

DOCKETED

Docket Number:	22-RENEW-01
Project Title:	Demand Side Grid Support Program
TN #:	244148
Document Title:	Draft Proposed DSGS Program Guidelines
Description:	The Demand Side Grid Support Program draft program guidelines in consideration for the Staff Workshop
Filer:	Guadalupe Corona
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	7/20/2022 5:08:14 PM
Docketed Date:	7/20/2022



**CALIFORNIA
ENERGY COMMISSION**



July 20, 2022

Dear Colleagues,

I am pleased the California Energy Commission (CEC) is providing these draft program guidelines for the Demand Side Grid Support (DSGS) Program, an essential component of the Strategic Reliability Reserve created by Assembly Bill (AB) 205 (Ting, Chapter 61, Statutes of 2022).

We appreciate and look forward to getting feedback from stakeholders on potential modifications and improvements to ensure the program is effective and meaningful. Furthermore, while the guideline publication includes a formal established public comment deadline, CEC staff are available and welcome additional discussions to learn from your experience and perspectives or to clarify intent – please feel free to reach out.

We look forward to working with you during this accelerated process as we work to launch DSGS this summer.

Sincerely,

Deana Carrillo
Director, Renewable Energy Division



**CALIFORNIA
ENERGY COMMISSION**



PROPOSED DRAFT PROGRAM GUIDELINES

Demand Side Grid Support (DSGS) Program, First Edition

(Assembly Bill 205, 2022)

July 2022 | CEC-300-2022-008



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DISCLAIMER

These proposed draft guidelines are anticipated to be considered by the California Energy Commission (CEC or Energy Commission) on August 10, 2022, after considering public comments. The requirements in these guidelines are based on applicable law, including Public Resources Code Section 25792 and Section 18 of Assembly Bill 205 (Ting, Chapter 61, Statutes of 2022). As a staff proposal, the proposed draft guidelines do not represent the views of the CEC or of the State of California. This draft document has not been approved or disapproved by the CEC, nor has the CEC passed upon the accuracy or adequacy of the information in this document.

ABSTRACT

These proposed draft program guidelines for the Demand Side Grid Support (DSGS) Program propose the rules for the program, including eligibility requirements, participation process, and incentive structure. Created by Assembly Bill (AB) 205 (Ting, Chapter 61, Statutes of 2022) as part of the Strategic Reliability Reserve, the DSGS program will provide incentives to reduce customer net energy load during extreme events with upfront capacity commitments and per-unit reductions in net load.

Keywords: AB 205, DSGS, load reduction, extreme event, demand response, backup generation, California balancing authority

Please use the following citation for this report:

Emery, Ashley, David Erne, and Erik Lyon. July 2022. *Demand Side Grid Support Program: Proposed Draft Guidelines First Edition*, California Energy Commission. Publication Number: CEC-300-2022-008.

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CHAPTER 1:

Program Overview

A. Summary of Key Program Design Elements

Created by Assembly Bill (AB) 205 (Ting, Chapter 61, Statutes of 2022) as part of the Strategic Reliability Reserve, the Demand Side Grid Support (DSGS) program will compensate eligible customers and aggregators enrolled with their electric retail supplier for upfront capacity commitments and per-unit reductions in net energy load during extreme events (as defined in Public Resources Code (PRC) section 25790.5(b)) achieved through reduced usage or use of backup generation or both.

B. Background

[AB 205](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB205) (Ting, Chapter 61, Statutes of 2022), available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB205, requires the CEC to implement and administer the DSGS program, codified under PRC section 25792. The DSGS program will provide incentives to reduce customer net load during extreme events with upfront capacity commitments and for per-unit reductions in net load. Section 18 of AB 205 authorizes the CEC to adopt guidelines for the DSGS Program. Furthermore, PRC section 25792(e) directs the CEC to develop guidelines to determine when to implement the program, including which resources are dispatched first to minimize local pollution and emissions of greenhouse gases.

C. Program Budget

DSGS Program funding is authorized under AB 205 with an overall budget of \$200,000,000. There is no specific restriction on annual spending or set-aside allotments for enrolled DSGS providers.

CHAPTER 2:

Eligibility and Participation

This chapter contains DSGS program eligibility criteria and establishes the process for participating in the program, including enrollment and reporting.

A. DSGS Program Eligibility

1. Eligible DSGS Provider

A retail supplier as defined in Public Utilities Code (PUC) Section 398.2, except for an investor-owned utility or community choice aggregator.

2. Eligible Participants

Customers or aggregators of a DSGS provider are eligible to receive incentives under the DSGS program if they are not:

- a. Eligible to participate in demand response, net energy metering, or emergency load reduction programs offered by entities under the jurisdiction of the California Public Utilities Commission.
- b. Receiving payment or accounting for the same reduction in use of electricity through any other utility or state program.
- c. Cogeneration facilities with a power purchase agreement.

