csd.ca.gov@mail62.atl91.mcsv.net] on behalf of California Department of Community Services and Development [dcsd@csd.ca.gov]  
Sent: Friday, August 21, 2015 5:31 PM  
To: Douglas Kolozsvari  
Subject: Public Notice: Low Income Weatherization Program Guidelines for Large Multi-Family Dwellings

View this email in your browser<<http://us3.campaign-archive1.com/?u=cc5fae02e77a3cb6638d02c67&id=7c896970cd&e=cfe6a8ea2a>>

Dorai, Kavita@CSD

---

**From:** WAYNE WAITE [REDACTED]  
**Sent:** Thursday, September 10, 2015 7:36 AM  
**To:** LIWP LMF@CSD  
**Cc:** WAYNE WAITE  
**Subject:** Comments on California Department of Community Services and Development (CSD) Low Income Weatherization Program Guidelines for Large and Small Multifamily Properties  
**Attachments:** Everyday Energy - Comments CSD LIWP LMF Guidane.pdf  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Thank you for the opportunity to participate in the public workshop.

Attached are Everyday Energy's comments and recommendations on the draft guidelines.

Please contact me if you have questions.

Wayne Waite  
Vice President, Public Policy & Development  
Mobile: 775.771.5550  
<http://www.everydayenergy.us>



**Everyday Energy**  
#1 in Affordable Housing Solar



September 09, 2015

Kavita Dorai  
California Department of Community Services and Development  
2389 Gateway Oaks Drive,  
Sacramento, CA 95833

**Subject:** Comments on California Department of Community Services and Development (CSD) Low Income Weatherization Program Guidelines for Large and Small Multifamily Properties

Dear Ms. Dorai,

Thank you for this opportunity to comment on CSD's Proposed Program Guidelines for the Large and Small Multifamily Weatherization, Solar Water Heater, and Photovoltaic program.

Everyday Energy is a California-based solar company exclusively focused on low-income multifamily housing markets. Over the last 7 years we have successfully worked with a number of multifamily housing organizations to design, finance, and install solar PV and thermal systems. Everyday Energy has also played an active role in public proceedings in developing the program design and rules for the Multifamily Affordable Solar Housing (MASH) program, including policies for Virtual Net Metering and providing low-income renters with direct economic benefits from solar installations.

In the course of this work we have acquired considerable expertise in developing business processes, conducting project assessments, and designing financing strategies responsive to multifamily ownership structures and housing policies and regulations. We believe that the recommendations provided below will assist CSD in scaling solar installations in low-income multifamily markets, leveraging financial resources, and reaching low-income renters.

### Comments on CSD Draft Program Guidelines

#### Section V. LIWP Goals

##### b. Maximize co-benefits to disadvantaged communities

Page 4 – We recommend that the following program goals be added:

- Cost savings and direct economic benefits to low-income renters
- Preservation of housing affordability
- Stability of long-term utility prices

Page 5 – We recommend that following revisions be made to the approaches listed to promote workforce development:

- "Encouraging employment agreements with installation contractors to set goals and secure commitments for hiring ~~hire one or more~~ individuals from the disadvantaged community;"
- "Utilization of qualified contractors and subcontractors ~~contractors~~ ~~from the disadvantaged community areas;~~ Giving priority to installation contractors from the disadvantaged community areas;"

## Section VI. Project Types

### c. Solar Photovoltaics and Solar Water Heating

Page 6 – The draft guidelines propose a number of factors for determining whether a solar system should qualify for the large and small multifamily LWP. These factors are useful but some edits and additions are recommended to align the criteria with typical solar project assessment process and to ensure that the solar systems meet the goals and objectives of the program (e.g. GHG reductions, economic benefits to tenants, and leverage of financial resources).

We recommend that Section VI.c should be revised as follows:

*“Factors that will be considered include:*

- *Whether the property is located within a Disadvantaged Community (See Section IV)*
- *Site suitability for solar system installation inclusive of system orientation and site and roof conditions and obstructions that affect system installation, operations, access, and performance*
- *Available roof and carport space*
- *Solar system generating capacity*
- *Percent of electric loads offset by system*
- *Allocation of solar generation between common areas and tenant units*
- *Utility policies enabling meter aggregation and distribution of solar credits (e.g. virtual net metering)*
- *Equipment type (compliant with CEC requirements)*
- *Property electrical metering structure, meter access, and interconnection issues*
- *Project financial feasibility (with consideration of available incentive programs and equity and debt financing options)*
- *Property owner’s financial participation, inclusive of debt financing payments and payments made under a solar lease or power purchase agreement*

## Section VII. Allocation of Dollars

Page 7 – Comment: In the table on page 7, the estimated number of dwellings to be served are significantly lower than what can reasonably be expected under CSD’s solar program. Assuming a blended program incentive level in the range of \$1.40 to \$1.60 per watt, which is roughly what is possible under the current MASH program, we estimate that at least 1,100 dwelling units could be reached by each of the CSD solar PV programs, a 40% increase over CSD’s estimates.

Page 7 – The draft guidelines state,

*“The LMF Service Provider will target LMF buildings with the greatest energy waste and higher energy burdens to low-income individuals and families. As part of the initial assessment, a buildings energy usage data will be analyzed to develop a scope of work that will prioritize the efficiency and renewable measures with the greatest potential for GHG reductions.”*

This guidance is useful. We recommend that the analysis of energy usage data undertaken by the LMF Service Provider be shared with the contractor undertaking solar feasibility assessments and project design. We also recommend that a publicly accepted solar calculator, such as the CEC-PV calculator, be used to determine estimates of kWh generation from PV systems used in calculating GHG reductions.



### Section VIII. LIWP LMF Design

Page 8 – The draft guidelines state,

*“CSD is evaluating the interrelationship between SIR and CIR and will provide quantification considerations as the LMF program readies for launch. Where other funding sources exist, the property owner will be encouraged to utilize these resources to the extent possible to leverage with property owner project co-investment. The provider will serve as a single point of contact for the coordination of leveraged rebates and incentives, and ensure that a property owner’s co-investment is accounted for.”*

We recommend that the program guidelines permit the property owner to count private debt and equity investment as leverage to the CSD program incentive.

We also recommend that the program guidelines permit the property owner to count debt financing payments or payments made under a solar lease or power purchase payments towards the property owner’s co-investment.

Page 8 – The draft guidelines state,

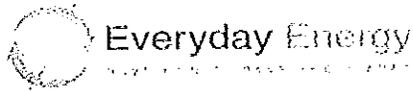
*“The service provider will provide technical support, as needed by property owner, for the procurement of appropriate installation contractors to complete the weatherization work.”*

We recommend that the guidelines further state that for solar projects, the program contractor will provide technical assistance to the property owner inclusive of a financial analysis evaluating the costs and cash flows resulting from the solar installation under a system purchase or third-party ownership scenario. We also recommend that the program guidelines further state that for solar projects, the program contractor will provide the property owner with a written proposal for a system purchase, solar lease, or power purchase pursuant to the preferences of the property owner. The proposal should provide the property owner with a fixed cost schedule and annual production estimate of the solar system.

Page 9 – The draft guidelines state,

*“Additionally, the service provider will also provide construction oversight at all critical phases and perform quality assurance testing and verification (QA&V) on measures installed.”*

We recommend that the guidelines further state that for solar projects, the program contractor should provide a performance guarantee to the property owner and provide ongoing monitoring of system production.



**Section IX. Quantification of Benefits and Co-Benefits**  
**b. Determining Energy Savings**

Page 9 – The draft guidelines state,

*“CSD is currently working with ARB to finalize the methodology for quantifying energy savings for LIWP measures. These methods may include a “deemed savings approach,” which uses energy industry standards and data to calculate saving averages for commonly-installed measures, or an energy model approach using actual utility billing data (to the extent available) to quantify energy efficiency over a defined period of time (e.g. the preceding twelve months and twelve months post weatherization), or a combination of both.”*

We recommend that the guidelines specify that solar PV production estimates be based on a publicly accepted calculator, such as the CEC-PV calculator. The use of deemed savings approaches are not necessary or appropriate for solar PV systems. Solar PV production estimates are generally highly reliable. In addition, actual kWh production is readily available and measured and monitored at a solar meter.

Everyday Energy appreciates this opportunity to comment on CSD’s draft program guidance. Please contact me if you have any questions

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Waite".

Wayne Waite  
Vice President of Public Policy  
Everyday Energy  
5865 Avenida Encinas, 142A  
Carlsbad, California 92008

**Dorai, Kavita@CSD**

---

**From:** Lisa Schmidt <[REDACTED]>  
**Sent:** Thursday, September 10, 2015 2:20 PM  
**To:** LIWP LMF@CSD  
**Subject:** Comments on LIWP LMF Draft Program Guidelines  
**Attachments:** HEA Comments on CDS LIWP LMF Draft Guidelines.docx

Thank you for the opportunity to submit these comments. The 9/9/15 webinar was helpful in further clarifying the purpose of the program.

I would be pleased to answer any questions or provide clarification on our comments.

Respectfully,  
Lisa Schmidt  
President and CEO

--  
[HEA.com](http://HEA.com)

## HEA Comments on CDS LIWP LMF Draft Guidelines

September 1, 2015

### Summary

Based on our experience using smart meter analytics in support of community based energy efficiency programs, HEA believes the LIWP would benefit from employing similar technology to increase cost effectiveness. Specifically, for each residence smart meter analytics can:

1. Accurately identify which energy saving measures will have the greatest impact;
2. Accurately identify which energy saving measures will **not** be cost effective;
3. Track in real time the efficacy of individual measures;
4. Automatically quantify & track program-wide energy changes and GHG reductions.

In the following sections we'll address how these capabilities fit with the proposed guidelines, and how they support the desired outcomes.

### V. LIWP Goals

Goal #1: Smart meter analytics can be used to remotely diagnose energy waste prior to a visual inspection. This process will identify the areas with the most potential for energy savings so contractors can focus on implementing the measures with the greatest impact for energy and GHG reduction. The benefits of this technology have been proven for individual units and may also apply to common areas. Smart meter analysis can be used to track energy changes based on actual consumption, which is more accurate and less cumbersome than traditional methods. The baseline for comparison is the energy use recorded in the year prior to participation in LIWP. GHG reductions can be accurately calculated based on measured energy reductions.

