May 15, 2018

California Air Resources Board
Climate Investments Branch
Attn: Matthew Botil, Manager, Climate Investments
Implementation Section
1001 I Street
Sacramento, CA 95814

Submitted Via Electronic Submission Form

Comments on April 17 Draft Revised Funding Guidelines

Dear Mr. Botill:

The California Climate Equity Coalition (CCEC) Steering Committee is pleased to submit these comments on the California Air Resources Board's April 2018 draft revised Funding Guidelines for Agencies that Administer California Climate Investments.

The CCEC Steering Committee comprises the Asian Pacific Environmental Network, Coalition for Clean Air, the Greenlining Institute, Public Advocates, and SCOPE LA. The Steering Committee leads a network of organizations across the state working to maximize the benefits of climate investments to underserved Californians and communities, under SB 535 (De León 2012) and AB 1550 (Gomez 2016). We were instrumental in the passage of AB 1550, which increased the minimum portion of climate investments that must benefit disadvantaged and low-income communities and low-income households, and which the revised Funding Guidelines will implement. We provided comments on a prior draft last September. Last month, we were pleased to co-host with you and your staff regional meetings of community organizations in San Francisco and Los Angeles to discuss the substance and process for the Funding Guidelines update.

ARB's Funding Guidelines have consistently, and appropriately, defined the statutory term "benefit" in terms of whether an investment will *meaningfully address an important community need*, and we commend CARB for continuing to express this basic principle in the new draft. E.g., the draft states: "administering agencies *must* evaluate whether the project provides *a benefit that meaningfully addresses an important community or household need*." (p. 41, emphasis added.)

Our comments are focused on the ways in which the draft implements this principle, and identifies several respects in which improvements are needed.

The ultimate determination whether an investment will count toward one of the three AB 1550 categories is made by means of the "Evaluation Criteria for Providing Benefits to Priority Populations," available on CARB's website.[1] Specifically, the "evaluation criteria," broken down by program types (e.g., transit, low-carbon transportation, affordable housing, and so on), are organized in three steps:

[1] https://ww2.arb.ca.gov/resources/documents/cci-quantification-benefits-and-reporting-materials

- Step 1 ("Identify the Priority Populations")
- Step 2 ("Address a Need: Identify an important community or household need and evaluate whether the project provides a benefit that meaningfully addresses that need") and
- Step 3 ("Provide a Benefit: Evaluate the project against each of the following criteria to determine if it provides direct, meaningful, and assured benefits to priority populations").

We commend the spirit behind this progression, which is intended to ensure that each climate investment that counts toward AB 1550's requirements is providing a benefit (Step 3) that addresses a need (Step 2) of a priority population (Step 1). Below we identify the changes that we believe will align the process more closely with that intent.

A. AB 1550 Requirements for Priority Populations

Step 1 is intended to address the threshold question of whether the investment targets a "priority population." The draft notes that "AB 1550 established investments minimums for funding projects located within the boundaries of, and benefiting the individuals living in, disadvantaged communities and low-income communities, or benefiting residents of low-income households." (34) The first three checkboxes under Step 1 conform generally to the three categories of priority population specified in AB 1550, as codified in Health & Saf. Code, sec. 39713 (a) - (c).

We suggest three changes with respect to Step 1. <u>First</u>, as the draft acknowledges on p. 13, AB 1550 requires "Administering agencies ... to invest in projects that are located in AND benefit priority populations." Specifically, AB 1550 states that "a minimum of 25 percent of the available moneys in the fund [shall be allocated] to projects located within the boundaries of, *and benefiting individuals living in*, [disadvantaged] communities." (Emphasis added.) To conform with the double statutory requirement, the first checkbox should be reworded to ask "Is a majority of the project located within the boundaries of a disadvantaged community census tract, *and will the investment benefit individuals living in that community*?"