B. DSGS Enrollment Process

1. DSGS Enrollment Process Overview

This broad description of the application and enrollment process for the DSGS program is followed by a detailed description of the program requirements.

- **Step 1: DSGS Provider Enrollment.** DSGS providers will first enroll in the program by submitting an application with the information outlined in Section B.2.b. to CEC staff. Upon review and approval by CEC staff, the DSGS provider may begin enrolling participants in the program.
- **Step 2: Participant Enrollment.** Participants will enroll in the program by submitting an application with the information outlined in Section B.3.b. to the DSGS provider.
- **Step 3: DSGS Provider Initial Report on Participant Enrollment.** Within 10 days of CEC-approved DSGS program enrollment, DSGS providers will submit to CEC staff an initial report on enrolled participants with the information outlined in Section B.4.a.

2. Step 1: DSGS Provider Enrollment Process

DSGS providers enroll in the program by submitting an application to CEC staff.

a. DSGS Provider Application Timing: Applications are accepted on a first-come, first-served basis.

- i. The date and time of the electronically submitted completed application will establish the order for the queue for review of DSGS provider applications.
- ii. CEC staff will notify the DSGS provider if its application is incomplete. The DSGS provider will have 10 business days to supplement the incomplete application. Failure to respond within the 10 business days will result in the CEC's cancellation of the application.
- iii. The cancellation of an application does not preclude a DSGS provider from reapplying.

b. DSGS Provider Application Package: DSGS providers must submit to the CEC the following information in a format provided by the CEC:

- i. Legal name of the DSGS provider.
- ii. DSGS provider's contact name, title, address, email address, and phone number.
- iii. Description of how the DSGS provider will verify load reduction resources used by participants and actual incremental load reduction amounts, including the DSGS provider's method for determining energy use baselines and actual energy usage during a DSGS program event.
- iv. Description of how the DSGS provider will verify participant eligibility.
- v. Description of how the DSGS provider will implement the dispatch loading order requirements described in the DSGS Program Events and Notification Process in Chapter 4, Section B.
- vi. If located outside the California Independent System Operator (ISO) balancing authority area, a description of comparable dispatch requirements to those described in the Option 3: Capacity Payment and Bid Structure in Chapter 3, Section B, suitable to the operations of the applicable balancing authority, that contribute to reliability within the balancing authority area.
DSGS providers may also submit this information with the initial participation enrolled participant report described in Section B.4 or with an enrolled participant report described in Section C.1, but participants may not enroll resources in the Option 3: Capacity Payment and Bid Structure in Chapter 3, Section B, unless the CEC has approved the dispatch requirements.
- vii. Indication of which administrative cost structure described in Chapter 5, Section B, the DSGS provider would like to enroll in.
- viii. Signed attestation, submitted under penalty of perjury, as to the accuracy and completeness of the information submitted and agreeing to the terms and conditions of the program.

- c. Application Review and Approval.** The CEC will review DSGS provider applications to determine completeness and eligibility. After approving a complete DSGS provider application, CEC staff will provide an electronic DSGS program enrollment letter to the DSGS provider.
- d. Withdrawal.** A DSGS provider can voluntarily withdraw from the program by notifying the CEC electronically in writing.

3. Step 2: Participant Enrollment

a. Participant Enrollment Application Package:

Eligible participants must enroll with a DSGS provider by submitting the following information in a format provided by the DSGS provider:

- i. Legal name of the participant.
- ii. Participant contact's name, title, email address, and phone number.
- iii. Information on the load reduction resources the participant will use during a DSGS program event, including:
 - Types of available resources, including the applicable loading order category (for example, demand response or efficiency resource, renewable or zero-emission resources, or diesel backup generator or other conventional resource, or any combination of the above).
 - Address where participant will deploy each resource.
 - Expected load reduction amount (in megawatts [MW]) for each resource.
 - Indication of which incentive structure the participant would like to enroll in for each load reduction resource.
 - Description of any constraints on the participant's ability to be available for the maximum dispatch length described in the DSGS Program Events and Notification Process in Chapter 4.
- iv. Attestations, submitted under penalty of perjury, that:
 - The participant meets the eligibility requirements of the DSGS Guidelines.
 - The participant is able to meet the minimum resource availability requirements in the DSGS Program Events and Notification Process in Chapter 4.
 - The participant will allow the CEC access to all documentation in order to verify compliance with the program.
 - The information submitted is accurate and complete.
 - The participant agrees to the terms and conditions of the program.
- v. Any other information the DSGS provider deems necessary.

- b. Withdrawal.** A participant can voluntarily withdraw from the program by notifying the DSGS provider.