### VIII. LIWP LMF Design

Paragraph 3: Smart meter analytics can support the goal of more accurately predicting the SIR and CIR of available measures so the most effective measures can be chosen for installation. Using smart meter analytics energy usage can be divided into 8 categories as shown in the following table.

Energy Category	Gas	Electricity	Considerations
Winter Heating	✓	✓	Energy use that correlates with lower temperatures, including gas furnaces, electric space heaters, heated floors, electric blankets, etc.
Summer Cooling		✓	Energy use that correlates with higher temperatures, including fans, air conditioning, etc.
Variable	✓	✓	Appliances that come on intermittently during the day: lights, washing machines, dishwashers, microwaves, stoves, cook tops, entertainment systems when they are on, computers when they are turned during a portion of the day, etc.
Recurring		✓	Appliances that go on and off at the same time every day: pool or spa pumps, outdoor lighting, coffee pots on timers, etc. These loads can be controlled by timers but can also reflect behavioral patterns easily recognized by the residents.
Base	✓	✓	Devices continuously drawing power in a predictable manner: refrigerators, natural gas water heating, desktop computers in sleep mode, game consoles in sleep mode, DVRs, whole house audio systems in standby, surround sound systems, routers, wifi routers, powered phones, etc.

Measures for a unit can be chosen to reduce energy use in the most costly category for that specific unit. For example, if the analysis shows low usage in the variable load category, we already know that replacing light bulbs will not significantly reduce the overall energy bill. If the analysis shows instead a very high base load, adding a smart power strip and checking to see if any devices are being left on 24/7 would be more appropriate steps in reducing the unit's energy bill.

Energy changes can be tracked using smart meter analysis. When energy use is tracked for a measure across multiple installations it is possible to make more accurate predictions of both the SIR and CIR prior to new installations.

### ***IX. Quantification of Benefits and Co-Benefits***

a. Actual energy changes for each meter can be tracked via smart meter analysis and compared to a baseline year. GHG changes can be easily derived from energy changes and local emissions factors.

b. We strongly encourage measuring energy changes based on meter data rather than deemed savings. Measured savings are far more accurate, especially given the large variations in actual impact due to plug loads and behavioral issues from one unit to the next.

### ***XII. Reporting and Auditing***

Utilizing smart meter analytics improves the accuracy in reporting energy use changes and will also reduce the effort in calculating energy savings for individuals as well as for the program since once the program is established, data gathering and computation is highly automated.

**Dorai, Kavita@CSD**

---

**From:** Andy Mannle <[REDACTED]>  
**Sent:** Monday, September 21, 2015 12:54 PM  
**To:** Dorai, Kavita@CSD  
**Cc:** Andy Brooks <[REDACTED]>; Blanca De La Cruz; Belk, Charles@CSD; Andry, Kathy@CSD; LIWP LMF@CSD; Jonas Villalba; Adam Boucher  
**Subject:** Promise Energy - Written Comments on LIWP Program  
**Attachments:** Written Comments on LIWP LMF Program\_Mannle\_PromiseEnergy\_150921.docx

Hi Dorita, Andy and Blanca,

Thanks for your support and dedication to shaping a successful LIWP LMF program focused on efficiency, Solar Water Heating and Solar PV for affordable housing.

Promise Energy has provided more solar water heating for more affordable housing groups than virtually any other organization in the state. We are the only company I know of that is dedicated primarily to affordable housing, promotes efficiency first, and provides both Solar Water Heating and Solar PV.

We know the true value of solar systems is in their longevity - providing steady energy reductions for decades is the best way to achieve long-term economic return and GHG reductions. And with our experience in the field, we've seen what works and what doesn't for getting property owners to commit to installing SHW and PV. We've also seen what works and what doesn't from contractors trying to keep costs low.

We would like to see this program be successful, and are happy to help. I've made some brief comments based on the workshop I attended, though I won't claim it covers everything.

Hope this is helpful, please be in touch as the program moves forward.

**Andy Mannle**  
VP Strategic Development  
Promise Energy, Inc.  
8695 Washington Blvd., Suite 205 | Culver City, CA 90232 | C: (213) 444-9100  
CSI B: 978353

## LI MF SHW and PV Program

1. **Tenant Benefit & Household Savings:** Allow developers of affordable housing projects to provide general benefits to property including maintenance, upkeep, onsite services etc that extend their ability to provide affordable housing. Don't quantify specific tenant cost savings because it is challenging for developers on central systems, like solar water heating to quantify or pass along direct cost savings to tenants. Additionally, in many projects reduced utility costs get offset by increased rents to whatever the AMI level is, so the net tenant housing (rent +util) costs remain the same. This is an effective strategy for encouraging GHG reductions through solar and efficiency, and we recommend using it for LIWP.
2. **Include LADWP DAC's please!** Many CEC/CPUC programs designed to solarize or subsidize efficiency for low-income renters are not applicable in DWP territory, which has a huge share of DACs. Because this program is tied to statewide GHG reductions, not utility programs, these benefits should be afforded to DAC's in DWP territory.
3. **Becoming a contractor for large MF** - Please clarify process. If you like, include us in the process of designing the RFP for qualified contractors. We work with many contractors statewide, and we've seen it all – the good, the bad, the ugly. If we can be a resource, please reach out. We'd like to see a program with workable requirements, but also a high quality of service.
4. **Question – What about New Construction?** These programs are for existing buildings. Are we incentivizing people to wait on efficiency and solar during new construction to apply for this program? We see that potential with the MASH program for instance, because construction costs are lower without prevailing wage, and the MASH rebates are higher than say NSHP. But developers need to design and engineer during construction, so how are design/engineering costs covered under this program? Please clarify how people can do design during new construction, but then apply for LIWP once they've received Certificate of Occupancy for instance? Either way, make it clear to folks doing construction whether this program is something they should be aware of, and how that's addressed.
5. **Project Size** – Please consider using a “whole project” metric vs a “per building” metric. What if property has 100+ units, but some 16-unit buildings and some 24-36 unit buildings for instance? Please allow such a project proceed under the LMF program, not be split between the large and the small MF program. If the project site has over 20 units, allow it to apply under the LMF program.

6. **Project Size** – Allow a “project” basis not a “building” basis for application, so if a project has a large number of units, but with individual systems it can still apply under the LMF program.
7. **Think Portfolio-Wide** – Because that’s how owners think. This approach will allow some projects that can get deeper savings to compensate for other projects that can only achieve smaller savings, instead of just being left out. This will increase overall GHG reduction by allowing retrofits to be done on more challenging projects where the costs are greater or the savings smaller.
8. **Income qualification** – Allow the use of regulatory agreements for determining affordability. This aligns with TCAC and utility programs currently in place. These agreements cover the whole project, and are readily available; while individual income levels may not be, and may change as residents move in and out....
9. **Assessment for Potential of Solar Water Heating** – Beyond a high-level, superficial analysis of eligibility (sunny roofs and central boilers) determining whether solar water heating will work for a project – including whether it will be economical or not, requires a high level of design /engineering expertise and economic analysis. Please work with an experienced firm to do this analysis. Property owners have gotten burned in the past by solar contractors promising them over-inflated savings, or poorly installing cheap systems that don’t last. For this program to succeed, it should have high-quality standards that protect property owners, but it should also have flexibility for contractors so this work can be done fairly and economically for both parties.
10. **EUI floor overall for targets** – Instead of requiring “percentage improvements” in property performance, allow a clear floor of energy use intensity. This will send a clear message to property owners of where they need to go, and won’t penalize them for work done in the past. Developers are very leery of making improvements now because when they go in for future funding which requires further cuts in energy consumption, they’re penalized for being early adopters. So please set a clear end-goal for EUI or other efficiency metrics to avoid inadvertently penalizing efficiency efforts done prior to LIWP.
11. **AMI Levels** – What happens when tenants move out, and new tenants move in, changing the AMI level? This should be clearly spelled out in the rules.
12. **Owner Financial Participation:** We recommend allowing “due diligence” burdens that require staff time and/or cost to qualify as financial participation from owners. Examples include the time and cost of providing

tenant data; meeting and communicating with tenants about the project; moving tenants during retrofit work; staff time to coordinate and pay for legal and investor review. Other "hard cost" items that should qualify include cost of structural support, storage space, or equipment housing for solar thermal and solar PV. We also support the idea of allowing other financing measures to qualify as owner financial participation. If the owner is bringing rebates, tax credits, PACE financing or other "sources" to the project to reduce the burden on LIWP dollars, that should count.

13. **CSI Thermal Program** - We recommend aligning Solar thermal requirements with requirements of CSI thermal program. It has requirements on training, storage volume, required equipment, system monitoring etc. These requirements are robust, vetted, fair, and familiar to the established solar water heating industry.

Comments submitted by Andy Mannle of Promise Energy.