<u>Second</u>, the various Evaluation Criteria sheets for different programs include one or more *additional* checkboxes that allow an investment to meet AB 1550 requirements under a criterion that is *not* one of the three in the statute. For instance, some include a checkbox "D. Does the project, regardless of project location, provide jobs or job training to residents of low-income households?" We believe that job benefits are extremely important, and propose to capture them in a later step of the Evaluation Criteria format. However, as we noted in our comment letter last September, it is inappropriate to include job benefits under this heading. Rather, these additional checkboxes should be moved to a separate step on "additional benefits." (Please see part C, below; and for specific recommendations relating to jobs and job training, please see Appendix C.)

<u>Finally</u>, we appreciate the statement in the draft requiring agencies to "Target funding, to the extent feasible, for projects that benefit priority populations" (p. 36) This requirement is truly in the spirit of encouraging implementing agencies not just to meet, but to exceed, the percentage set-asides of funding set forth in AB 1550. In particular, AB 1550 provides the opportunity to make investments *within* disadvantaged communities (pursuant to section 39713 (a)) that at the same time "benefit *low-income households* ... located anywhere in the state" (section 39713 (b)). While any such investment, of course, could only be counted in one or the other category, not both, we agree with

the participant in the recent San Francisco workshop that investments within DACs should be targeted to low-income residents and households in those communities to the maximum extent feasible.

We therefore suggest that the language on p. 36 be amended to read: "Target funding, to the extent feasible, for projects that benefit priority populations*, and within disadvantaged communities, target funding, to the extent feasible, to benefit low-income households*." (Sec. V.B.1., bullet 3)

B. Community Engagement, and Identifying Important Community Needs

Step 2 ("Address a need") is critical; the heading of that Step goes on to re-state the requirement that the investment "provides a benefit that meaningfully addresses" "an important community or household need." However, the checkboxes under Step 2 do not address that crucial question -- instead of asking the project applicant to *identify* that important need, the checkboxes solely address *how* the unstated need was identified.

We suggest two changes. First, this Step should ask the project sponsor to explicitly identify the "important community or household need(s)" that the project proposes to meaningfully address. As noted above, CARB has consistently and appropriately defined the statutory term, benefit, in terms of meaningfully addressing an important community need. Explicit identification of the need(s) that the project will meaningfully address is crucial for a variety of reasons, in addition to implementing the requirement on p. 41 that agencies "identify an important need for that community along with steps to meaningfully address that need." These other reasons include accountability to the community engagement process and transparency of implementation. Since project sponsors are already explicitly required to meaningfully address an important community need, it adds no burden to require them to state in a sentence or two what need their project will meaningfully address.

Second, the draft continues to include a requirement to implement outreach efforts (beginning "in the early stages ... and continu[ing] through project implementation") that "seek to *directly engage and involve* local community residents and community-based organizations in disadvantaged and low-income communities." (p. 36, emphasis added) Specifically, the draft states that "Administering agencies must seek to invest in projects that … meet community needs identified *primarily* through community engagement and outreach." (10, emphasis added) See also p. 41 ("To determine community or household needs, CARB recommends that administering agencies, applicants, and/or funding recipients directly engage local residents and community-based groups to identify an important need for that community along with steps to meaningfully address that need.").

Step 2, however, fails to consistently implement this important requirement. As we stated in our September comment letter with respect to the checkboxes under Step 2, "two out of the four options do not require agencies to directly engage community residents or CBOs." We recommend that CARB allow administering agencies and project applicants to choose which community needs they are addressing from CalEnviroScreen (Option B) or Table 2-2 (Option D), *only* where they first demonstrate that they made meaningful efforts to directly engage residents and community-based organizations, and explain why those efforts were unsuccessful.

Appendix A to our September comment letter (attached again here) provides concrete suggestions for how the checkboxes under this Step could be revised, and we look forward to working with you to incorporate some of those suggestions in simplified form.

