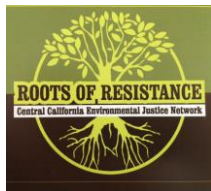




California Rural
Legal Assistance
Foundation



CENTER ON
RACE, POVERTY
& THE ENVIRONMENT



September 15, 2014

Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, California 95814

RE: Recommendation to Strengthen Equity Provisions of Interim Guidance on SB 535 Investments to Benefit Disadvantaged Communities

Dear Chairman Nichols and Board Members,

On behalf of the undersigned organizations, we commend the California Air Resource Board (CARB) and the California Environmental Protection Agency (CalEPA) for your leadership in developing SB 535 Interim Guidelines. SB 535 offers unprecedented opportunity to direct Greenhouse Gas Reduction Fund (GGRF) investments towards efforts that will provide significant and meaningful benefits to California's most impacted and vulnerable communities. We appreciate the State's continued focus on disadvantaged communities "as an essential underpinning of the State's effort to fight climate change," as well as the public participation processes that took place at the early stages of the development of the guidelines.

As organizations committed to improving health and increasing access to opportunity among California's most vulnerable communities, we thank you for consideration of our input on several key areas of the Interim Guidance document. Although the Interim Guidance offers a good step forward, we strongly urge CARB staff to incorporate the following six

recommendations to ensure that GGRFs are invested in projects that truly maximize environmental, public health, and economic benefits to disadvantaged communities across the State as outlined in Senate Bill 535.

- **Strengthen Evaluation Project Criteria to Ensure Project Provides a Direct Benefit to Disadvantaged Community(ies).**

In order to maximize project benefits to disadvantaged communities (DAC) as outlined in SB 535, the criteria to evaluate projects in the Interim Guidance document should ensure that the project clearly provides a direct benefit to DAC(s). Agencies should be directed to determine whether the primary purpose of the project is to target, and benefit disadvantaged community(ies), is designed in such a manner to specifically address, serve and prioritize the needs of vulnerable residents living in DACs, and ensures their direct access to the benefits of the project.

We are concerned, for example, that this requirement is not adequately incorporated into the interim guidance for transit and transportation projects. One illustration of this would be projects that improve commuter rail stations. While these projects are important, the fact that they may be taking place in a disadvantaged community does not necessarily mean that they will bring direct benefits to the vulnerable residents living in the surrounding neighborhood who, for a variety of reasons (affordability, service area, etc) may not actually utilize the rail service. Car-sharing services, parking space projects (page Appendix 1-3) and other similar projects in which the physical location of the project does not necessarily correlate with the project beneficiaries should not qualify as a benefit to disadvantaged communities unless there is a specific plan and strategy in place to ensure that benefits reach vulnerable residents.

Further, proximity requirements included in the interim guidance are inadequate and misplaced. For example, improvements made to a bus stop within ½ mile of a DAC (or for other projects within a ½ mile of DAC), does not necessarily mean that vulnerable residents will in fact have access to this improvement. Walking ½ mile is not feasible if multiple barriers are in place. This includes walking long distances while carrying heavy items (i.e. groceries), being accompanied by several small children, passing through unsafe areas (i.e. a known area of gang violence and/or large number of stray dogs), a lack of pedestrian infrastructure (i.e. crosswalks, sidewalks, pedestrian lights), walking along high speed roads, and/or the presence of physical barriers such as freeways, fencing, barricades, etc. This is further compounded if a large number of residents actually live much farther than a ½ mile since this distance is measured from the boundary of the census tract to the project location. Project applicants must demonstrate how they took deliberate steps to overcome proximity barriers and ensure that the most vulnerable residents have access to the project projects benefits.

This concern extends to all interim guidance documents that rely on proximity as a proxy for benefit, especially those that assume proximity of a half mile or placement within the same zip code as a DAC to constitutes, in and of itself, a benefit to a DAC.

We recommend that the following be included at the beginning of the Appendix on page 1-i to reinforce that all projects that seek to take advantage of DAC funding directly benefit DACs. It should also be included under #2 on page 15 under “Requirements for agencies that have investments which may be located within or provide benefits to disadvantaged communities” (see Appendix 1):

All projects that will be credited toward achieving the SB 535 targets for investments in disadvantaged communities must demonstrate that the primary purpose of the project is to target and benefit disadvantaged communities. The project must be designed to specifically prioritize and serve vulnerable residents in disadvantaged communities by directly addressing their needs and ensuring their access to the benefits of the project.