**Andy Mannle**  
VP Strategic Development  
**Promise Energy, Inc.**  
8695 Washington Blvd., Suite 205 | Culver City, CA 90232 | C: (213) 444-9100  
CSLB: 978353

[LIWP.LMF@csd.ca.gov](mailto:LIWP.LMF@csd.ca.gov)

**BEFORE THE DEPARTMENT OF COMMUNITY SERVICES & DEVELOPMENT**

**COMMENTS OF THE NATURAL RESOURCES DEFENSE  
COUNCIL (NRDC) AND CALIFORNIA HOUSING PARTNERSHIP  
CORPORATION (CHPC) ON AUGUST 21, 2015 DRAFT LOW-INCOME  
WEATHERIZATION PROGRAM LARGE MULTIFAMILY PROGRAM  
GUIDELINES OF THE DEPARTMENT OF COMMUNITY SERVICES &  
DEVELOPMENT**

September 21, 2015

Megan Kirkeby  
California Housing Partnership Corp.  
369 Pine Street, Suite 300  
San Francisco, CA 94104  
415-433-6804  
[REDACTED]

Maria Stamas  
Natural Resources Defense Council  
111 Sutter St., 20<sup>th</sup> Floor  
San Francisco, CA 94104  
415-875-6100  
[REDACTED]

**COMMENTS OF THE NATURAL RESOURCES DEFENSE  
COUNCIL (NRDC) AND CALIFORNIA HOUSING PARTNERSHIP  
CORPORATION (CHPC) ON AUGUST 21, 2015 DRAFT LOW-INCOME  
WEATHERIZATION PROGRAM LARGE MULTIFAMILY PROGRAM  
GUIDELINES OF THE DEPARTMENT OF COMMUNITY SERVICES &  
DEVELOPMENT**

**I. Introduction**

The California Housing Partnership Corporation (CHPC) and the Natural Resources Defense Council (NRDC) respectfully submit these comments on the Department of Community Services and Development's (CSD) Draft Low-Income Weatherization Program Large Multifamily Program Guidelines (LIWP-LMF) issued on August 21, 2015. NRDC is a non-profit membership organization with nearly 80,000 California members who have an interest in receiving affordable energy services while reducing the environmental impact of California's energy consumption. CHPC assists nonprofit and government housing agencies to create and preserve housing affordable to lower-income households, while providing leadership on housing preservation policy and funding.

**II. Discussion**

The Low-Income Weatherization Program (LIWP) will be critical to the state's implementation of its climate goals while producing co-benefits for disadvantaged communities. CHPC and NRDC support the draft guidance, which will improve the comfort, safety, and health of low-income residents' homes while also reducing energy consumption, greenhouse gas emissions, and other pollutants. However, because the August 21 guidelines are presented at a high-level and silent on a number of programmatic details, we strongly recommend that CSD present updated guidelines subject to public stakeholder input after it has made additional progress on the design of its Large Multifamily Program (LMF). We also make a number of prospective recommendations, described below, to more effectively align the guidance with the state's overarching clean energy and social goals.

In summary, our comments and recommendations include:

- We recommend that CSD maintain a transparent and open process, and solicit public stakeholder input before issuing any substantially modified guidelines
- We recommend that the guidelines be an iterative process and revised every year, based on program experience gained.

- We recommend that CSD establish an Advisory Council to oversee the development and implementation of the LIWP-LMF program guidelines.
- We recommend the CSD allow building owners whose properties don't clearly fall into either of the two low-income multifamily dwelling types to choose which program offers the best fit for their property.
- We commend CSD for choosing Association for Energy Affordability, a non-profit organization dedicated to achieving quality multifamily energy upgrades in low-income housing as its Service Provider.
- We recommend the CSD consider progress payments to help alleviate the up-front burden to multifamily building owners performing this work, particularly non-profit housing developers.
- We recommend that when CSD and its Service Provider AEA are training new workers or are recommending multifamily vendors to perform the work, that those performing the work have a solid technical foundation in performing multifamily energy upgrades
- We recommend a flexible application and program cycle to account for the time needed to complete a multifamily energy efficiency retrofit.
- Should it be decided that an owner investment is required for participation in the program, we recommended that an owner cost share of no greater than 20 percent be implemented.
- We recommend, whenever possible, to work with owners of multiple multifamily properties to perform energy efficiency upgrades of their entire portfolio.
- We recommend that any cost effectiveness tests be applied at the portfolio level and not for each individual measure.
- We recommend that cost effectiveness tests or portfolio-wide SIR or CIRs incorporate non-energy benefits and an appropriately low discount rate
- We recommend that CSD, AEA, and ARB work closely with the California Technical Forum when establishing savings estimates for the program.

**A. We recommend that CSD maintain a transparent and open process, and solicit public stakeholder input before issuing any substantially modified guidelines.**

We encourage CSD to uphold high standards of transparency and accountability in decision-making about the LIWP-LMF program. The draft guidance is silent on a number of substantive issues affecting CSD's program. Where this is the case, we make prospective recommendations, but urge CSD to ensure that stakeholders receive notice and some opportunity to provide input before any substantial changes are adopted. Specifically, we recommend CSD issue more specific draft guidance on its incentive structure, eligible measures, energy savings measurement and evaluation, and cost effectiveness protocols, with an opportunity for public input prior to including them in final guidance, as currently proposed.<sup>1</sup>

---

<sup>1</sup> Draft Guidance, p. 8.

**B. We recommend that the guidelines be an iterative process and revised every year, based on program experience gained.**

We understand the need to expeditiously develop and implement the LIWP-LMF program to comport with fiscal year budgets. However, particularly because this is a new program, we expect that the guidelines will need revisiting as program lessons are learned. We recommend CSD solicit stakeholder input and consider revisions on an annual basis until the LIWP-LMF program is more established.

**C. We recommend that CSD establish an Advisory Council to inform the development and implementation of the LIWP-LMF program guidelines.**

In order to incorporate participant feedback and expert advice, we strongly urge CSD to establish an Advisory Committee. This Advisory Committee would both act as a resource to the CSD/AEA program team and provide a forum to respond and incorporate participant feedback. The Committee would be able to address technical implementation issues as they arise and also provide detailed program design recommendations. As a starting point, we recommend the Working Group consist of a program implementor (AEA) representative(s), CSD representative(s), an IOU representative, building owner representative(s), environmental representative(s) with energy efficiency program experience, an affordable housing representative(s) and an environmental justice representative.

We again understand the need to expeditiously develop and implement the LIWP-LMF program to comport with fiscal year budgets. However, particularly because this is a new program, we expect that the guidelines will need revisiting as program lessons are learned. We recommend establishing a council that will take necessary time every year to ensure that stakeholder feedback and lessons learned are incorporated into the program and that an annual or multi-year plan is implemented as intended.

**D. We recommend the CSD allow building owners whose properties don't clearly fall into either of the two low-income multifamily dwelling types to choose which program offers the best fit for their property.**

We appreciate CSD's efforts to make the division between small multifamily and large multifamily logical by incorporating building attributes in its categorization of multifamily properties, e.g. small multifamily building of approximately 20 units with individual systems or large multifamily buildings with 20 or more units and central heating and cooling systems.<sup>2</sup>

---

<sup>2</sup> Draft Guidance, p. 6.

This, however, doesn't address all multifamily building scenarios. There will be properties that have a mix of central and individual systems and in those cases we recommend allowing the building owner *to choose* whether they use the small multifamily dwelling program or the "large" multifamily dwelling program.

**E. We commend CSD for choosing Association for Energy Affordability, a non-profit organization dedicated to achieving quality multifamily energy upgrades in low-income housing as its Service Provider.**

We commend CSD for choosing an expert like AEA as a program administrator for this program and the value added through their involvement for potential applicants. AEA's expertise in audits and quality control post retrofit add credibility to the program and helps assure owners that projected savings will materialize. This aspect of the program should not be undervalued.

**F. We recommend the CSD consider progress payments to help alleviate the up-front burden to multifamily building owners performing this work, particularly non-profit housing developers.**

We understand the inherent challenges facing CSD with providing 100% of the funds to building owners up-front. CSD and its LIWP-LMF service provider, Association for Energy Affordability (AEA), must ensure that building owners' selected vendors perform the scope of work recommended by the whole building energy audit while also meeting an acceptable Savings to Investment Ratio or Carbon to Investment Ratio. Typically, funding is awarded to the building owners participating in these programs once a full Quality Control Inspection is performed to ensure that the measures were installed in accordance with CSD standards of quality for Weatherization and energy efficiency upgrades.

To assist building owners and portfolio managers and particularly non-profit building owners and portfolio managers that may not have access to sufficient up front capital to perform the recommended scope of work, we recommended providing progress payments at 50% of construction completion on a case-by-case basis to help alleviate the up front cost burden to performing the energy efficiency upgrades. To alleviate the risk to CSD and the LIWP-LMF service provider, the balance of funds would not be released until the final Quality Control Inspection is completed and a work sign-off is received.

**G. We recommend that when CSD and its Service Provider AEA, are training new workers or are recommending multifamily vendors to perform the work, that those performing the work have a solid technical foundation in performing multifamily energy upgrades.**

We recommend that all vendors approach the energy upgrade work from a whole building perspective that ensures the health and safety of building residents, based on the technical foundation established by the U.S. Department of Energy's Weatherization Assistance Program. We recommend CSD and AEA ensure that workers are properly trained, have a foundation in building science, and have experience working on multifamily energy upgrades. Whenever possible, we recommend CSD and AEA utilize training for energy efficiency and renewable energy from an IREC accredited training center.<sup>3</sup>

**H. We recommend a flexible application and program cycle to account for the time needed to complete a multifamily energy efficiency retrofit.**

We understand CSD must comply with LIWP-LMF Fiscal Year budgets. However, we urge CSD to take into consideration the differences in complexity of performing retrofits on multifamily buildings when compared to single-family homes. Multifamily energy upgrades take longer than a year to complete from beginning to end, and such flexibility in completing the retrofits should be accounted for in the LIWP-LMF program cycle. Projects with early applications in the program cycle and owners that have already started planning may be able to meet the current deadline. However, a number of projects will not, and we therefore recommend CSD grant owners the option of an extension past the 2017 deadline, even if this means using FY 2015-2016 weatherization funds (\$70 million was recently made available for FY 2015-2016).

We recommend designing the program so that funds are encumbered for projects that have signed on and are moving forward by the 2017 deadline, but the final approval of the measures installed and funding close-out for those projects not be required to be released before the end of the 2017 Fiscal Year. This will provide greater program flexibility and afford building owners the opportunity to complete projects within a realistic timeframe.

**I. Should it be decided that an owner investment is required for participation in the program, we recommended that an owner cost share of no greater than 20 percent be implemented.**

The LIMF is a new program and will need to have sufficient resources to attract owner demand on such a tight timeline. In order to drive demand for the LIMF, we recommend

---

<sup>3</sup> See <http://www.irecusa.org/credentialing/credential-holders/>.

requiring an owner cost share of no more than 20 percent. In the past, many owners have been discouraged by other energy efficiency programs where they have contributed a significant staff time investment only to see 10-30% of project costs covered. Further, leveraging other programs can add months of work and coordination between administrators, property owners, multiple contractors and residents. This program has a unique opportunity to demonstrate the value of a one-stop streamlined whole building approach. We recommend that the 20 percent or less owner cost share be implemented at least in the first years of the program so that deep savings are incentivized with closer to total cost coverage, at the \$3000-\$5000 per unit level. This approach helps ensure that no savings are left on the table and the program can start saving energy without delay.