C. Specification of Expected Benefits

Step 3 asks the project sponsor to specify "at least one" benefit the investment will provide. This Step falls short of the investment principles in the draft itself in two related respects. First, because the Evaluation Criteria do not ask for an identification of the important community *need(s)* that the investment will meaningfully address, as discussed above, there is no mechanism in the draft for transparency and accountability with regard to the *nexus* between the need(s) and the benefit(s). Second, Step 3 does not account in any way for *maximizing* benefits or providing *multiple* benefits.

We suggest two changes to address these issues.

<u>First</u>, we suggest revising the Evaluation Criteria to identify the specific benefit(s) that meaningfully address the important community need(s) identified in Step 2. For instance, if the community identifies an important need for transit service that will connect residents of a disadvantaged census tract to opportunities in another place, then the <u>primary</u> benefit of a transit investment could be identified in Step 2 as "providing transit service that connects" those two places.

<u>Second</u>, the Evaluation Criteria should separately capture all significant *additional* benefits the investment will bring to the target population. To continue with the transit example, if that same investment in transit service also creates jobs targeted to lower-income residents and reduces harmful local emissions, those additional benefits should also be identified.

Put differently, where the first suggestion goes to ensuring that investments are accountable to addressing the specific needs identified by community residents, the second goes to the importance of identifying, at least in a general way, the extent to which an investment will provide *multiple* benefits to disadvantaged community residents or other priority populations and/or will *maximize* the benefits to them.

Maximizing benefits is an explicit "guiding principle" in the draft. It states as a *requirement* that investments must be targeted "in and benefiting priority populations, with a focus on maximizing disadvantaged community benefits." And it goes on to elaborate that "Administering agencies *must* seek to invest in projects that … *maximize benefits* to disadvantaged communities wherever possible." (10, emphasis added.)

The draft also addresses the provision of multiple benefits, e.g., in the recommendation to "leverage funds where possible to provide multiple benefits and to maximize benefits." (pp. 13-14.) See also p. 28 ("Examples of potential selection criteria include ... Multiple benefits to priority populations"); p. 36 ("When selecting projects for a given investment, give priority to those that maximize benefits to disadvantaged communities (e.g., use scoring criteria that favors projects that provide multiple benefits or the most significant benefits …").

And the draft ties the two together in strong terms, which we commend: "To maximum extent feasible, administering agencies should seek opportunities to work together to provide multiple benefits and to maximize the benefits from each program." (p. 13.)

We recognize that it may be work for another day to tease out specifically the relationship between *maximizing* benefits and providing *multiple* benefits. Today, however, CARB can lay the groundwork by ensuring that project sponsors will specify the primary benefits and the additional benefits that a proposed investment will bring to a priority population.

Implementing the suggestions we make in this section will entail two changes. First, Step 3 should be disaggregated into two separate sub-parts, one which identifies the primary benefit(s) and the other the additional benefits to the relevant priority population. For additional benefits, a comprehensive menu of all the benefits identified in each program could be used.

Second, the draft should make it clear that this information must be provided at the front end, and not only at the reporting stage. Accordingly, this language on p. 43:

> While many of these projects will provide multiple benefits to priority populations and may meet multiple benefit criteria, *agencies must identify and report only one benefit criterion to count toward the statutory investment minimums*. Agencies may provide a qualitative description of all benefits provided to priority populations when reporting on funded projects. (emphasis added)

should be amended to read:

> Many of these projects will provide multiple benefits to priority populations and may meet multiple benefit criteria. Agencies should require project sponsors to identify at the application stage *both* the primary benefit(s) (those that relate directly to meaningfully addressing the important community need(s) identified) *and* all additional benefits that the investment will bring to priority populations. Agencies may provide a qualitative description of all benefits provided to priority populations when reporting on funded projects.

Ensuring that reporting on benefits is tied to the benefits promised at the application stage will, among other things, promote transparency and accountability.

D. Avoiding Harms

Finally, our September comment letter focussed significant attention on the importance of implementing the requirement that these investments avoid harming the very communities they are intended to benefit, yet none of the three steps addresses whether the investment will avoid substantial harms to the community.

To be frank, we are disappointed that the new draft has retreated even further from the 2015

Funding Guidelines than did last year's draft.