4. Step 3: DSGS Provider Initial Report on Participant Enrollment

Within 10 days of enrollment under Step 1, DSGS providers must submit to CEC staff an initial report on enrolled participants.

- a. Initial Enrolled Participant Report.** The initial report must include the following information on each enrolled participant in a format provided by the CEC:
- i. Name of the participant.
 - ii. Participant contact's name, title, employer, email address, and phone number.
 - iii. Information on the load reduction resources the participant will use during a DSGS program event, including:
 - Types of available resources, including the applicable loading order category (for example, demand response or efficiency resource, renewable or zero-emission resources, or diesel backup generator or other conventional resource, or any combination of the above).
 - Address where the participant will deploy each resource.
 - Expected load reduction amount (in MW) for each resource.
 - Indication of which incentive structure the participant would like to enroll in for each load reduction resource.
 - Description of any constraints on the participant's ability to be available for the maximum dispatch length described in the DSGS Program Events and Notification Process in Chapter 4.

C. DSGS Program Reporting

DSGS providers shall submit to the CEC weekly reports to identify changes in participants enrolled or expected load reduction resources.

1. Enrolled Participant Reports

- a. DSGS providers must submit to the CEC enrolled participant reports that include the following information on each enrolled participant in a format provided by the CEC:
- i. Name of the participant.
 - ii. Participant contact's name, title, email address, and phone number.
 - iii. Indication of whether the participant is new to the program, an existing participant, or a participant withdrawing from the program.
 - iv. Information on the load reduction resources the participant will use during a DSGS program event, including:
 - Types of available resources (for example, demand response or efficiency resource, renewable or zero-emission resources, or diesel backup generator or other conventional resource, or any combination of the above).

- Address where the participant will deploy each resource.
- Expected load reduction amount (in MW) for each resource.
- Indication of which incentive structure the participant would like to enroll in for each load reduction resource.
- Description of any constraints on the participant's ability to be available for the maximum dispatch length described in the DSGS Program Events and Notification Process in Chapter 4.

b. Reports are due to the CEC each Tuesday before 5:00 p.m.

2. Reports to the California Air Resources Board

Within 10 business days after the of the end of each month in which a DSGS program event occurred, DSGS providers shall provide to the CEC and the California Air Resources Board the following information, in a format provided by CEC staff, regarding backup generation participants used during a DSGS program event:

- The address or GPS coordinates where such backup generation occurred.
- Information on whether the backup generation is portable or stationary.
- The engine size, age, rated horsepower, and federal emissions tier for each generator dispatched under the program.
- The type and amount of fuel used by each generator dispatched under the program.
- The hours of operation of each generator dispatched under the program.

CHAPTER 3:

DSGS Incentives

The DSGS Program has three incentive structure options. Participants can select a different incentive structure for each load reduction resource.

A. Option 1: Energy Payment Only Structure

DSGS providers shall pay participants with resources enrolled in the Energy Payment Only Structure an energy payment at a rate of \$2,000 per megawatt-hour (MWh) of verified incremental load reduction provided during a dispatch period as outlined in the DSGS Program Events and Notification Process in Chapter 4, Section C.2.

B. Option 2: Standby and Energy Payment Structure

DSGS providers shall pay participants with resources enrolled in the Standby and Energy Payment Structure a standby payment at a rate of \$250 per MWh based on the amount of load reduction committed in the standby period as outlined in the DSGS Program Events and Notification Process in Chapter 4, Section D.1.

Furthermore, DSGS providers shall pay participants an energy payment at a rate of \$1,750 per MWh of verified incremental load reduction provided during a dispatch period as outlined in the DSGS Program Events and Notification Process in Chapter 4, Section D.2.

If a participant does not dispatch the amount of incremental load reduction committed and reported to the applicable California balancing authority during the standby period, it will forfeit the standby payment.

C. Option 3: Capacity Payment and Bid Structure

DSGS providers shall pay participants with resources enrolled in the Capacity Payment and Bid Structure a monthly capacity payment at the following rates:

- June: \$7,500 per MW
- July: \$12,500 per MW
- August: \$13,500 per MW
- September: \$14,000 per MW
- October: \$7,500 per MW

Participants may enroll only noncombustion load reduction resources in the Capacity Payment and Bid Structure.

To be eligible for payment, the DSGS provider must bid into the ISO day-ahead market in 4 consecutive hours between 4:00 p.m. – 9:00 p.m. PT at a rate not greater than \$500 per MWh during each participating month until the participant has been dispatched the maximum 20 hours per month or 60 hours per year as outlined in the DSGS Program

Events and Notification Process in Chapter 4, Section E.1. Only hours for which the resource settlement price is at least \$200 per MWh will be counted toward the maximum 20 hours per month and 60 hours of dispatch per year requirement.

