



California Energy Commission

DOCKETED

13-ATTCP-01

TN 72795

MAR 18 2014

March 18, 2014

Attn: Dockets Unit (MS-14)
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Subject: Application for Confidential Designation - CALCTP Acceptance Test Curriculum Materials and Responses to Questions Submittal #3

Dear Dockets Unit:

ICF International, in its capacity as program administrator for the California Advanced Lighting Controls Training Program (CALCTP), hereby requests that the California Energy Commission designate as confidential, pursuant to California Code of Regulations, title 20, section 2505, the attached CALCTP acceptance test responses to questions submitted to CALCTP by Ms. Joan Walter on March 11, 2014. CALCTP would like these responses to questions and the related accompanying updated curriculum material to be deemed confidential. CALCTP also requests that the March 11, 2014 document containing the questions themselves also be designated confidential, since they disclose information on curriculum materials that have been previously been designated as confidential by the Commission. The attached materials and responses are part of CALCTP's application to become a Lighting Control Acceptance Test Technician Certification Provider under California Code of Regulations, title 24, Part 6, § 10-103-A. Once designated confidential, please provide a copy of these materials to Joan Walter and Tav Commins in the Standards Implementation Office.

Attached is the Application for Confidential Designation for your review and five electronic copies on cd-roms of the documents for which confidentiality is sought. Each electronic copy is marked with the title "Confidential - CALCTP acceptance test curriculum materials and responses to CEC questions."

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark V. Ouellette".

Mark V. Ouellette
Senior Program Manager

Enclosure/Attachment:

cc: Joan Walter, Standards Implementation Office
Bernie Kotlier
Tom Enslow

APPLICATION FOR CONFIDENTIAL DESIGNATION

(Title 20 Cal. Code. Regs., § 2505 et seq.)

An application to keep a record confidential shall be submitted directly to the **Docket Unit** on electronic media, but not by email. Five electronic (5) copies of the record for which confidentiality is sought must be submitted, on separate media, each marked on the media with the title of the record and "confidential." (§ 1209.5, subd. (a)(4).) The application may be on a sheet separate from, but attached to, the record. The application will then be acted upon by the Executive Director in consultation with the Chief Counsel of the Energy Commission.(§ 2505, subd. (a).) (Nov 30, 2011 Standing Order)

TO: Energy Commission Docket Unit.

RE: Application for to become a Lighting Control Acceptance Test Technician Certification Provider under California Code of Regulations, title 24, Part 6, § 10-103-A. (Attn. Joan Walter, CEC Standards Implementation Office)

APPLICANT: ICF International – program administrator for the California Advanced Lighting Controls Training Program (CALCTP)

ADDRESS: 601 W. 5th Street, Suite 900, Los Angeles, CA 90071

- 1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designation. **Information or data seeking a designation of confidentiality must be included with this application.**

TITLE: Certification Provider Application Submittal Number 4: "CALCTP Acceptance Test Curriculum Materials and Responses to CEC Questions."

Description:

(1) CALCTP Acceptance Test (CALCTP-AT) version 1.1a (pages XX) (March 14, 2014)

(2) CALCTP Responses to CEC Questions (pages 3) (March 14, 2014)

- 1(b). Specify the part(s) of the information or data for which you request confidential designation.

Applicant requests that all of the information and data described in Section 1(a) be designated confidential. Applicant also requests that original pdf document submitted by Ms. Joan Walter identifying questions regarding the content of CALCTP's curriculum materials be designated confidential.

2. State and justify the length of time the Energy Commission should keep the information or data confidential.

Applicant requests that the information and data be kept confidential indefinitely to protect the integrity of the certification testing process and to protect Applicant's trade secrets. Because this will be an ongoing certification program, there is no date certain for when this information will no longer need to be kept confidential.

- 3(a). State the provision(s) of the Public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

Two applicable grounds exist for keeping CALCTP's training materials and tests confidential:

First, the California Public Records Act allows for the non-disclosure of "[t]est questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination." (Gov. Code § 2254, subd. (g).)

Second, the California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, §§ 6254(k), 6276.44; see also Evid. Code, § 1060.)

- 3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

If the attached documents are released to the public, the integrity and effectiveness of the certification process will be compromised, resulting in less reliable and effective acceptance tests. Reliable and effective acceptance tests are critical to ensure that buildings perform as designed and that the public receive the expected cost savings in energy efficiency.

In addition the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage.

The specific nature of the advantage -The confidential record is of a technical nature which provides a business advantage over parties without access to the information. The CALCTP curriculum and test was developed for individuals interested in becoming certified as Lighting Control Acceptance Test Technicians. Since other entities can become acceptance technician certification providers; making this information public would impact CALCTP's competitive advantage.

How the advantage would be lost -Time and resources have been spent compiling the information within the confidential record and the value of the information would be significantly impaired if made available to the public.

The value of the information to the applicant -The confidential record is valuable to the project because of: (1) the time and resources expended to compile the information; (2) the efforts to maintain the confidentiality of the confidential record; and (3) the use of the information to facilitate ongoing business activities.

The ease or difficulty with which the information could be legitimately acquired or duplicated by others -The confidential record is not readily available on the marketplace and can only be obtained with a significant investment of time and money. Thus, others could not easily acquire or duplicate this information.

4. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

We ask that no disclosure of materials be allowed. We have submitted in our first two confidential requests summaries of the information and data sought to be designated as confidential, which aggregates and masks the content of the documents for which we request confidentiality. This attached summary is titled "Public Summary of Application Materials Designated Confidential: Lighting Control Acceptance Test Technician Certification Provider Application Submittal Number 2 - CALCTP Acceptance Test Curriculum Materials and Test Questions" and "Public Summary of Application Materials Designated Confidential: Lighting Control Acceptance Test Technician Certification Provider Application Submittal - CALCTP Acceptance Test Curriculum Materials and Test Questions" and may be disclosed to the public. Further disclosure beyond this summary is not possible without revealing examination data in a manner that would compromise the integrity of the certification process or that would reveal trade secrets whose value would be impaired if publicly disclosed.

5. State how the material is kept confidential by the applicant and whether it has even been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.

The Applicant has not disclosed any of the subject confidential information to anyone other than certain authorized employees, attorneys, consultants, and others with a specific need for the information. The material is only available to training sites and instructors for teaching. The test questions are distributed for the test and then resubmitted back to the CALCTP administration for annual test review.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the applicant.

Dated: March 14, 2014

Signed: 

Name (print or type): Mark V. Ouellette

Title: (print or type) Senior Program Manager, ICF International

Representing: California Advanced Lighting Controls Training Program (CALCTP)

Include additional signature blocks if there are multiple partners in the project with shared responsibilities for making the request.