**J. We recommend AEA and CSD work with owners of multiple multifamily properties to perform energy efficiency upgrades of their entire portfolio.**

The LIWP-LMF program is slated for a minimum of two cycles of Greenhouse Gas Reduction Fund (GGRF) proceeds. With this in mind, we recommend that the program take a portfolio-wide energy efficiency approach and work with owners of multiple properties to plan and stage retrofits in their overall portfolio. As part of this approach, we recommend CSD allow building owners to be innovative in counting their contributions to projects and encourage property owners to take advantage of potential economies of scale that may result from this portfolio-wide approach.

**K. We recommend energy education and behavior programs be added to the list of eligible LIWP weatherization measures.**

Energy education and behavioral programs offer opportunities to save substantial amounts of energy at low-cost, (e.g. by recommending residents turn off unneeded lights, home office equipment, etc.). Both California's general efficiency and low-income efficiency programs, administered by the CPUC, offer these measures, which CSD could adopt, leverage, or modify as it sees fit.

**L. We recommend that any cost effectiveness tests be applied at the portfolio level and not for each individual measure.**

The draft guidelines note that LMF funding will emphasize measures that are cost-effective and expected to yield significant GHG reductions per dollar. It also indicates that a provider will install all measures with "an acceptable Savings-to-Investment Ratio (SIR) and

Carbon-to-Investment Ratio (CIR).”<sup>4</sup> However, it is silent as to what if any framework will be incorporated.

We strongly urge CSD to adopt a portfolio-level CIR or SIR, as opposed to a measure-level one. A portfolio-based approach to cost effectiveness offers several advantages over a measure-based framework. Assessing the cost-effectiveness of the entire program provides greater flexibility to program planners to pursue new strategies to capture additional energy savings. Providing ample flexibility will also enable the LIWP program to meet the diverse needs of its eligible population by tailoring program delivery and measures appropriate for each household. A portfolio-based approach is also consistent with the framework used by the Utilities to administer their core energy efficiency programs. Employing a similar framework will facilitate more effective leveraging and program integration while reducing administrative burden.

**M. We recommend that cost effectiveness tests or portfolio-wide SIR or CIRs incorporate non-energy benefits and an appropriately low discount rate**

We recommend any cost effectiveness framework include non-energy benefits and an appropriately low discount rate, where appropriate. The guidelines indicate that the LMF will provide co-benefits to the state, including reduced air pollution, improved public health, achievement of air quality standards, reduced energy costs and water usage, and job creation.<sup>5</sup> We therefore urge CSD to incorporate the value of these co-benefits into its cost-effectiveness framework, similar to how the investor-owned Energy Savings Assistance program does.

We further recommend that any discount rate that is incorporated into cost-effectiveness evaluations approximate a societal discount rate of approximately 1-3 percent. A discount rate is used to indicate the time value of costs and benefits and can greatly impact the opportunities a program administrator is able to pursue. The discount rate should reflect the risk associated with the investment and a discount rate for efficiency programs and low-income programs in particular should be closer to the social discount rate (3%) or 10-year treasury returns (0.9%).

Investments in efficiency carry much less risk than supply-side investments that often put customers on the hook for highly variable (and therefore risky) future costs, including fuel costs and availability, and environmental regulatory costs. It is also important to properly value energy savings in the long term in order to utilize efficiency to help California meet its 2030 goal of

---

<sup>4</sup> Draft Guidance, p. 8.

<sup>5</sup> Draft Guidance, p. 1.

doubling efficiency and the 2050 goal of reducing greenhouse gas emissions 80% below 1990 levels. The Office of Management and Budget (OMB) guides cost-effectiveness analyses to use the treasury borrowing rate on marketable securities of comparable maturity to the period of analysis. The interest rate on a 10-year bond is 0.9% real. Therefore, a discount rate between 1-3% would also be consistent with OMB's guidance.

**N. We recommend that CSD, AEA, and ARB work closely with the California Technical Forum when establishing savings estimates for the program.**

The draft guidance notes that CSD is currently working with the Air Resources Board (ARB) to identify methods for quantifying energy savings for LIWP measures.<sup>6</sup> We recommend that CSD also work closely with the California Technical Forum to ensure robust savings estimates are used that can be applicable across the state's weatherization programs. The California Technical Forum is a collaborative of experts who engage in a transparent, technically robust process to review and issue technical information related to California's demand side programs.<sup>7</sup>

### III. Conclusion

NRDC and CHPC appreciate the opportunity to offer these comments. We look forward to working with CSD staff and stakeholders to ensure the LIWP-LMF program achieves deep, cost-effective savings, thereby advancing our common agenda of reducing greenhouse gases and providing benefits to disadvantaged communities.

Dated: September 21, 2015

Respectfully submitted,



Maria Stamas  
Project Attorney, Energy & Climate  
Natural Resources Defense Council

---

<sup>6</sup> Draft Guidance, pp. 9-10.

<sup>7</sup> For more information, see California Technical Forum, <http://www.caltf.org/what-we-do>.



Megan Kirkeby  
Policy Director  
California Housing Partnership

**Dorai, Kavita@CSD**

---

**From:** Dorai, Kavita@CSD on behalf of LIWP LMF@CSD  
**Sent:** Tuesday, September 22, 2015 7:56 AM  
**To:** Karl Lauff; LIWP LMF@CSD  
**Cc:** Ara Kim  
**Subject:** RE: LIWP Public Comments

Dear Mr. Karl Lauff,

Thank you for your comments on the LIWP-LMF draft Program Guidelines and for your interest in the large multifamily program.

Best

**Kavita Dorai**

Energy Policy Analyst  
Program & Policy Development Unit  
CSD - Energy & Environmental Services Division  
(916) 576-5291

---

**From:** Karl Lauff [mailto:████████████████████]  
**Sent:** Monday, September 21, 2015 2:54 PM  
**To:** LIWP LMF@CSD  
**Cc:** Ara Kim  
**Subject:** LIWP Public Comments

Dear Ms. Dorai,

On behalf of Abode Communities, I'd like to make these comments on the draft guidelines of the Low-Income Weatherization Program. We appreciate CSD's commitment to the public process and consideration of our comments. Should you have any questions or need any additional information please don't hesitate to ask.

Thanks again,  
Karl

-----

Abode Communities is a non-profit affordable housing developer with a portfolio of 36 properties, out of which we have 13 properties that are actively being planned for rehabilitation. All the rehab properties are located in Disadvantaged Communities and are over 20 units. However, 10 of those properties have individual heating/cooling or water systems. The LIWP Large Multi-family Program should include large properties with individual systems. It would be a missed opportunity to not include these properties, especially as many of the properties are particularly energy inefficient and including these projects would be a great opportunity to reduce energy usage.

We also understand that these projects with individual systems may then be eligible for the Small Multifamily portion of the LIWP. One suggestion is that it would be easiest to work with one LIWP administrator for all multifamily buildings instead of being moved around to work with multiple different programs, guidelines and administrators. This can be

confusing and time consuming to understand the different policies and requirements of both programs. If the programs are easy to work between, it would encourage more owner participation.

We also encourage flexibility and creativity in considering the owner contribution. For some of our properties, like a 25-unit property in Van Nuys, its cashflow is such that the property is unable to leverage funding on its own. We would not be able to contribute to a project like this. However, to be able to accommodate such projects, we encourage a portfolio approach to admitting projects into the program. This is a similar model to the Better Building Challenge, which targets a 20% energy efficiency target across portfolios. We suggest that owner investments be used across the portfolio so that properties that can leverage less are helped by properties that are able to leverage more funds. This would enable more work to be done on more properties, increasing the impact of the LIWP funds.

As for early feasibility work, we would recommend that LIWP cover 100% of the energy audit. For other project costs, a 10%-20% owner contribution is reasonable to ensure that owners have skin in the game. We also suggest flexible and broad options for meeting this requirement. Staff time is a very real owner expense that owners contribute to these types of projects and it would be great for the program to recognize this as this is a prohibitive cost for considering these projects. As you know, owners often navigate between many different and complicated energy savings programs and the staff time used to understand these programs can be a barrier to participation in the programs.

Open enrollments would encourage owners to participate in the program. This would accommodate for our other timing considerations, especially for other funding deadlines that would help us leverage these projects.

We also want to clarify the cost effectiveness ratio aspect of the program. We suggest that participants should be able to do any cost effective measure identified in the audit, despite how it relates to other measures. We are thinking about problematic aspects of other weatherization programs, for example, the Weatherization Assistance Program, which also had a cost effectiveness ratio that was ranked. Sponsors were required to do each item in the ranked order and if one measure was infeasible, the participant could not skip and move forward to other items. This prohibited work being done on worthwhile and cost effective measures down the list even though those measures were otherwise able to be completed.

We also want to clarify the timing for project completion. We understand that CSD wants to complete projects in 4-6 months. What is to be completed? Is the audit included in this 4-6 months? This should be clarified in the guidelines. That timeframe may be reasonable for some projects and but not for others, it depends on the scope of work and what is to be included in the timeline.

Karl Lauff  
Director, Portfolio Management

Abode Communities  
1149 S. Hill Street, Suite 700  
Los Angeles, CA 90015  
T (213) 225-2808 | F (213) 225-2709  
[www.abodecommunities.org](http://www.abodecommunities.org)

**Dorai, Kavita@CSD**

---

**From:** Andry, Kathy@CSD  
**Sent:** Thursday, September 24, 2015 4:43 PM  
**To:** Dorai, Kavita@CSD  
**Subject:** FW: Comments, Draft LIWP-LMF Guidelines and Existing LIWP Guidelines and Program  
**Attachments:** Comments, Draft LIWP-LMF Guidelines and Existing LIWP Guidelines and Program.docx

**From:** Gordon Piper [mailto:████████████████████]  
**Sent:** Thursday, September 24, 2015 4:17 PM  
**To:** Andry, Kathy@CSD  
**Cc:** Stout, Linne@CSD  
**Subject:** Comments, Draft LIWP-LMF Guidelines and Existing LIWP Guidelines and Program

Attached are my comments on the Draft LIWP-LMF Guidelines and Existing LIWP Guidelines and Program. I would be happy to discuss further my research findings and these comments with you.