In order to evaluate this effectively, CARB should direct agencies to answer specific questions in their applications that will yield thorough and detailed responses on how projects target and prioritize residents living in disadvantaged communities. Not only will this provide clarity to potential applicants regarding what it means for projects to benefit and serve disadvantaged communities, it will also provide more complete information to reviewers of the applications in determining how projects will impact targeted communities:

- *Which DAC census tract(s) are targeted by the project to receive significant benefits? For projects not located within the DAC census tract(s), what is their distance to the DAC census tract(s) to be targeted? Identify whether or not this distance represents a network distance and if the measurement is from the center of the DAC census tract or the boundary line of the DAC.*
- *Describe the environmental, socioeconomic, and public health challenges faced by vulnerable residents living in the DAC census tract(s) that contribute to the need for GGRF investments.*
- *Describe how the project will address these challenges and provide access to project benefits for the residents living in those specific DAC census tract(s) in qualitative and quantitative terms. For example, residents have improved access to low carbon transit and/or transportation, affordable housing, living wage jobs, critical services, active transportation, etc.*
- *Please discuss any potential barriers to accessing the benefit, including the distance of the disadvantaged community(ies) to the project site, physical barriers such as fencing, freeways, barricades, etc. and/or outstanding safety concerns (passing through a known area of gang violence, large number of stray dogs, etc.), the fare/cost to use the service, etc. and how these barriers will be overcome*

to enable access to project benefits for vulnerable residents of disadvantaged communities.

Further, “improvements to rail transit connectivity for riders using stations/stops in a ZIP code that contains a DAC census tract” (page 1-1 Appendix under “Provide Benefits to”) should not easily qualify as a direct benefit to a disadvantaged community. Apart from the potential affordability barrier, the geographic size of zip codes can be very large in some areas and it is not clear how residents living miles away from a project location will actually benefit from it. For projects that are located increasingly farther away from DACs, CARB should direct agencies to require applicants to submit adequate evidence that show how the purpose of the project is to increase access to transit (or other project benefit) for residents living in the targeted DAC census tract(s) despite the long distance. In such cases it becomes increasingly important for applicants to also demonstrate that there was ***significant*** community buy-in and participation from residents of targeted DAC census tract(s) throughout the planning process. This criteria should be applied to all projects within zip codes that contain DAC census tracts and claim to benefit disadvantaged communities.

The Interim Guidance document should also give specific examples of projects that benefit disadvantaged communities to encourage agencies to thoroughly capture in their applications what it means for projects to benefit disadvantaged communities. For example, projects that benefit disadvantaged communities are those that expand quality housing options, increase access to grocery stores and/or other critical services and amenities, living wage jobs, pedestrian and biking infrastructure, frequent and affordable low carbon transportation/transit, etc. for the most vulnerable residents of DACs including low-income youth, seniors, families, and households without reliable access to transportation.

- **Affordable Housing and Sustainable Communities**
As with all programs and projects supported by the DAC set-aside, projects supported by the Affordable Housing and Sustainable Communities (AHSC)) program must directly and specifically benefit disadvantaged communities identified as such by CalEPA pursuant to SB 535. While we understand the importance of expanding affordable housing opportunities in census tracts throughout jurisdictions, throughout regions and throughout the state, money set aside to disadvantaged communities pursuant to SB 535 should and must prioritize improving conditions and opportunities in communities identified by CalEPA as disadvantaged. Most of the undersigned organizations represent, support and / or build housing and infrastructure for residents in communities identified by CalEPA as disadvantaged and herein emphasize the benefit that increased support for affordable housing development and infrastructure investment in those communities could provide.

Strategic AHSC investments in and benefiting disadvantaged communities are critical to furthering the state's intention to invest funds to address the cumulative impacts of social, economic and environmental disadvantage in the state's most vulnerable communities. AHSC funds can serve as a catalyst to support strong community centers; improve infrastructure to allow for infill and mixed use development; offer opportunities to residents living in overcrowded and / or dilapidated housing; offer energy efficient housing for lower income populations; provide employment opportunities; increase economic activity; support local businesses; and support improvement, infill and investment in existing communities.

