

EBCE Public Comment received for 9/20/23 Board of Directors Meeting

Letter #	Name	Date
1	Jessica Tovar	9/18/2023
2	Tom Kelly	9/20/2023
3	Jessica Tovar	9/20/2023
4	Tim Frank	9/20/2023



Jessica Tovar
339 15th St Suite 208
Oakland, CA 94612
415-766-7766

Dear East Bay Community Energy Board of Directors,

With the formation of East Bay Community Energy (EBCE) agency in 2016, the joint powers succeeded in providing their constituent territories with a public alternative to investor-owned energy procurement with the explicit intent to promote and provide local, clean energy resources that are more reliable, resilient and affordable *and* to do so centering equity in workforce development, rates, distributed energy resources etc. However, the agency's success in fulfilling its mandate can only be evaluated through thorough accountability to the public it serves. In turn, community accountability is only possible insofar as the agency is transparent to the public about its decision making, business partnerships, programs etc.

Several issues of transparency and inequity have continued at East Bay Community Energy in the past years. We ask that these issues be dealt with promptly in the ways suggested and that this enumeration of concerns be used as guidance for how the board can and should hold the staff accountable to transparent and equitable practices.

1. Performance data on the metrics have not been provided yet the 2018 Local Development Business Plan *Clear and Transparent Reporting* section states: "A clear and cogent set of metrics efficiently reported over time is more effective than an overly complex reporting system that creates undue burden on EBCE staff and confusion among community stakeholders". Most pressing, given the active Request for Proposals (RFP) on phase 2 of the municipal critical facilities is lack of a jobs report and the missing language on workforce standards in the RFP. We suggest the board take this concern up at the next board meeting to adopt agency wide standards.

2. The resilience and virtual power plant program that facilitates microgrid development within the service territory needs to work more closely with communities in order to bundle the benefits of resilience and procurement needs. This pertains to both community-facing municipal critical facilities and community based organizations (CBO). With respect to the former, we ask that EBCE clearly designate the division of funds between community facing and non-community facing resilient municipal facilities and commit to working with CBOs to identify which locations are best suited to provide emergency resilience services to the public.

Regarding the latter, while the 2023-2024 budget states that EBCE does not have the resources to include CBO sponsored sites into the community resilience program, there is \$14.75 million of currently unallocated funds in the budget which should be allocated to including CBOs in the program. East Bay Clean Power Alliance acknowledges that \$2 million has been dedicated to provide technical assistance to CBOs hoping to access microgrid and resilience funds, however, there is no need for this support to be restricted to technical assistance. Rather, this \$14.75 million can support leveraging federal and state funding for CBOs to be more directly incorporated into the virtual power plant, which also further reduces EBCE procurement needs. In addition, the EBCE surplus funds have in total almost \$100 million. While we understand the need for some rainy day funds, \$100 million in reserve account funding for a public agency is unnecessary compared to the

urgency of CBO led resilience programs to serve communities vulnerable to power shut offs and unforeseen crises. We also ask for the “streamlined process” for CBOs to receive technical assistance be released as soon as possible.

3. East Bay Clean Power Alliance acknowledges the long-anticipated RFP for Community Innovation Grants. We appreciate that \$300,000 for a 3-year project, makes the grant a significant effort. However, it is concerning that the very first grant in this round has become a “community *investment* grant” focusing on education around induction cooktops. Restricting the goals of the grant to “education and awareness” reduces the scope of benefits organizations could deliver, particularly to low income communities of color. Those communities will need support for replacing gas ranges with expensive induction ranges, which may also require even more expensive electrical panel upgrades alongside education. While “lack of information and familiarity” and “emotional connection” with gas may be contributing factors, slow adoption of induction appliances, particularly in equity priority communities cannot reasonably be attributed to lack of information, when such significant financial impediments are present.

