

Things You Need to Know About Prop 39

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Proposition 39 Clean Energy Jobs Act Guidelines

The California Clean Energy Jobs Act was created with the approval of Proposition 39 in the 2012 statewide general election. The statute changed the corporate income tax code and allocates projected revenue to the General Fund and the Clean Energy Job Creation Fund for five fiscal years beginning with 2013-14.

Proposition 39 Guidelines provide direction to applicants on the types of awards and required proposals or plans, explains screening and evaluation criteria, describes the standards to be used to evaluate project proposals, and outlines the award process. In addition to the requirements identified in the guidelines, projects may also be subject to environmental regulations, local permits, and/or construction rules. These additional requirements are not addressed in the guidelines.

SB 73 establishes that 89 percent of the funds deposited annually into the fund and remaining after any transfers or other appropriations be allocated by the State Superintendent of Public Instruction for awards and made available to LEAs for energy efficiency and clean energy projects. The 2017-18 California Budget Act appropriated \$376.2 million for Prop 39.

What's New?

The California Energy Commission approved changes to the Program Implementation Guidelines (2016 Guidelines). The minimum SIR for eligible energy projects has been reduced from 1.05 to 1.01. LEAs may now submit energy expenditure plans with eligible energy projects that achieve a minimum SIR of 1.01. The maintenance cost savings assumption for energy efficiency measures used in the SIR calculation has now been increased from 2 percent to 3 percent of the project cost on an annual basis.

Certain eligible energy measures funded by Prop 39 might be exempt or excluded from DSA review and approval for structural safety, depending on the scope of work and estimated construction cost. In addition, some eligible energy measures may not be required to include accessibility upgrades outside the scope of work area. In cases where DSA review is required, DSA will verify that the original building construction was certified before it can issue approval of plans for alterations on that building. DSA regional office staff can help LEAs identify whether a particular building is suitably certified and what steps are required to achieve certification.

LEAs are advised to consider DSA requirements early in their planning for Proposition 39-eligible energy projects and contact the appropriate DSA regional office with jurisdiction over the area in which the project is located.

Contracts

All contracts need a clear and accurate description of the eligible energy project, including material, products, or services to be procured, and a budget that includes cost and an estimate of the projected energy savings. Prop 39 Guidelines are required to address “contractor qualifications, licensing, and certifications appropriate for the work to be performed, provided that the Energy Commission shall not create any new qualification, license, or certification pursuant to this subparagraph.”

Another law requires an LEA to notify the Department of Industrial Relations of any public works project within five days after the public works contract is awarded. Notification must be provided online using the PWC-100 form found at <https://www.dir.ca.gov/pwc100ext/>.

The PWC-100 includes a question about whether the project has or will receive funding from Proposition 39, and the LEA should be sure to answer “Yes” to this question.

Contractors and subcontractors on funded projects will be required to furnish certified payroll records directly to the Department of Industrial Relations. The LEA’s bid and contract documents must include notice of this requirement. In addition, contractors and subcontractors must be registered with the Department to bid or work on any public works project. The Department maintains a list of registered contractors and subcontractors on its website at <https://efiling.dir.ca.gov/PWCR/Search>.

Proposition 39 funding may be used only to pay for eligible energy projects installed on or after December 19, 2013, the date guidelines were approved at the Energy Commission’s business meeting. An eligible energy project award for Proposition 39 funding, as distinguished from energy planning funds, can be used to pay only for eligible energy projects approved in an energy expenditure plan by the Energy Commission. If eligible energy projects are implemented prior to the Proposition 39 Guidelines approval date, those eligible energy projects are not eligible for retroactive Proposition 39 funding.