Gordon Piper, 33 Hiller Drive, Oakland CA 94618 (510) 843-3828

I am writing to submit follow-up comments to the California Department of Community Services and Development (CSD) regarding your existing Low Income Weatherization Program (LISP) Guidelines for single family and multi family weatherization and also the CSD Guidelines Large Multi Family Program (LMF) DRAFT Guidelines to install cost effective energy efficiency "weatherization" measure, solar photovoltaics (PV), and solar thermal measures in large multifamily dwelling of qualifying low income households to reduce energy use and GHG emissions. By way of background, I worked prior to retirement for 31 for the State of California Department of Fair Employment and Housing as an investigator, supervisor, District Office Administrator, and Special Assistant to the Deputy Director helping to investigate discriminate complaints and to enforce State of California and Federal civil rights laws and regulations. I have done extensive research in the last year on Greenhouse Gas Reduction Fund (GGRF) Programs or Climate Investment Programs funded by the State of California and different sets of guidelines that have been developed by State of California agencies including both the California Air Resources Board and CSD for programs, including some programs that combined State of California GGRF program funding with Federal funding. My focus in this research has been on trying to (1) ensure compliance with the requirements of applicable State and Federal laws, regulations, and Constitutional requirement, and contractual requirements and certification of compliance with Title VI of the Civil Rights Act of 1964 contained in State agency contracts entered into with Federal agencies to ensure non-discrimination in the implementation of these programs; and (2) the identification of problem areas or instances where there might be actual or potential violations of the requirements of existing State and Federal laws, regulations, Constitutional requirements, and contractual requirements and certification of compliance with Title VI of the Civil Rights Act of 1964, which may include the requirements of the Title VI Regulations of the Federal agency.

I submitted written comments to CSD on December 15, 2014 regarding the LIWP Draft Program Guidelines and after further review still feel the CSD Program Guidelines for the Low-Income Weatherization Program I believe are discriminatory and actually and potentially can continue to aid as they are currently being implemented in violating requirements of:

- \* the Unruh Civil Rights Act;
  - \* California Government Code Section 11135 (a);
  - \* the Equal Protection Clause in the California Constitution, which is supposed to ensure that no person is discriminated against by government agencies including state government agencies such as CSD; prohibit discrimination by government agencies ;
  - \* the Equal Protection Clause in the United States Constitution;
  - \* Title VI of the Civil Rights Act of 1964; see also the Title VI Manual of the U.S. Department of Justice
  - \* Title VII of the Civil Rights Act of 1964;
  - \* Title VI Regulations of the United States Department of Energy;
- \* the certifications of compliance signed by the CSD Director with requirements of Title VI of the Civil Rights Act of 1964 contained in binding contracts signed with the U.S. Department of Energy in 2014 and 2015 in the Department of Community Service and Development Weatherization Assistance Program for Low Income Persons State Plan and Application to the U.S. Department of Energy;
- \* the certification of compliance signed by the CSD Director with requirements of Title VI of the Civil Rights Act of 1964 among standard certifications on a lists contained in binding contracts signed with the U.S. Department of Health and Human Services Administration in the 2015 Low-Income Home Energy Assistance Program (LIHEAP) and the proposed 2016 Low-Income Home Energy Assistance Program (LIHEAP).

In my 31 year career with the California Department of Fair Employment and Housing, one of the long-time State of California laws that we helped to enforce and to process and investigate complaints for was and is the Unruh Civil Rights Act embodied in California Civil Code section 51 (b). This statute was enacted 56 years ago back in 1959 and is meant to cover "all arbitrary and intentional discrimination" by business establishments including public agencies such as CSD and other State of California agencies. While the Unruh Civil Rights Act specifically lists bases such as "sex, race, color, religion, ancestry, national origin, disability or medical condition" the California Supreme Court has broadly interpreted its protections and noted they are not restricted to these characteristics, and it may cover other bases. The Supreme Court noted for example in the Harris v. that could include "geographic location". The Unruh Civil Rights Act in Section 51 (b) of the Civil Code mandates: "All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, or medical condition are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in business establishments of every kind whatsoever." This long-time California statute clearly applies to public agencies such as CSD, and requires "Full and equal accommodations, advantages, facilities, privileges or services". I recently found online in relation to the written comments that I submitted back in mid December, 2014 regarding the DRAFT LIWP Guidelines potentially violating the Unruh Civil Rights Act a written response dated February 3, 2015 (found online at ) that asserted the following in relation to the Unruh Civil Rights Act:

"Geographic location is not a protected status within the scope of Civil Code Section 51 (Unruh Civil Rights Act), Government Code Section 11135 (a), or any other applicable state or Federal civil rights provisions. The LIWP provisions do not unlawfully discriminate or promote unlawful discrimination on the basis of any protected status, and were designed to carry out the intended purposes and goals of SB535, namely to assist the low-income communities most severely impacted by air pollution."

The response summary from the CSD overlooks important decisions of the California Supreme Court in which the California Supreme Court liberally interpreted the coverage of the Unruh Civil Rights Act, including its decisions in (1) *In re Cox* (1970) 3 Cal. 3d 205 (90 Cal.Prtr.24, 474 P.2d 992) (*Cox*); (2) *Koire v. Metro Car Wash* (1985) Cal.3d; and (3) *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.ed 1142 278 Ca.Rptr. 614; 805 P.wd 873. The California Supreme Court clarified in these cases that the list of explicitly mentioned categories is illustrative, that the case that previously had been recognized as covered under the ACT remain covered, and that additional bases of discrimination can be covered as well even if they are not specifically mentioned in the Act. For example, the California Supreme Court in the *Harris* case referencing its prior decision in the *In re Cox* decision: "Despite the listing of specific types of discrimination in the statute, we concluded that the listing was 'illustrative rather than restrictive' of the kinds of discrimination prohibited by the Act (id.at pp.212, 216-217.)" In the *Koire v. Metro Car Wash* decision, the California Supreme Court similarly held: "As we shall explain, that statute, although primarily invoked in recent years to prohibit racial discrimination, does not limit itself to racial discrimination; both its history and its language disclose a clear and large design to interdict all kinds of discrimination—color, race, religion, ancestry, and national origin—serves as illustrative, rather than restrictive, indicative of the type of conduct condemned."

The 100% allocation by CSD of the State and Federal funding for the LIWP to benefit so-called "disadvantaged communities" in approximately 1993 of California's 8000 census tracts resulted in a

violation of the Unruh Civil Rights Act by redlining and denying the same benefits to qualified low-income residents in 6000 California census tracts and approximately 29 California counties that were excluded from these same services, privileges and advantages. The California Department of Fair Employment and Housing in 2014 allowed me to file an Unruh Civil Rights Act complaint on multiple bases including "geographic location" along with race, color, national origin, and ancestry in relation to another State of California Department that like CSD had restricted 100% of its program benefits in a GGRF and Federally funded program just to benefits qualified residents in the same 1993 census tracts. Contrary to the contention by CSD representatives that the LIWP provisions (which limit benefits just to 1993 California census tracts, while excluding qualified low-income residents in the other 75% of California census tracts) do not unlawfully discriminate or promote unlawful discrimination on the basis of any protected status, I found in my research direct and anecdotal evidence that the LIWP restrictions were discriminatory on multiple bases including race, color, national origin, ancestry, and geographic location and were largely intended by advocates of preferential treatment and affirmative that lobbied for maximizing benefits under the Low-Income Weatherization Program to primarily benefit "low-income communities of color" and who had specifically raised "color" considerations as a basis for advocating for GGRF benefits being restricted in a manner that my research disclosed had a disparate impact or discriminatory impact upon a huge class of approximately 12 million non-Hispanic Caucasians or whites residing in the 6000 California Census tracts.

For all intents and purposes, these affirmative action/minority coalitions seek preferential treatment for communities of color at the expense of fair treatment of all races and incomes in the implementation of environmental laws, policies and programs as mandated by the Government Code definition of Environmental Justice in California Government Code Section 65040.12; and as set forth in the requirements of Public Resources Code 7110 that CAL EPA and the ARB are supposed to be abiding by in conducting their programs, policies, and activities that substantially affect human health or the environment in a manner that ensure "the fair treatment of all races, cultures; and income levels". I believe CSD is vulnerable to having administrative complaints or lawsuits filed against it pursuant to the Unruh Civil Rights Act or Title VI of the Civil Rights Act of 1964 by or on behalf of low-income residents in the 6000 California census tracts not being provided the same services, privileges and advantages of the LIWP and LIHEAP by CSD that arbitrarily restricts program benefits to only about half of California counties and 2000 census tracts that effectively targets benefits in a discriminatory manner that violates State and Federal civil rights laws and contractual obligations under Title VI Regulations of several Federal agencies funding LIWP and LIHEAP.

I found in my research some substantial evidence that the current approach being utilized by CSD to restrict 100% of the LIWP benefits has been manipulated by the public interest law firms and minority community organizations to target benefits to communities of color in California based on considerations of race, color, national origin, ancestry, and geographic location and this leaves CSD vulnerable to administrative complaints or lawsuits being brought by or on behalf a large class of residents in the 6000 excluded California census tracts and also by a large class of low-income non-Hispanic whites or Caucasians located in these census tracts that might otherwise be eligible for the many millions in LIWP benefits. CSD would be ill advised and inviting potential administrative complaints, Title VI complaints to and Title VI complaint investigations and compliance reviews by Federal agencies, and potential lawsuits and court monitoring of its administering of LIWP and LIHEAP programs. There could be potential action taken by Federal agency civil rights staffs to terminate Federal funds for CSD failing to comply with Federal agency Title VI

Regulations that basically bar preferential treatment or differential treatment and discrimination for programs receiving Federal funds that deny access to any persons or program benefits.