The language of this RFP is not representative of the intent of community innovation grants, which as laid out in the Local Development Business Plan, are intended to “deliver social and environmental benefits” and prioritize disadvantaged communities. Furthermore, the solicitation should be in the form of an accessible community grant application. The restrictions on the one hand to education and awareness and secondly to induction cooktops do not provide meaningful benefits. Furthermore the language of the RFP makes it inaccessible to smaller community based organizations despite their real ties to communities that may be more effective in the first place and in need of the funds. This also furthers a systemic barrier where large non-profits with existing programs, funds and development capacity can easily undercut funding opportunities from small CBOs. The future community grants application needs to be written with more of a lens towards equity and accessibility for small CBOs and the communities they serve. We recommend the following changes for future community innovation grants.

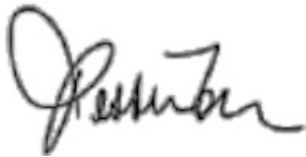
1. Grant applications should be directed towards a broader scope of issues, for example the full range of building decarbonization rather than one limited technology.
2. Grant applications should allow for and encourage small organizations serving a part of the service territory to apply for a portion of the full grant. This enables a far more tailored approach to community outreach. As such, smaller grants at \$50,000 are crucial in addition to larger \$100,000 for the next three years.
3. Community Innovation Grants should not be limited to education and awareness but should fund projects that also leverage funding and facilitate access to new technologies. The Induction Cooktop Lending Program and giveaways alone are insufficient for meaningful health or energy benefits.
4. Community input on the grant application design and process should be implemented.
5. A subcommittee made up of Community Advisory Committee members and Board members should field applications and make the grant awards. As they had in 2019.
6. Funding for community innovation grants has not been issued since 2019 and was reinstated in June of 2022, therefore EBCE should release grant opportunities as soon as possible as access to the funds is overdue.

4. After having avoided a costly misappropriation of EBCE funds in a \$15 million charity gift to UCSF Benioff Children’s Hospital, direct information about the reallocation of these funds has not been provided. In June at the agency’s board meeting, staff indicated that they had identified a health care provider with research capabilities, had secured verbal agreement to support the health care partnership, had identified several

non-profit partners to manage health care partnerships and were hiring a building electrification channel manager. None of these secured partnerships were disclosed. Especially given the lack of transparency and illegal nature of this \$15M gift of ratepayer funds, it is of the utmost importance that EBCE staff provide clarity on who they will be partnering with, and provide clarity on geographic locations and exact numbers and types of stoves provided.

These four primary concerns of transparency and equity at East Bay Community Energy are indicative of a longer history at the agency. Public accountability through verifiable metrics and feedback, access to resources for disadvantaged communities, and long term investment in communities through workforce standards and collaborations with CBOs have been systematically deprioritized. The very formation of East Bay Community Energy was a community effort, we at East Bay Clean Power Alliance hope to see this new board support the agency in living up to its mandate.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Tovar". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jessica Guadalupe Tovar, East Bay Clean Power Alliance



Adrian Bankhead <abankhead@ebce.org>

Item 11 - Inclusion of New Communities: City of Lathrop

Tom Kelly <tkelly@kyotousa.org>
To: Adrian Bankhead <abankhead@ebce.org>
Cc: Anne Olivia Eldred <anneolivia.eldred@gmail.com>

Wed, Sep 20, 2023 at 11:23 AM

Adrian,

Can you provide this request (below) to the Board as a part of public comment for Item 11 - Inclusion of New Communities: City of Lathrop at tonight's Board meeting? Thank you.

Tom Kelly

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Dear Members of the EBCE Board of Directors,

As you will recall, I have frequently commented on EBCE's failure to comply with the terms of its Joint Power Agreement, specifically the Agency's failure to provide electricity that has a lower greenhouse gas content than the electricity provided by PG&E. To it's credit, EBCE was in compliance with its obligations in 2018 and 2019, but has fallen far behind PG&E since 2020 and has made little effort to comply with its obligations since then.

I request that, prior to voting tonight to allow the City of Lathrop to become a member of EBCE, that the Board ask EBCE's General Counsel if it is legal, fully transparent, or appropriate for EBCE and the City of Lathrop to sign a JPA that contains a major provision that the parties know is inconsistent with EBCE's actual greenhouse gas intensity for its primary electricity product, Bright Choice.