The adopted 2015 Funding Guidelines, in unambiguous language, require agencies to:

> Design projects to *avoid substantial burdens*, such as physical or economic displacement of *low income* disadvantaged community residents and businesses or increased exposure to toxics or other health risks. (Dec. 2015 Funding Guidelines, p. 2-12, emphasis added)

Last year's draft proposed to weaken this language, as we pointed out in our September comments, by eliminating the reference to "low income" residents:

> Design programs and select projects that avoid substantial burdens, such as including physical or economic displacement of AB 1550 populations or businesses in AB 1550 communities, or as well as increased exposure to toxics or other health risks." (Aug. 4, 2017 Draft Funding Guidelines, p. 2-14.)

The April 17 draft proposes to go further in weakening this language, in three ways. First, it revises the weakened language by allowing investments to impose substantial harms on the very residents they are intended to benefit, as long as those harms are "minimized":

> Design programs and select projects that avoid *or minimize* substantial burdens to residents of disadvantaged and low-income communities, such as physical or economic displacement of residents or businesses, including small-, women-, and/or minority-owned businesses.

This new language also deletes all reference to "increased exposure to toxics or other health risks." Finally, the new draft includes this guiding principle, not as a requirement but as a recommendation. (p. 9.)

We urge CARB to make two changes to the draft. <u>First</u>, the language in the current (2015) Funding Guidelines should be restored and included as a requirement, adapted only to take account of AB 1550. The language should therefore read:

> Design projects to avoid substantial burdens, such as physical or economic displacement of low income residents and businesses or increased exposure to toxics or other health risks, on AB 1550 communities and populations.

<u>Second</u>, the Evaluation Criteria tables should include an additional step that requires project sponsors, at a minimum, to check a box that states "This project has been designed to avoid substantial burdens, such as physical or economic displacement of low income residents and businesses or increased exposure to toxics or other health risks, on AB 1550 communities and populations."

Our September comment letter included a wealth of recommendations for implementing the principle of avoiding harm. Instead, the draft has seriously eroded that principle. We regret that the work needed to robustly implement that principle may not take place in this revision. The principle itself, however, must be restored and project sponsors must, at a minimum, be required to state that they have done everything possible to implement it.

A summary of a proposed format for the Evaluation Criteria that would implement our suggestions is attached as Appendix B.

Thank you again for your hard work on this revision, and for your recent efforts to meet with community groups in Los Angeles and San Francisco. We look forward to discussing our ideas with you.

Sincerely,

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Appendix A: Levels of Community Engagement
[From CCEC Comment Letter of 9/15/17]

We recommend the following community engagement ranking structure GGRF administering agencies can use to evaluate the level of community engagement and leadership that is included in project proposals and in delivering project benefits:

Engagement will be ranked "*high*" (i.e. demonstrating community leadership and decision-making for a majority or all of a project) where one of the following is met:

- A community-based organization (CBO) led by, or with a mission to serve, disadvantaged/low-income community residents or low-income households is the lead applicant or co-applicant to receive funding from project;
- Disadvantaged/low-income community residents or low-income households oversaw the entire process of needs assessment and prioritization, project development and project selection as members of a steering committee that, in partnership with project applicant, designed the process and oversaw the implementation of the process (e.g., through a participatory budgeting approach);
- A community-owned/developed plan is funded as the majority of or an entire project; or
- Two or more of the indicators under "moderate" engagement (below) have been met.