I found in my research online substantial evidence the September 4 draft GGRF Guidelines and the previously adopted Interim Guidelines adopted and issued by the California Air Resources Board were greatly influenced by a sophisticated and manipulative coalition of public interest law firms and many minority community organizations and other advocates for affirmative action and preferential treatment benefiting minority communities of color to provide preferential treatment and assure affirmative action to target benefits in a discriminatory manner in public contracting and funding for environmental programs with State and Federal funding based on considerations of race, color, national origin, ancestry, geographic location and income to benefit primarily minority communities of color. My online research which I documented back in April of this year revealed that the Public Advocates law firm, the Greenlining Coalition, and the Asian Pacific Environmental Network (APEN) among other affirmative action coalition partners claimed in a series of website/blog articles that they had influenced:

- The passage of SB535 and AB 1532 that established a framework for spending cap and trade proceeds and the Greenhouse Gas Reduction Fund by “working in high-impact campaigns that **help increase economic opportunity for low income communities of color**” (see <http://www.publicadvocates.org/2014-04-14/public-advocates/hits-bullesey-with-new-staff-attorney>); In another June 16, 2014 Public Advocates website article entitled “A Quick Primer on the Greenhouse Gas Reduction Fund” found at <http://www.publicadvocates.org/2014-06-16/greenhouse-gas-reduction-fund-q-and-a>” pointedly clarified “what has been Public Advocates’ role” relative to the GGRF funds: “Public Advocates is a leading partner in two key coalitions working hard to ensure that GGRF is used to fund program that both reduce greenhouse gas reduction gas (GHG) emissions and **benefit low-income communities of color** (emphasis added): The Sustainable Communities for All Coalition (SC4A) and the SB535 Coalition.”
- The ARB in the development of the Interim Guidelines for Administering Greenhouse Gas Reduction Fund Moneys (see the written comments sent by coalition members on September 17, 2014 to ARB Board Chairman found at <http://greenlining.org/wp-content/uploads/2013/04/SB535-Coalition-Comments-on-Draft-Cap-and-Trade-Investment-Plan-April-24-2013-Final-2.pdf> that went into more detail advocating for increasing local and targeted hiring goals exceeding the “thresholds exceeding 25%” and also increasing eligibility criteria and making change in “Scoring and Ranking processes to ensure that “benefits to disadvantaged communities are maximized” providing multiple significant benefits, and ARB guidance outlined a process whereby each agency calculates a cumulative score based on how well several important indicators or eligibility criteria are met” which the coalition contended would allow agencies to make strategic investments focused on benefiting “disadvantaged communities” in 1993 California census tracts targeting “economic opportunity for low income communities of color”;

- State budget allocations in June 2014 approved by the Legislature and Governor which included substantial set asides of recommended GGRF funding for projects benefiting so-called “disadvantaged communities” in 1993 census tracts, in which Maria Taruc, state organizing director for APEN, stated in a press release from the Greenlining Institute found at <http://greenlining.org/issues/2014/calif-budget/make=historic-climate-investments-low-income-communities/>) stated that “the real winners through this budget process are low income communities of color...”;
- The continuing efforts to maximize benefits to disadvantaged communities even more in working with the Legislature and ARB Guidelines and staff; for example, a February 10, 2015 article on the APEN website found at <http://apen-4ei.org/breaking-climate-legislation-promised-to-benefit-communities-of-color> noted that efforts were under way to maximize benefits to communities of color or so-called “disadvantaged communities” through the efforts of a new California Environmental Justice Alliance (CEJA) named coalition involving some of the same SB535 coalition partners focused on a goal of securing State of California legislation to “at a minimum doubling the care-out for disadvantaged communities within the Greenhouse Gas Reduction Fund to 50%. The object is to “Increase climate investments in disadvantaged communities” and to target disadvantaged communities with preferential treatment/affirmative action benefits to “ensure energy efficiency programs create high-road, long-term, accessible jobs for communities that have suffered from chronic unemployment” apparently located in just 1993 of California’s 8000 census tracts.
- In a March 8, 2013 to California ARB Chair Mary Nichols signed by representative of the SB535 Coalition such as Public Advocates Managing Attorney Richard Marcantonio, Greenlining Legal Counsel Ryan Young, APEN Director Mari Taruc, and California Black Chamber of Commerce President Aubry Stone, some of the coalition members raised “color” considers as a basis for the ARB and the State of California in making investments of GGRF noting: “Low-income and communities of color, who are the majority of California, can be the catalyst for the culture shift needed to ensure the success of our State’s climate programs. California investment in their (emphasis added) climate solutions is key to this shift and many of these efforts will require investments that may require further shaping of existing programs and new programs to meet these needs”. The letter then went on to have the SB535 Coalition recommend 5 areas for near-term investments, including some of the specific investment targets subsequently prioritized by the ARB for FY 2014-2015 GGRF fund investments such as CAL FIRE’s Urban and Community Forestry Program which as developed and funded in 2014 targeted 100% of tree planting funding and subsequently awarded 29 grants that focused on providing 100% of the benefits to disadvantaged communities in CalEnviroScreen 2.0 that primarily benefit minority communities of color in less than 2000 of California census tracts while redlining and largely excluding millions of residents including a huge class of millions of non-Hispanic whites or Caucasians that were located in the 6000 California census tracts and more than half of California counties that were

not identified as “disadvantaged communities” by the California Environmental Protection Agency and the ARB in its Interim Guidelines.

- Online research revealed in a December 14, 2014 newsletter article that a Public Advocates attorney how the Sustainable Communities for All Coalition was advocating to the ARB and other State staff that the SB535 set aside goals actually exceed the disadvantaged communities requirements of SB535, meaning the 25% benefits directly benefiting the so-called disadvantaged communities and 10% of the projects located within disadvantaged communities. The SB535 Coalition that Public Advocates was helping to lead posted online a pdf in 2012 that noted “After Governor Brown signed SB535 and AB1532 the SB535 Coalition went right to work engaging grassroots, community-based organizations and individual supporters across the state to educate them regarding the top 5 near term program ideas that should be funded by the Greenhouse Gas Reduction Fund. The First two program ideas this SB535 Coalition listed were Community Greening (i.e., Cal FIRE Urban and Community Forestry Program) and Low-Income Energy Efficiency Programs. Energy Savings Assistance Program, Weatherization Assistance Program). As the Public Advocates article noted by May 2013 both of these recommended priorities for programs were selected by the California Air Resources Board and the California Department of Finance for allocating 100% of their GGRF funding in allocations be utilized either in or to directly benefit disadvantaged communities, which far exceeded the disadvantaged communities set aside requirement of SB535 and which much the much higher required benefit levels of disadvantaged communities primarily benefit the “low income communities of color” that Public Advocates and its coalition partners were seeking to benefit, while violating the requirements of State and Federal civil rights laws and Title VI Regulations in Federal contracts involving millions of dollars with several State agencies such as CAL FIRE and CSD Development that resulted in restricting 100% of program benefits in a manner that disparately impacted and discriminated against millions of non-Hispanic Caucasian or white residents that lived in census tracts in approximately 6000 of the 8000 California census tracts not designated as “disadvantaged communities” by CAL EPA and the ARB. I found this violated the Title VI Regulations of U.S. Department of Agriculture (USDA) applicable to CAL FIRE’s contract with the USDA Forest Service in which CAL FIRE certified compliance with Title VI in relation to the Federal funds received for urban forest funding. I also believe this violated the assurance of compliance signed by CSD’s Director with Title VI Regulations in the CSD’s current multi-million dollar contract for the LIWP with the US Department of Energy and the assurance of compliance with Title VI Regulations and requirements applicable to the Low-Income Home Energy Assistance Program (LIHEAP) for which CSD receives millions of dollars each year.

One of the areas where the advocacy activity of the two coalitions led by Public Advocates appears to have impacted the California Air Resources Board (ARB) guidelines for agencies like CSD administering Greenhouse Gas Reduction Fund programs like the LIWP was on page 13 where the ARB document issued on November 3, 2014 that noted: “*While statute encouraged all agencies to maximize benefits for disadvantaged communities wherever possible, there are*

*certain programs that are better suited for being located within disadvantaged communities (e.g., urban forestry, weatherization, etc.)...*” On page 14 of the ARB “Interim Guidance” summarized the 100% as the “Total % Targeted to Benefit Disadvantaged Communities” (<http://www.arb.ca.gov/cc/capandtrade/auctionproceeds/auctionproceeds.htm>) for the CAL FIRE Urban and Community Forestry program and allocating \$18 million in funds to benefit so-called disadvantaged communities, of which approximately \$16 million in 29 grant awards for urban forestry programs were recently made by CAL FIRE that discriminated by targeting benefits to projects benefiting minority communities of color which violated requirements of State and Federal civil rights laws cited at the beginning of this document such as the Unruh Civil Rights Act and Title VI of the Civil Rights Act of 1964 and applicable Title VI Regulations of the U.S. Department of Agriculture. The second area where the ARB Interim Guidelines resulted in discrimination was in the allocation of 100% of the \$75 million in Low-Income Weatherization; Renewable Energy in FY 2014-2015 by the California Department of Community Services and Development (CSD) to just serve qualified applicants located exclusively in some of the 1993 California Census tracts identified by CAL EPA and the ARB as “disadvantaged communities”, while other potential California residents in 6000 other California census tracts not identified as disadvantaged communities were excluded from GGRF funding for these benefits. The proposed September 4 Cap-and-Trade Auction Proceeds Funding Guidelines For Agencies that Administer California Climate Investments of the ARB will continue the discrimination in this CSD program if the Governor’s proposed FY2015-2016 Proposed Appropriation is approved to allocate another \$140 million just to provide benefits restricted to some of the 1993 census tracts and redlining 6000 other California census tracts.