The question should not come as a surprise to the Agency's General Counsel, as I have raised this issue repeatedly. My assumption is that staff and the General Counsel would have discussed this issue and that the General Counsel has provided some basis to staff for EBCE to ignore those provisions of the JPA that apply to doing better on greenhouse gases than PG&E. I think the public and the Board has a right to know what that justification is.

Thank you.

Tom Kelly
Berkeley

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Please join us as we say goodbye to our beloved Allen Weinrub Ph.D. We'll pay tribute to his life and many accomplishments. More information is at [the Chapel of the Chimes website](#). Please feel free to post an entry in Al's [Guest Book](#), even if you cannot attend.

Celebration of Life for Al Weinrub 1943-2023

1:00 pm – 5:00 pm, September 23, 2023

Chapel of the Chimes

4499 Piedmont Avenue Oakland, CA 94611

Reception to follow at same address

If you plan to stay for the reception that follows, Please also [RSVP here](#) by Thursday September 21, so we can estimate how many people to feed.

For those who wish to attend from afar, please save this link on your calendar for 1-3pm PT to attend from your computer: <http://webcast.funeralvue.com/events/viewer/92063>

If you'd like to make a donation in his honor, we suggest contributing to the [Al Weinrub Justice Fund](#) to ensure that Al's legacy can continue to engage and inspire a national and international community.

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We would like to celebrate the acquisition of 50 years of Al Weinrub's writings and his historical archive of social movement documents by the University of Massachusetts Libraries.

The collection covers key justice struggles spanning five decades, including the Science for the People anti-imperialist organizing of the 1970s, the struggle within U.S. labor against the war in Central America of the 1980s, the anti-racist struggles of the National Rainbow Coalition, and more recently, the life-critical struggle for climate and energy justice. Details of the collection are provided in the University Library's [recent press release](#) announcing the acquisition. The **Al Weinrub Justice Papers** join the Library's W.E.B. Dubois and Daniel Elsberg collections, among others, as important historical archives for activists, researchers, historians, and scholars.

Proposed by CCA Workforce and EJ Alliance

<https://action.greencal.org/action/wej>

September 20, 2023

DRAFT: East Bay Community Energy (EBCE) Workforce, Environmental, and Environmental Justice Standards for Clean Energy Project Selection Policy

PREAMBLE

WHEREAS, EBCE, as a Community Choice Aggregation, is a mission-driven public agency, collectively financed by constituent public ratepayers, with an obligation and opportunity to support and protect workers and the communities hosting EBCE's clean energy projects.

WHEREAS, EBCE, a mission-driven public agency committed to diversity, equity, and inclusion, has the opportunity to align with and support the values and mission of high-road union construction trade labor and environmental justice organizations striving to create sustainable and equitable communities.

WHEREAS, Central Coast Community Energy (3CE), a peer CCA to EBCE, adopted similar standards to the recommended standards below in June 2023 after extensive deliberation by its Board of Directors and Citizens Advisory Committee.

WHEREAS, 3CE'S procurement standards serve as a foundation for best practices and build on similar standards adopted earlier by Peninsula Clean Energy and the San Francisco Public Utilities Commission (CleanPowerSF).

WHEREAS x% of customers in existing service territory are CARE, FERA, or Medical baseline customers, and x% in San Joaquin Counties (staff support requested to advise on these values).

WHEREAS, rate payer dollars can create local benefits through the creation of jobs and supporting local, small local, and emerging businesses in our service territory by keeping dollars in circulation.