Engagement will be ranked "*moderate*" (i.e. demonstrating community collaboration and partnership) where any one of the following has taken place:

- A plan developed by community residents or low-income households is funded for a component of a project (e.g., assistance with funding grassroots participation, provision of technical assistance, aid in project implementation);
- Stakeholders signed a memorandum of understanding regarding a component of a project that clearly designates the roles, responsibilities, compensation, and authority of each partner, and in which core partners are low-income households and/or CBOs with a specific mission to serve them. The partnership includes either a shared decision-making authority, or delegation of duties directly responsible for project outcomes and implementation, for multiple phases of project development or implementation;
- Before the development or selection of project alternatives, at least one meeting took place in which disadvantaged/low-income community residents or low-income households deliberated to identify and prioritize the unmet needs of their community, provided that the project demonstrates it will address one of the priority needs identified;
- Disadvantaged/low-income community residents or low-income households participated, with technical support, in the development of project alternatives that would address one or more of those priority unmet needs that were identified in the recent past through such a meeting as described in the bullet above;
- Disadvantaged/low-income community residents or low-income households exercised decision-making authority to select the preferred project from among two or more alternatives, either as members of a project selection committee or through a community voting process;
- The project sponsor engages disadvantaged/low-income community residents or low-income households as true partners in the development of project alternatives, and the selection among those alternatives, in another manner; or
- The project sponsor provides funding to CBO(s) led by, or with a mission to serve, disadvantaged/low-income community residents or low-income households to conduct community engagement activities consistent with any of the above.

Engagement will be ranked "*low*" where none of the above have taken place, regardless of the extent of outreach, education, and consultation activities, such as the following:

- Community and agency collaborate and mutually learn from each other in earlier stages of project development in designing and implementing the project; or
- Applicant conducts community consultation (e.g., via workshops, roundtable discussions, focus groups, surveys) where applicant documents and reports how consultation has influenced the final project. Community consultation sessions are held at diverse, accessible times and locations.

Points can be awarded for high, moderate and low, with zero points for none of the listed community engagement activities (e.g., merely informing community of investment/project opportunities and/or allowing comments on agency proposals.).

Appendix B: Suggested 6-Step Evaluation Criteria Format

To incorporate our recommended changes to the Evaluation Criteria, we suggest a 6-step format, as follows:

Step 1: Same as in the draft; however, as noted, Step 1 should only include the three checkboxes that track the statutory bases in AB 1550, and should incorporate the new requirement to "benefit individuals living in" disadvantaged communities in the first checkbox.

Step 2: Project sponsor specifies, in short answer format, the important community or household need(s) that the project proposes meaningfully to address.

Step 3: Project sponsor explains how the need(s) specified in Step 2 was identified. See Appendix A for suggested language for checkboxes that would ensure robust community engagement. If the need(s) were not identified "primarily through community engagement and outreach" (10), project sponsors should be required to detail that meaningful efforts at community engagement and outreach were made, and explain why they were not successful.

Step 4: Same as Step 3 in the draft, but limited to the *primary* benefits that have a direct nexus to meaningfully addressing the need(s) specified in Step 2.

Step 5: Identify all *additional* benefits that the investment will provide to the priority population, beyond those identified in Step 4.

Step 6: Add a checkbox that states: "This project has been designed to avoid substantial burdens, such as physical or economic displacement of low income residents and businesses in AB 1550 communities or increased exposure to toxics or other health risks."

Appendix C: Recommendations on Jobs and Job Training

The California Climate Equity Coalition recognizes the efforts the California Air Resources Board (ARB) has made to begin prioritizing, tracking, measuring and reporting the important and immediate benefits provided by the state's Climate Investment programs. We appreciate the guidance and requirements detailed in the Revised Funding Guidelines (Sec. III.C), which demonstrate ARB's commitment to targeting benefits in disadvantaged communities, maximizing environmental, health and economic co-benefits, and fostering job creation and training. ARB's recommendations are aligned with the growing efforts to ensure our state's climate policies and programs contribute to an equitable and inclusive clean energy-based economy, as demonstrated in the innovative Transformative Climate Communities Program[2], the SB 350 Low-Income Barriers Study[3], and the forthcoming AB 398 jobs and workforce study. However we urge ARB to provide additional guidance to ensure our state's multibillion dollar climate investment programs are measurably increasing the number and quality of jobs and training programs in climate resilience and clean energy related sectors, while creating opportunities for communities and residents most impacted by pollution and poverty.