We recommend that 20% of AHSC funds be invested in projects located in disadvantaged communities. Remaining AHSC funds set aside to benefit DACs must demonstrate a direct, and quantifiable benefit to DACs as well as DAC residents.

To complement these efforts, individual jurisdictions and regions should ensure that the remainder of AHSC funds support improved and diverse housing opportunities for low, very low and extremely low income residents throughout their respective jurisdictions and regions. This will both serve the state's goals of reducing GHG emissions by furthering jobs housing fit and it will ensure compliance with goals and mandates designed to affirmatively further fair housing.

The interim guidelines should also clarify that infrastructure investments that support affordable housing in DACs, including those constitute service expansion to serve DACs with potable drinking water or wastewater services, qualify for cap and trade investment proceeds set aside for disadvantaged communities.

- **Prioritize project applications that include strong community workforce agreements.**

SB 535 investments should support the economic well-being of communities and regions by providing expanded access to quality, living wage jobs and careers and workforce development opportunities for local, disconnected youth and young adults, farmworkers, and other disadvantaged workers. Community workforce agreements are an important tool for strengthening job quality standards and conditions and ensuring that publicly funded construction projects recruit, hire and train local, low-income workers. CARB should direct all agencies to include strong language in their project applications that encourages and grants priority to applicants that have community workforce agreements. This will help to maximize the economic benefits of the GGRF across the State, as mandated in SB 535.

- **Ensure that funded projects do not directly or indirectly lead to the displacement of low-income residents.**

Deliberate steps must be taken to ensure that GGRF investments do not inadvertently harm vulnerable, low-income residents of existing communities that are targeted for increased investment. Low-income residents who become pushed out of their homes will not have the opportunity to enjoy improved access to transportation, affordable housing, energy efficient buildings, etc., and will continue to be pushed farther away from jobs and critical services. This will ultimately carry detrimental impacts on low-income families that are forced to spend larger percentages of their income on transportation costs and will exacerbate the effects of climate change on our most impacted communities. Furthermore, it may lead to an increase in vehicle related carbon emissions as low-income residents are more likely to actually utilize available transit services. Pushing these residents out of transit rich communities and replacing them with higher income residents will cause them to drive more and may also lead to a decline in transit use within the transit rich community.

The direct and indirect economic displacement of existing residents and lower income households stands counter to the intended goals of SB 535 and AB 32, and we strongly recommend that staff include criteria to ensure that funded projects incorporate measures to prevent displacement. Under “Requirements for all agencies that receive GGRF appropriations” on page 15, we recommend only funding applicants that can demonstrate that their project **will not result in a net loss of housing occupied by low-income residents**. Applicants should also be asked to provide a clear description of deliberate steps taken to prevent, monitor and assess displacement, particularly if a project involves housing demolition or conversion. **In this regard, we fully endorse the comments of the 535 Coalition in section 2 of their letter.** This is especially critical for transit and energy efficiency projects.

For example, under the category of energy efficiency and renewable energy (Appendix 1-4), projects that propose building upgrades of housing units located within a disadvantaged community must include a clear description of anti-displacement measures to retain residents in existing units. In this example, applicants may propose strategies such as working with landlords and building managers to ensure that, after upgrades are completed, additional costs due to maintenance are not incurred by residents.

- **Ensure that low carbon transportation projects provide direct and measurable benefits to disadvantaged communities.**

SB 535 investments aimed at reducing GHG must result in actual reductions in air pollution and criteria pollutants in disadvantaged neighborhoods. Merely requiring projects to be domiciled or have a physical address in a DAC does not result in meaningful and tangible benefits the communities. Benefits to DACs must be measureable in nature and must result in services that connects residents to employment or basic amenities. We recommend that CARB require that low carbon transportation

projects receiving GGRF must demonstrate how criteria pollutants are actually reduced beyond physical location of equipment.

- **Strengthen guidelines and evaluation criteria for public participation and planning.** The overall success of GGRF projects that benefit disadvantaged communities is largely dependent on the extent that projects meet the needs of the community residents, receive community wide support, and expand public access and use. A critical and effective strategy for achieving this is the meaningful participation of community residents in the planning and design of projects.