WHEREAS, EBCE's Joint Powers Agency Agreement, dated effective November 1, 2016, as amended by Resolution No. 2018-23 dated June 20, 2018, declares the agency's purpose as follows:

- Provide electricity rates that are lower or competitive with those offered by PG&E for similar products;

- Develop an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and **one that supports the achievement of the parties' greenhouse gas reduction goals** and the comparable goals of all participating jurisdictions;
- Establish an energy portfolio that **prioritizes the use and development of local renewable resources** and minimizes the use of unbundled renewable energy credits;
- Promote an energy portfolio that **incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals**;
- **Demonstrate quantifiable economic benefits to the region (e.g. union and prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments)**;
- **Recognize the value of workers in existing jobs that support the energy infrastructure of Alameda County and Northern California.** The Authority, as a leader in the shift to a clean energy, commits to ensuring it will **take steps to minimize any adverse impacts to these workers to ensure a "just transition" to the new clean energy economy**;
- Deliver clean energy programs and projects **using a stable, skilled workforce through such mechanisms as project labor agreements or other workforce programs that are cost effective, designed to avoid work stoppages, and ensure quality**;
- Promote personal and community ownership of renewable resources, spurring **equitable economic development and increased resilience, especially in low income communities**;
- Provide and manage lower cost energy supplies in a manner that **provides cost savings to low-income households and promotes public health in areas impacted by energy production**; and
- Create an administering agency that is financially sustainable, responsive to regional priorities, well managed, and a leader in fair and equitable treatment of employees through **adopting appropriate best practices employment policies, including, but not limited to, promoting efficient consideration of petitions to unionize and providing appropriate wages and benefits.**

THEREFORE, BE IT RESOLVED THAT,

In support of competitive, clean, and renewable power supply, as well as the development of a local and diverse workforce, the Governing Board of East Bay Community Energy (EBCE) shall adopt the following **Workforce, Environmental, and Environmental Justice Standards for Clean Energy Project Selection Policy** asserting a preference for enhanced workforce, environmental, and environmental justice standards for all EBCE's clean energy programs and projects.

I. DEFINITIONS

1. **Regulatory Value:** The project's anticipated ability to satisfy EBCE's regulatory compliance requirements, such as Resource Adequacy, Renewable Portfolio Standard, integrated resource planning, and other binding orders or directives received from regulatory bodies.

2. **Market Value:** The project's projected revenues across all relevant day-ahead, real-time and ancillary markets. Market Value shall also assess a project's ability to manage, shift, or arbitrage existing EBCE generation to maximize revenue and renewable energy generation on behalf of EBCE and its customers.
3. **Counterparty Risk:** The risk that a counterparty will fail to perform, or adequately remedy, its obligations. Counterparty Risk is inclusive of Development Risk.
4. **Development Risk:** The risk that the project is unable to obtain interconnection, deliverability, site control, entitlements, financing, or other necessary development milestones required to deliver the project on or ahead of the anticipated online date.
5. **Energy Offtake Agreement:** Includes Power Purchase Agreements, Energy Storage Agreements, Resource Adequacy Only Agreements, or other energy-related products where EBCE does not own, develop, or construct the generation or storage facility. Instead, EBCE's participation in the Project is limited to receiving energy and any applicable attributes at a set price and term.
6. **Journeyperson:** Is a worker who either:
 1. Graduated from a California state-approved apprenticeship program for the applicable occupation or, when located outside California, approved for federal purposes pursuant to apprenticeship regulations adopted by the Secretary of Labor, or
 2. Has at least as many hours of on-the-job experience in an applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the California Division of Apprenticeship Standards.
7. **Local Hire:** A stated preference for project employment opportunities for qualified workers in descending priority:
 1. A resident within the nearest communities in proximity to the project, by radius as reasonably determined on a project-by-project basis;
 - a) Additional preference shall be given, where the radius includes a city, town, or census-designated location within EBCE's service territory, to the workers within those portions of the service territory.
 2. A resident within the county where the project is being constructed;
 3. A resident within EBCE's service territory.