It appears that these advocates based on their initial success in obtaining the set asides of 25% and 10% for disadvantaged community/minority community investments in SB535 felt that essentially they had nullified the preferential treatment/affirmative action prohibitions in government contracting in the California Constitution, or the requirements of Title VI of the Civil Rights Act of 1964/California Government Code Section 11135 (a) that indicated that no person because of their race, color, national origin, or ancestry could be denied access to or the benefits of a State or Federally funded program, and that SB535 and other legislation “trumped” the Unruh Civil Rights Act/Civil Code Section 51 prohibitions against business establishments (including both private sector and public agencies) denying any person in California the same services, privileges and advantages.

I believe that the Constitutional prohibition against preferential treatment and affirmative action based on considerations of race, color, national origin and ancestry in public contracting is not trumped by more recent California Legislature bills such as SB535 and AB1532, and the same thing holds in terms of the Unruh Civil Rights Act/Civil Code Section 51 prohibition against arbitrary discrimination in the provision of services, privileges and advantages by public agencies. Based on my research findings, I find that some public interest law firms and partners in the last three years appear to have been acting as developers and leaders of coalitions focusing on “preferential treatment and affirmative action advocacy” based on considerations of race, color, national origin, and ancestry to benefit “communities of color” focusing on benefits to

primarily Hispanics, Asians, and African Americans. I believe the CSD and CSD staff have given too much support to recommendations of these advocates that ignored the requirements of State and Federal civil rights laws and Regulations, as well as Constitutional requirements for Equal Protection and barring preferential treatment in government contracting. The advocacy and actions of these organizations in working with multiple coalitions to promote affirmative action and preferential treatment for "communities of color" lead to discrimination, appear to be more focused on manipulating Legislators and State of California agencies/employees to grant preferences, to engage in affirmative action and discriminatory practices in providing services and in details and provisions relative to public contracts and funding for programs to primarily benefit "communities of color."

The recommendations called for a system very similar to the contract compliance programs by government agencies providing preferential treatment in public contracting benefiting minorities with set asides that the California Supreme Court held in "Coral Construction, Inc. v. City and County of San Francisco (2010) (No. S152934.Aug.2.2010) was unconstitutional, which effectively ended San Francisco's 12 d set aside program. A Federal appeals court also upheld Proposition 209's validity that barred preferential treatment in public contracting. At the State level, there appears to be more of an interest in retaining the new millions/billions in GGRF leveraged with Federal funds that fund these discriminatory programs on the part of the agencies such as CAL FIRE, CSD, Cal EPA, and the ARB than in protecting the rights of all persons that were entitled to participate in and equal access to the benefits of these programs receiving State and Federal funding.

I wanted to point to CSD managers that the 100% allocation of LIWP benefits to just serve low-income residents in so-called disadvantaged communities stood out last fiscal year and even more so this fiscal year as arbitrary and discriminatory. No other State department program funded with Greenhouse Gas Reduction Fund moneys this fiscal year compares in the Governor's proposed FY2015-2016 Proposed Appropriations to the 100% level proposed for the LIWP with the recommended \$140 million in funding. Most other State department or agencies are at the 25% level in the Governor's proposed FY2015-2016 Budget, with the exception of several legally mandated programs at the 50% level. I wanted to share with the CSD some information that came out of my interviews and research as to how the 100% level of benefits was developed by staff in the Department of Finance for the last fiscal year. I believe it is relevant to consider how the 100% allocations for GGRF program appropriations for were reportedly made in 2014. I was informed. For example, on October 23, 2014 by CAL FIRE grant administrator and State Urban Forester in relation to the \$17.8 million in urban forestry funding that primarily funded the Green Trees for the Golden State Tree Planting Grant Program that I was denied the opportunity to be considered eligible to apply for because of my census tract that was not designated as a disadvantaged community by CAL EPA and the ARB that "It was later decided by the Administration (Dept. of Finance I think) that all of the \$17.8 million for Urban Forestry must be used in or directly serving disadvantaged communities as defined using Calenviroscreen2.0".

When I contacted the State Department of Finance in approximately early January of 2015, I inquired why the Department of Finance had imposed this 100% requirement on CAL FIRE and CSD and if it could be changed in 2015, I was directed to talk with Department of Finance Assistant Program Budget Manager Matt Almy, who is responsible for Natural Resources, Energy, Environment; Capital Outlay including Resources Environment/Environmental Protection Agency. Mr. Almy in our conversation explained that in developing the recommendations for GGRF investments for 2014-2015 some programs were selected for recommended investments by the Department of Finance that had little or no/zero greenhouse gas reduction benefits to speak of, such as the \$250 million investment that the Governor wanted for the High Speed Rail project, as well as some other program investments that were recommended ultimately by the Department of Finance. To achieve the SB535 set aside standards, the Finance Department had raised the allocation for investment for the \$75 million in the LIWP at CSD and the \$18 million in GGRF funds in urban forestry programs at CAL FIRE to 100% in disadvantaged communities to balance investments that offered virtually no greenhouse gas benefits. Mr. Almy didn't seem to care whether the 100% requirement for investment of the LIWP funds might discriminate against Caucasians or provide preferential treatment to communities of color, or violate State and Federal civil rights laws and equal protection requirements or contractual obligations pursuant to Federal agency Title VI regulations. He indicated there would be a similar amount of funding allocated in 2015 in the budget, and apparently no change will be made or recommended by the Department of Finance for the 100% requirement for investment of these funds in disadvantaged communities (even if this discriminates based on considerations that might violate the Unruh Civil Rights Act), because there are still programs being recommended for investments by Finance and the ARB, such as the \$250 million for High Speed Rail for FY2014-5, that have little or no greenhouse gas reduction benefits.

I understand from reviewing the Governor's Proposed FY2-15-2016 Appropriations included in the ARB's Draft GGRF Guidelines as shown in Table 2-1 along with "Estimated Minimums to Benefit Disadvantaged Communities" for FY2015-2016 that the Governor's Office was again proposing to recommend in the allocation of \$2.237 billion that the Legislature and the ARB go along a recommending for allocating twice as much this year in GGRF funding be allocated for his favorite program area High Speed Rail (HSRA) that had no indicated benefit to either GGRF reduction of Benefit Disadvantaged Communities noted, raising the sum from \$250 million in FY 2014-2015 to \$500 million proposed for FY2015-2016. Based on my research and interview with Department of Finance representative and Assistant Program Manager Matt Almy the allocation by the State of California representatives in GGRF funds by programs aren't really scientifically based or strictly linked to complying with Legislative mandates in SB535 or greenhouse gas reduction or environmental justice considerations, but governed in part by old fashioned "pork barrel" or political considerations of favored programs such as the Governor's desire for GGRF investments to benefit a program benefit with "little or no/zero greenhouse gas reduction benefits to speak of" such as the half billions dollars being recommended for appropriate in this year's listing of ARB Programs that are to be funded. Footnote #3 in Table 2-1 of the proposed GGRF Guidelines states that "The minimum SB 535 targets can be met without including the High-Speed Rail project, but the project is expected to provide additional benefits for disadvantaged communities beyond those quantified in this table." The Table 2-1 doesn't show any expected benefits for disadvantaged communities.

I believe that the inclusion of pork barrel or favored programs based on political considerations that are evident in the allocations in FY2014-2015 and proposed appropriations by the Governor's Office for appropriations in FY2015-2016 are significant in looking at the failure by the multiple State agencies involved and staff or elected officials involved in making important decisions regarding the percentages of funds that were allocated both in the last fiscal year (2014-2015) and this fiscal year (starting July 1, 2015-June 30, 2016) by program and agency that have resulted in disproportionately high percentages of funds being allocated for certain programs. This applies to CSD's Low Income Weatherization where the 100% allocations that were made in the last fiscal year resulted in violations of the requirements of State and Federal civil rights laws and violations/non-compliance with contractual obligations for compliance with Title VI Regulations of the Civil Rights Act of 1964 that CSD had in accepting and entering into contracts supported with Federal funds to ensure detailed compliance with the non-discrimination and equal treatment requirements that should have ensured access to LIWP benefits in all California census tracts, and not just 25% of California census tracts. CSD and its LIWP program have been and are still being manipulated in this 100% allocation of program benefits for political reasons that result in discrimination based on considerations of race, color, national origin, ancestry and geographic location and in violation of State and Federal laws, Regulations and Constitutional requirements that bar discrimination against any persons in any California census tract in relation to program benefits or access. CSD and its managers are obliged to comply with the requirements of the various State and Federal civil rights laws and regulations, and the assurances of compliance with Title VI regulations contained in its Federal contracts and should insist that the percentage set asides for program benefits to disadvantaged communities are at or much closer to the 25% level set forth in SB535 that are being recommended and appropriated for other GGRF funded programs.

Review of the U.S. Justice Department's Title VI Manual guidance regarding how discrimination may be established indicates that discrimination may be shown in relation to two different theories: disparate treatment and disparate impact. I find in my review of CSD's LIWP program that there is substantial evidence to establish discrimination under both of these theories. For example, the LIWP Guidelines of CSD makes clear that CSD intends to only provide access to LIWP program benefits to low income residents in 1993 of California's 8000 census tracts. This shows that low-income residents that might potentially qualify for these LIWP in the 6000 census tracts that were redlined or not include were being treated differently. My research indicated that the minority community organizations and affirmative action coalition representatives that advocated for this 100% allocation of benefits to only low-income residents in the 1993 census tracts were targeting benefits based on considerations of race, color, national origin, ancestry and geographic to provide benefits to low-income communities of color. I further found in my research that the CalEnviroScreen 2.0 methodology for allocating benefits to just 1993 of California's 8000 census tracts had a disparate impact upon a large class of non-Hispanic Caucasians or white that resided in the 6000 census tracts that were excluded and that the benefits were targeted to benefit low-income communities of color and disproportionately excluded non-Hispanic Caucasians in the 6000 redlined or excluded census tracts that otherwise might have qualified for LIWP benefits.