While the Interim Guidelines include some language regarding community outreach efforts, we recommend that staff strengthen the public participation component by outlining specific guidelines and evaluation criteria that demonstrate how proposed projects secured strong community buy-in and public participation throughout the planning and design of projects. This is especially critical given that residents of disadvantaged communities have historically been left out of political and decision-making processes that affect them.

For example, under “Requirements for agencies that have investments which may be located within or provide benefits to disadvantaged communities” (Page 15), agencies are required to 1) “Implement outreach efforts that seek to engage and involve disadvantaged community members or their representatives. If possible, these actions should begin the early stages;” and 2) “Provide outreach to groups of potential project applicants in disadvantaged communities to increase awareness of funding opportunities and the ability of disadvantaged community applicants to seek funding for eligible projects.”

We recommend that this language be strengthened to require applicants to show not only how project area residents were consulted or engaged in the planning process, but also how deliberate steps were taken to target these residents for consultation, feedback, and participation in the planning process. Further, we suggest removing the “If possible” language and instead, require that community engagement efforts begin not only the early stages of planning and design, but also throughout the entire implementation and evaluation process. Moreover, application for large projects that provide benefits to both vulnerable and middle to high income communities should include additional justification for how benefits to vulnerable populations have been identified. The project design must include outreach and identification of priorities by those most vulnerable communities that have been identified as beneficiaries of the investment benefiting disadvantaged communities.

Additionally, under “Guiding principles for agencies with investments benefiting disadvantaged communities,” Table 3 (Common Needs of Disadvantaged Community Communities, Page 17) provides a helpful summary of common community needs across the state. However, this table should not replace the need for agencies and proposed projects to engage in substantial community outreach and public participation processes.

Although this table of common needs are helpful in providing initial examples, funded projects should make sure the needs being addressed are reflective of the local context and are community-driven priorities that were identified during the community-based public participation process. In this regard, we recommend removing the language of “whenever possible” and “ideally” under principle A (Page 16) to clarify this guideline.

Moreover, to ensure that the most vulnerable residents are able to participate in the planning of projects, applicants should explicitly include language access, cultural competency, and community convenience (e.g. child care provisions, meeting locations within walking distance to residents, scheduling meeting times outside of traditional work hours, etc.) considerations in describing their public participation efforts. Furthermore, to the extent that community based organizations (CBO) are involved in public participant efforts, applications should demonstrate how those CBOs work with and represent the interests of residents. Priority should be given to applicants that address these considerations during the review process, for example through awarding extra points in the scoring process.

It would also be helpful to include in the Interim Guidance, the following strategies for organizing well-attended meetings and encouraging resident participation:

- *Partner with community leaders and organizations that can assist with outreach.*
- *Allocate funding to support community leaders’ and organizations’ involvement in project development and project implementation*
- *Ensure that outreach and meeting materials are in appropriate languages*
- *Providing food, child care, and other incentives to attend is a proven technique that agencies have used to increase turnout. Make the incentives clear in the invitations.*
- *Schedule multiple meetings to accommodate residents with different employment and family schedules. Weekend or evening hours are ideal.*
- *Use meeting locations preferably within walking distance for residents. Neighborhood/community based organizations and schools may let you use their meeting space.*
- *Post flyers in high foot traffic areas (if needed, use different languages and explain that an interpreter will be available at the meetings).*
- *Door-to-door in-person invitations.*
- *Mail invitations (same language idea noted above).*
- *Distribute notices at local schools, and community events, such as community festivals, cookouts, and other events that attract residents.*
- *Add to the meeting agendas of neighborhood/community-based organizations, school site meetings, etc. to facilitate a meeting where residents will be available.*

The incorporation of the above recommendations into SB 535 Guidance will strengthen the GGRF to ensure that benefits credited toward the disadvantaged community requirement are not

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only targeted to but maximized in our communities of greatest need. This will ultimately lead to significant environmental, public health, and economic outcomes across the State as outlined in SB 535 and AB 32. We thank you again for your leadership and commitment to this work and respectfully ask for your support of these important recommendations as you finalize the SB 535 Interim Guidance. Questions or concerns regarding this letter can be addressed to Chione Flegal, Deputy Director at PolicyLink (chione@policylink.org or 510-663-4311).

Sincerely,

Judith Bell, President
POLICYLINK



Phoebe Seaton,
Co-Director, Leadership Counsel for Justice and Accountability