8. **Targeted Hire Program, also known as Equity Priority Hire:** A pipeline program which creates opportunities for Under-Represented Workers to (a) enter Registered Apprenticeship Programs and (b) obtain work hours needed to successfully complete their apprenticeship, through partnering with a Multi-Craft Core Curriculum (MC3) pre-apprenticeship program or programs, or equivalent industry and union-recognized certificated career training and placement program, that recruits, supports, and prepares Under-Represented Workers to succeed in skilled construction trades apprenticeships.
9. **Under-Represented Worker:** A jobseeker who, at the time of hiring or within the last twelve months, satisfies at least one of the following categories:
 1. Experiencing or at risk of homelessness
 2. Being a custodial single parent
 3. Currently receiving public assistance
 4. Lacking a GED or high school diploma
 5. Having been continuously unemployed or underemployed for the past 6 months
 6. Having been emancipated from the foster care system
 7. Being a veteran of the United States Military
 8. Being a member of a tribal community
 9. Having a previous incarcerated or justice involvement history
 10. At-Risk Youth: a person 18-24 years old who is disconnected from school and/or work
 11. Low income (household income is below the current HUD threshold for Low Income Households in their county of residence)

II. PROJECT SELECTION METHODOLOGY

Projects will be prioritized for selection based on EBCE's evaluation of the criteria set forth below.

- A. Contributions to EBCE's 100% Renewable Energy by 2030 Goal
 1. Assessment and evaluation of proposed projects' operational performance and market economics to ensure selected projects maximize regulatory and market value to EBCE and its customers.
 2. Assessment and evaluation of Counterparty and Development Risk.
 3. Avoids unbundled or Category 3 RECs and non-RPS carbon-free attributes
- B. Workforce and Local Workforce Development

EBCE is committed to stimulating our local economy through, among other measures, supporting Projects committing to apply prevailing wage rates, supporting participants

and/or graduates of apprenticeship and pre-apprenticeship programs, supporting a local skilled workforce, and to achieve EBCE's local and targeted hire objectives.

1. EBCE will prioritize Energy Offtake Agreements where the developer is committed to:
 - a. Highest priority projects will commit to:
 - i. A multi-trade project labor agreement that incorporates EBCE's Local and Targeted Hire objectives as follows:
 1. A goal of 30% of all project labor hours performed by Local Hires, and;
 2. Participation in a Targeted Hire Program with a goal of 10% of all project hours performed by Under-Represented Worker apprentices.
 - ii. Medium-priority projects will commit to:
 - i. Utilization of prevailing hourly wage and benefit rates as determined by the California Department of Industrial Relations.
 - ii. Utilization of apprentices at the same ratio of apprentice hours to journeyperson hours as required for public works projects. Generally this is one apprentice hour per every 5 hours of journeywork per craft.
 - iii. Demonstrated commitment to Local and Targeted Hire, including utilization of a multi-craft core curriculum (MC3) pre-apprenticeship program, or equivalent industry and union-recognized pre-apprenticeship certification, for outreach, preparation, support and referral of Targeted Hires.
 - c. Low-priority projects would fail to meet II.B.1.a or II.B.1.b above but may demonstrate other commitments to local workforce development.
 2. When considering contractors or developers for EBCE-owned energy generation or storage projects requiring a Large Generator Interconnection Agreement from the California Independent System Operator (currently 20MW and above, but subject to change from time to time), EBCE shall commit to:
 - a. Negotiate a multi-trade project labor agreement that will incorporate EBCE's local and targeted hire objectives as follows:
 - i. A goal of 30% of all project labor hours performed by Local Hires, and;
 - ii. Participation in a Targeted Hire Program with a goal of 10% of all project hours performed by Under-Represented Worker apprentices.
 3. When considering contractors or developers for EBCE-owned energy generation or storage projects requiring a Small Generator Interconnection Agreement from the California Independent System Operator (currently applies to projects under 20MW, but subject to change from time to time), EBCE will commit to:
 - a. Utilization of prevailing hourly wage and benefit rates as determined by the California Department of Industrial Relations.

