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August 7, 2014

VIA HAND DELIVERY

Attn: Dockets Unit (MS-14)
Docket 13-ATTCP-01
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

California Energy Commission

DOCKETED

13-ATTCP-01

TN 73693

AUG 18 2014

**Re: Docket13-ATTCP-01: Application for Confidential Designation:
NEMIC Application to Become a Nonresidential Mechanical
Acceptance Test Technician Certification Provider under
California Code of Regulations, Title 24, Part 1, Sections 10-103-B
[Submittal 3], Attachments 3.2, 3.3, 3.4 and 6.2**

Dear Dockets Unit:

I am writing on behalf of the National Energy Management Institute Committee ("NEMIC"), the program administrator for the Testing, Adjusting and Balancing Bureau ("TABB"), to submit the attached "Application for Confidential Designation" for Attachments 3.2, 3.3, 3.4 and 6.2 of the *Application to become a Mechanical Acceptance Test Technician Certification Provider under California Code of Regulations, title 24, Part 6, § 10-103-B. [Submittal 3 of 3]* (hereafter the "NEMIC ATTCP Application"). NEMIC is submitting the NEMIC ATTCP Application to Tav Commins of the California Energy Commission's Standards Implementation Office as part of NEMIC/TABB's application to become a Mechanical Acceptance Test Technician Certification Provider under California Code of Regulations, title 24, Part 1, § 10-103-B. The Docket number for this proceeding is 13-ATTCP-01.

Enclosed with the Application for Confidential Designation are five thumb drives with electronic copies of Attachments 3.2, 3.3, 3.4 and 6.2 to the NEMIC ATTCP Application. Each electronic copy is marked with the title "NEMIC ATTCP Application, submittal 3 of 3, Application for Confidential Designation."

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Under separate cover, we have submitted the non-confidential portions of the NEMIC ATTCP Application to Ms. Walter and Mr. Commins and have asked them to contact your office to obtain these Attachments.

Please contact me right away if there are any questions.

Sincerely,

A handwritten signature in blue ink that reads "Thomas A. Enslow". The signature is written in a cursive style with a long horizontal flourish at the end.

Thomas A. Enslow

TAE:ljl

Attachments

cc: Tav Commins, CEC Standards Implementation Office (w/out attachments)
Davor Novosel (w/out attachments)

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 to become a Mechanical Acceptance Test Technician Certification Provider under California Code of Regulations, title 24, Part 6, § 10-103-B. [Submittal 3 of 3] [Attn. CEC Compliance and Enforcement Unit]

APPLICANT: National Energy Management Institute Committee (NEMIC) – program administrator for the International Certification Board (ICB) and the Testing Adjusting and Balancing Bureau (TABB) in conjunction with and on behalf of International Training Institute for the Sheet Metal Industry (ITI)

ADDRESS: 8403 Arlington Blvd., Suite 100, Fairfax, VA 22031

- 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: Application to become a Mechanical Acceptance Test Technician Certification Provider under California Code of Regulations, title 24, Part 6, § 10-103-B. [Submittal 3 of 3], July 2014, Attachments 3.2 through 3.4

Description:

Attachment 3.2. Mechanical Acceptance Testing Technician Training Materials
[620 pages – *entire attachment*]

Attachment 3.3. Typical Hands-on Mechanical Acceptance Testing Technician Training Facility
[22 pages – *entire attachment*]

Attachment 3.4. Mechanical Acceptance Testing Technician Certification Exam
[52 pages – *entire attachment*]

Attachment 6.2. TABB Reports to ANSI
[46 pages – *entire attachment*]

APPLICATION FOR CONFIDENTIAL DESIGNATION

- 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 contained in Attachments 3.2, 3.3, 3.4, and 6.2 as described in Section 1(a), 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 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 TABB'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 ITI curriculum and the NEMIC certification exam were developed for individuals interested in becoming certified as Mechanical Acceptance Test Employers. As other entities can become acceptance testing employer certification providers; making this information public would impact ITI's and NEMIC's competitive advantage. In addition, the TABB Reports to ANSI are confidential submittals under TABB's ANSI-Certification process and contain proprietary information on how exams were developed and validated.

APPLICATION FOR CONFIDENTIAL DESIGNATION

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 available in 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.

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.

The materials sought to be designated as confidential have been aggregated with documents that may be disclosed to the public in the attached document entitled "Application to Become Nonresidential Mechanical Acceptance Test Technician Certification Provider under California Code of Regulations 2013 Title 24, Part 1, Sections 10-102 and 10-103-B, As Well As Part 6, Sections 120.5. Submittal 3 of 3," dated 07 July 2014. All the information in that document may be disclosed to the public except for the materials described in Section 1(a):

- Attachment 3.2. Mechanical Acceptance Testing Technician Training Materials
 - Attachment 3.3. Typical Hands-on Mechanical Acceptance Testing Technician Training Facility
 - Attachment 3.4. Mechanical Acceptance Testing Technician Certification Exam
 - Attachment 6.2. TABB Reports to ANSI
4. 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, program administrators, and others with a specific need for the information.

APPLICATION FOR CONFIDENTIAL DESIGNATION

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: 31 July 2014 _____

Signed:  _____

Name (print or type): James Page _____

Title: (print or type) Administrator, National Energy Management Institute Committee _____

Representing: The International Certification Board (ICB)
The Testing Adjusting and Balancing Bureau (TABB)
National Energy Management Institute (NEMI)