The process for identifying these disadvantaged communities was far from "race neutral". According to a staff member in the Cal EPA Office of Health Hazard Assessment that developed the CalEnviroScreen methodologies, race and color considerations were among those considered in the original work on the Calenviroscreen2.0, and the final Calenviroscreen2.0 certainly has an adverse impact on Caucasians in 6000 of the 8000 California census tracts. I have found discrimination by CAL FIRE under the Unruh Civil Rights Act not only based on "geographic location" but on it having a disparate impact on approximately 12 million Caucasian Californians located in the 6000 census tracts that were largely redlined and excluded from receiving grant funding and benefits based on considerations of race, color, national origin and ancestry on Caucasians or whites born in the United States and not of Hispanic ancestry. On October 31, 2014 Cal EPA came out with a definition of disadvantaged communities that would be utilized in the Calenviroscreen2.0 limiting this to 25% of the 8000 California census tracts, or to 2000 of the 8000 census tracts in California, which combined with CAL FIRE's insistence on 100% of the Green Trees for the Golden State Tree Planting Grant Program funding going to disadvantaged communities, essentially redlined or excluded most of the persons residing in 6000 California census tracts from receiving any benefits and from equal access to the benefits of the Grant Program. This violates the Unruh Civil Rights Act based on the broad coverage of the Act barring discrimination by a public agency in provision of services, privileges and advantages.

The 100% limitation on grant funding induced me to research how Cal EPA had defined "disadvantaged communities" under Calenviroscreen2.0 and whether this would have a disparate impact on different groups based on race, color, national origin and ancestry, such as Caucasians in comparison to Hispanics, African Americans, and Asians. The information obtained from Cal EPA in January 2015 as a result of my public records request for "a breakdown by race of the population in the 25% of California census tracts included in the definition of disadvantaged communities by Cal EPA versus a breakdown of the 75% of California census tracts that were not included in the definition of disadvantaged communities" revealed:

- Of the total population living in the approximately 2000 census tracts identified as disadvantaged, 64% are Latino; 16% are white (while Caucasian or whites other than Hispanics make up almost 39% of the total population statewide); 9.5% Asian; 8.2% African American; 0.3% Native American; and 1.7% other or multiple ethnicities;
- Statewide persons of Hispanic or Latino origin made up only 37.6% of California residents in the 2010 census (14,013,719 out of 37,253,956) but as the Cal EPA analysis revealed 64% of the Hispanic or Latino population in California resides in the Environmental Justice or so-called disadvantaged communities and a substantially larger percentage stands to benefit from the investment in millions of dollars each year in these communities, while only about 10% of the total white population in the 8000 California census tracts would potentially benefit.
- An analysis by Cal EPA of the fraction of racial/ethnic groups living in one of the 25% high scoring census tracts in Calenviroscreen2.0 revealed: 2 in 5 Hispanics or 40% of the total Latino population lived there and would benefit; 1 in 3 African-Americans lived in these census tracts or 33% of the total African-American

population and would benefit; 1 in 5 Native American population or 20% of the total Native American population and would benefit; 1 in 6 or 17% of the total Asian population lived in these census tracts and would benefit; 1 in 7 or other/multiple ethnicities lived in these census tracts and would benefit; while only 1 in 10 Whites or 10% of the total White population lived in these census tracts and would benefit.

Prior to working for DFEH for 31 years, I served as a Contract Compliance Officer for the City of San Diego. Based on my recent research and past experience as a contract compliance officer, it appears to me that the CSD is in violation of the Assurance of Compliance with the Title VI Regulations of the U.S. Department of Energy (DOE) contained in its current approximately \$5 million contract it has with DOE for the LIWP and potentially a separate contract and Assurance of Compliance with Title VI Regulations with the U.S. Department of Health and Human Services relative to funding CSD receives for administering LIHEAP programs in California. These Title VI Regulations are very detailed and mandate that "No person in the United shall be excluded on the grounds of race, color, national origin...from participation in, be denied the benefits of, or otherwise subjected to discrimination under any program to which this subpart applies". The Title VI Regulations also outline a series of "specific discriminatory action prohibited" and many of these would appear to apply CSD's segregation of residents that might otherwise potentially qualify for benefits in 6000 California census tracts from receiving many millions of dollars of LIWP benefits.

I believe that CSD may jeopardize the current funding it receives from Federal agencies for programs such as the LIWP and LIHEAP by violating requirements of applicable Title VI Regulations in the way that the LIWP is being implemented and LIHEAP funding is being leveraged on a restrictive and discriminatory basis as outlined above that under two different theories of discrimination violates Title VI of the Civil Rights Act of 1964. It is important for the CSD Director, the CSD, and the State of California to comply fully with the Title VI Regulations of these Federal agencies that are binding in relation to the Assurances of Compliance made each year by CSD. My research revealed that race, color, national origin, ancestry, and geographic location were significant considerations in those advocating for the 100% allocation of weatherization program benefits targeting benefits for minority communities of color, and that CSD could be found to have violated its Title VI obligations in contracts with two Federal agencies. It's important that before the CSD engages in further violations of Title VI with Federal funds combined State of California funds that it takes a series of corrective steps to stop the discrimination in relation to access and the benefits of these programs, and to ensure full compliance with the requirements of all applicable State and Federal civil rights laws, Regulations and constitutional requirements. CSD has been put on notice previously that it's practices violate both State and Federal laws and Title VI requirements, and if the discrimination continues this Fiscal year in the allocation of \$140 million in LIWP benefits it risks further demonstrating that its discriminatory actions are intentional and may incur potential liabilities if administrative complaints or lawsuits are brought on behalf of those individuals or the large class of individuals whose rights are currently being violated and denied in 75% of California census

tracts and half of California counties. I found in looking recently at the CSD website at <http://www.csd.ca.gov/Portals/0/Documents/State%20Plans/DOE%20State%20Plan%202015%204-30-15%20DRAFT.pdf> that there was a copy of the 2015 Draft DOE WAP State Plan updated April 30, 2015 or of a contract between CSD and the Department of Energy for \$5,244,959 that contained the standard OMB Burden Statement regarding compliance with Title VI requirements. CSD agreed for the period from July 1, 2015 through June 30, 2016 to comply with Title VI requirements. This obligated I presume CSD to comply with requirements of DOE's Title VI Regulations in 10-CFR 1040.11. However, I do not believe that CSD was in compliance either in 2014 or now in 2015 with its Title VI obligations under the new contract with DOE with respect to the Low-Income Weatherization Program where 100% of the funding from the State of California is being utilized just to benefit qualified (primarily minority) low-income residents in less than 2000 California census tracts while residents in approximately 6000 census tracts are differently treated in being denied access and benefits from the public funds being allocated.

CSD administrators and legal staff need to immediately address the problems in relation to their LIWP Guidelines and draft LIWP-LMP Guidelines that violate a public trust and obligation to ensure compliance with the legal requirements of State and Federal Civil rights laws and constitutional requirements as described above, and to revise these Guidelines that it appears some individuals and groups manipulated to influence State staff and agencies to promote and dictate affirmative action and preferential treatment by these advocates for affirmative action/securing benefits for low-income communities of color while discriminating and violating the legal and civil rights of millions of Californians in 75% of California census tracts and discriminating against a huge class of millions of non-Hispanic whites or Caucasians in denying benefits and potential access to programs or grant funding. The State and Federal Constitutions and equal protection and other clauses prohibit preferential treatment and discrimination by public agencies, and no one in State service is above the requirements of State and Federal civil rights laws and obligations to ensure equal treatment and non-discrimination for all California in all California census tracts. The CSD LIWP Guidelines, the draft LIWP-LMF Guidelines and proposed ARB Funding Guidelines for agencies administering Climate Investments do not meet the legal requirement and mandated contractual obligations for State agencies to ensure non-discrimination and barring preferential treatment and affirmative action. The CSD needs to start afresh in drafting nondiscriminatory LIWP and LIWP-LMF Guidelines and also to replace the CalEnviroScreen 2.0 methodology and approach to ensuring the fair treatment of all races, cultures and incomes in relation to the requirements of the Unruh Civil Rights Act, Government Code Section 11135 (a), California Resource Code Section 71110, Section 31 of the California Constitution, the Equal Protection clauses in the State and U.S. Constitution barring discrimination by State government and public agencies, the requirement of Title VI and Federal agency Title VI regulations for the effectuation of Title VI, and the requirements of the California Fair Employment and Housing Act and Title VII of the Civil Rights Act of 1964.

Another area where I am concerned about potential discrimination involving actions of CSD and the requirements of your LIWP Guidelines and LIWP-LMF is in relation to the insistence on preferential treatment and affirmative actions being taken by subcontractors with respect to providing co-benefits or jobs. There can also be many violations of Title VII of the Civil Rights Act of 1964, and of the California

Fair Employment and Housing Act (FEHA), if LIWP Guidelines continue to encourage subcontractors to discriminate in their hiring or employment practices favoring primarily ethnic minority residents in 1993 census tracts. It appears many subcontractors are being mandated or encouraged to discriminate in their employment practices in violation of the Civil Rights Act of 1964 or the FEHA, as I see in the new proposed ARB Funding Guidelines pressure to ensure "co benefits" by contractors that basically are advocating for jobs to be provided targeting certain racial groups predominantly residing in so-called "disadvantaged communities" in 2000 California census tracts while excluding potential applicants in approximately 6000 California census tracts and more than half of California counties that have larger concentrations of non-Hispanic whites or Caucasians among their residents. The LIWP Guidelines and the LIWP-LMF Guidelines need to help in ensuring compliance with Title VII and the FEHA and not just in promoting preferential treatment and affirmative action in State contracting.

GGRF Funding needs to be provided as part of corrective action and an appropriate remedy to victims of discrimination by the CSD in the LIWP that may have been caused by the ARB Interim Guidelines and discriminatory Investment recommendations for the last fiscal year. GGRF Funding and some additional staff with legal and compliance expertise are also needed by CSD and the State of California to ensure compliance with applicable State and Federal civil rights laws and Regulations and Constitutional requirements in the implementation of SB535 and in the administration of California Climate Investments by State of California agencies, including full compliance with the Unruh Civil Rights Act, Government Code Section 11135 (a), California Resource Code Section 71110, the Equal Protection Clause in the California Constitution, and section 31 of the California Constitution prohibiting preferential treatment and affirmative action in public contracting.