- b. Utilization of apprentices at the same ratio of apprentice hours to journeyperson hours as required for public works projects. Generally this is one apprentice hour per every 5 hours of journeywork per craft.
- c. Demonstrated commitment to Local and Targeted Hires.
 - i. A goal of 30% of all project labor hours performed by Local Hires while incenting, through a negotiated contract structure, the contractor or developer to achieve a minimum of 60% of all project labor hours performed by Local Hires, and;
 - ii. Participation in a Targeted Hire Program with a goal of 10% of all labor hours performed by Under-Represented Worker apprentices, while incenting, through a negotiated contract structure, the contractor or developer to achieve the 10% goal.

C. Innovation

EBCE recognizes that reaching 100% Renewable Energy by 2030 will require significant improvements and innovation in battery technologies, renewable baseload, dispatchable renewable resources, and renewable generation technologies, among other opportunities.

- 1. EBCE will prioritize projects that accelerate decarbonization, provide local resiliency, provide EBCE a competitive advantage, and/or reduce costs for EBCE customers while remaining cost competitive with established market alternatives. Innovation will be recognized among projects that:
 - a. Include new or improved technologies or methodologies with a demonstrated potential feasibility;
 - b. Achieve scale for existing technologies to benefit EBCE customers; or
 - c. Reduce or eliminate barriers to adoption of local, distributed, and scaled technologies.

D. Location

EBCE prioritizes projects in the following order:

- 1. Projects located within EBCE's service territory
- 2. Projects located within California.
- 3. Out-of-state projects

E. Environmental Stewardship

EBCE is committed to leading by providing customers with energy that delivers benefits for air, water, and the natural environment while avoiding impacts to important lands, species, and waters.

- 1. EBCE will prioritize projects that:
 - a. Avoid sensitive habitats for any endangered plant or animal species or other environmentally sensitive areas¹ and comply with

¹ Refer to Nature Conservancy's [Power of Place West](#) Report (2022).

- conservation plans such as the Desert Renewable Energy Conservation Plan (DRECP)²;
- b. The developer and local land use authority have established an enforceable development agreement which, in part, sets forth measures to mitigate impacts to sensitive habitat or environmentally sensitive area; then
 - c. The developer commits to measurable offset efforts within the vicinity of the proposed project.

F. Benefits Accruing to Underserved Communities

EBCE, supported by the Local Development Business Plan, seeks to deliver economic, environmental, and social benefits to the communities that it serves by providing cleaner electricity at competitive rates, developing local resources that drive new investments, and creating increased demand for high-paying jobs. EBCE is committed to helping low-income and environmental justice communities overcome barriers to their access to public investments, resources, education, and information about energy service and policy.

EBCE will prioritize projects that:

1. Invest in low-income and environmental justice communities, with additional preference for communities within the EBCE service territory.
2. Demonstrate contact and collaboration with the local community organizations and stakeholder groups representing a broad diversity of demographics and interests, particularly low income and environmental justice communities, to identify and address benefits and impacts of projects and ensure project benefits are communicated and accessible to the local community.
3. Commit to meaningful engagement³ with local communities throughout the entitlement and construction processes to identify and address benefits and impacts of projects and ensure project benefits are communicated and accessible to the local community.

III. EVALUATION, SELECTION AND REPORTING

- A. EBCE will assess and select project proposals in accordance with this Project Selection Methodology and report detailed results of such assessment at the time of the project approval.
- B. EBCE's annual report will compile and report information regarding the impact of the Project Selection Methodology.

² Refer to [Desert Renewable Energy Conservation Plan \(2016\)](#).

³ Meaningful engagement means implementing five recommendations for best practices from [Building a Just Energy Future - A framework for community choice aggregators to power equity and democracy in California, 2020 report by the California Environmental Justice Alliance](#)

IV. CA COMMUNITY POWER

- A. EBCE's representative to the CA Community Power Board shall advocate for adoption of a CA Community Power Workforce, Environmental, and Environmental Justice Standards for Clean Energy Project Selection Policy consistent with the terms of this resolution.
- B. EBCE's representative to the CA Community Power Board shall advocate to form a public advisory committee, including labor, environmental and equity representatives, to ensure transparency and public engagement in CA Community Power's operations and procurement practices.