Expanding Job Creation & Training Benefits Under AB 1550

High quality job creation and training is an important means to help set California's workers on long-term career trajectories. Effective job training also helps increase the quality of the work needed to achieve the state's long-term greenhouse gas reduction goals. For both job creation and training benefits, it is incumbent on the state to ensure its public dollars are improving job quality in emerging sectors and expanding job access to residents of disadvantaged and low-income communities, who are disproportionately impacted by our changing climate.

While GGRF investments under AB 1550 cannot solely be used to provide jobs or workforce training benefits, fostering job creation and training wherever possible is a stated requirement of the program. However, ARB's 2018 Annual Report to the Legislature reveals that relatively few programs are effectively maximizing job creation or training in disadvantaged or low-income communities. Furthermore, the lack of jobs reporting requirements means that little data exists on job creation and training outside of these target areas. Therefore, we offer two recommendations that can ensure programs foster job creation for disadvantaged and low-income communities.

Recommendations:

- As outlined in CCEC's Comment Letter, requiring documentation of primary and additional benefits at Step 2 in the "Evaluation Criteria for Providing Benefits to Priority Populations," during the application phase will enable administering programs to prioritize projects that maximize job creation and training benefits for disadvantaged and low-income communities.
- Direct administering agencies of community-scale programs to develop a scoring process that prioritizes job creation and training benefits under AB 1550 that are aligned with ARB's guiding principles. With the intent of raising the floor, enacting this recommendation will ensure strong, competitive programs include jobs and training best practices such as, workforce training models that have a proven track record for job placement, paid training and targeted enrollment/hiring for individuals with barriers to employment.

Tracking Employment Impacts of Climate Investments

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[2] http://sgc.ca.gov/programs/tcc/docs/20171024-TCC_FINAL_GUIDELINES.pdf

[3] http://www.energy.ca.gov/sb350/barriers_report/

Job tracking allows agencies to generate reliable data and measure direct job outcomes from public investments. Using the appropriate metrics and tracking system, job tracking will provide policymakers with information to understand the quantity, quality, and accessibility of jobs created. Accurate and comprehensive jobs data can shape specific goals and metrics for job development and training, job creation, and job placement that maximize economic co-benefits for disadvantaged communities and individuals with barriers to employment.

Recommendations:

- Employment data should be based on actual employment levels using a statewide certified payroll reporting system[4], and avoid generating estimates of employment using formulas of investment-to-employment ratios.
- Necessary data collection varies by sector and is most standardized and advanced in the construction industry, which covers GGRF programs involving affordable housing, renewable energy, weatherization, and others. ARB should use existing tracking infrastructure to conduct job tracking on an accelerated schedule for projects within these industries, such as the Low-Income Weatherization Program. Best practices and recommendations from these early implementers can inform the infrastructure, metrics and/or policy needed to advance jobs reporting efforts.
- The California Labor & Workforce Development Agency (LWDA) should be involved in ongoing discussions on indicators to measure, track, and report the employment impacts of GGRF programs.

Certified payroll reporting can provide the following jobs metrics while maintaining the confidentiality of individual workers:

- Job classification by trade or occupational category;
- Job classification by journey level or apprentice level;
- Rate of pay;
- Number of hours worked per week;
- Disadvantaged status, including zip code of residence;
- Race, ethnicity, and gender; and
- Certifications held

Jobs reporting data can support the development of appropriate metrics to accurately determine the overall jobs benefit. This includes job quality and accessibility—particularly for disadvantaged community residents and individuals with barriers to employment. Furthermore, accurate tracking and reporting ensures more accountability from GGRF funded projects claiming an economic co-benefit under AB 1550.

We recommend that ARB strengthen its guidance to administering agencies so that programs and projects that truly meet the requirements and intent of the overall guiding principles for California's Climate Investments are prioritized for investment.

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[4] Examples of certified payroll and workforce reporting software: LCP Tracker: www.lcptracker.com; Elation Systems: www.elationsys.com/elationsys