DSGS providers in other balancing authority areas may develop comparable dispatch requirements suitable to the operations of the applicable balancing authority that contribute to reliability within the balancing authority area. DSGS providers shall submit a description of the dispatch requirements to the CEC for approval with their application package described in the Eligibility and Participation process in Chapter 2, Section B.2, or if already enrolled in the program, with an enrolled participant report described in Chapter 2, Section C.1.

If the CEC determines the participant has delivered less than the committed capacity, the CEC shall reduce payment by two times the amount of the shortfall.

CHAPTER 4:

DSGS Program Events and Notification Process

This chapter identifies the time frames during which resources may be called upon to provide load reduction and describes the program event and dispatch notification process. DSGS program events include the standby and dispatch periods described in Section C and Section D and a dispatch pursuant to the requirements outlined in Option 3: Capacity Payment and Bid Structure in Chapter 3, Section C.

A. Program Availability

Dispatch under this program may occur only during the following times:

- 2022 calendar year: August 1, 2022, through October 31, 2022
- Future calendar years: June 1 through October 31 each year
- 4:00 p.m. – 9:00 p.m.
- 7 days a week

B. Dispatch Loading Order

In alignment with the state’s climate and air quality goals, to the maximum extent feasible, the DSGS provider shall dispatch load reduction resources in the following order:

- Demand-response resources
- Renewable and zero-emission resources
- Conventional diesel and gas resources

DSGS providers first will dispatch participants with resources enrolled in the Capacity Payment and Bid Structure, which is limited to noncombustion resources, during regular operations of the applicable California balancing authority’s resource dispatch process. In the ISO balancing authority area, these resources shall be dispatched through the ISO day-ahead market.

DSGS providers will dispatch participants with backup diesel generators only if authorized under a state of emergency proclamation issued by the Governor.

Participation in the program cannot extend the useful life of a resource in contravention of the state’s climate and air quality goals.

C. Energy Payment Only Structure

DSGS providers shall notify and dispatch participants with resources enrolled in the Energy Payment Only Structure as follows:

1. Standby Period

When a California balancing authority issues an EEA Watch or EEA 1, DSGS providers shall notify participants.

2. Dispatch Period

- a. When the balancing authority issues an EEA 2, or an EEA 3 if an EEA 2 is not issued, DSGS providers shall notify participants to dispatch their load reduction resources and determine from the participants the amount of incremental load reduction that will be available during the dispatch period.
- b. DSGS providers shall report to the applicable balancing authority and the CEC the amount of incremental load reduction that is available within one hour after the balancing authority issues the EEA 2 or EEA 3.

3. Resource Availability

Dispatch of these resources will be limited to the following:

- Minimum required dispatch length per event: 1 hour
- Maximum required dispatch length per event: 5 hours
- Maximum number of starts per day: 1
- Maximum required dispatch per month: none
- Maximum required dispatch per year: 60 hours

D. Standby and Energy Payment Structure

DSGS providers shall notify and dispatch participants with resources enrolled in the Standby and Energy Payment Structure as follows:

1. Standby Period

- a. When a California balancing authority issues an EEA Watch or an EEA 1, DSGS providers shall notify participants to prepare their load reduction resources for dispatch and determine from the participants the amount of incremental load reduction that will be available during the anticipated dispatch period.
- b. DSGS providers shall report to the applicable balancing authority and the CEC the amount of incremental load reduction that will be available during the anticipated dispatch period.

2. Dispatch Period

- a. When the balancing authority issues an EEA 2, or an EEA 3 if an EEA 2 is not issued, DSGS providers shall notify participants to dispatch their load reduction resources and determine from the participants the amount of incremental load reduction that will be available during the dispatch period.
- b. DSGS providers shall report to the applicable balancing authority and the CEC the amount of incremental load reduction that is available during the dispatch period.

3. Resource Availability

Dispatch of these resources will be limited to the following:

- Minimum required dispatch length per event: 1 hour

- Maximum required dispatch length per event: 5 hours
- Maximum number of starts per day: 1
- Maximum required dispatch per month: none
- Maximum required dispatch per year: 60 hours

E. Capacity Payment and Bid Structure

Participants with resources enrolled in the Capacity Payment and Bid Structure shall comply with the dispatch requirements outlined in Option 3: Capacity Payment and Bid Structure in Chapter 3, Section C.

1. Resource Availability

Dispatch of these resources will be limited to the following:

- Minimum required dispatch length: 1 hour
- Maximum required dispatch length: 4 hours
- Maximum number of starts per day: 1
- Maximum required dispatch per month: 20 hours
- Maximum required dispatch per year: 60 hours

CHAPTER 5:

Program Payments

This chapter identifies the information and steps to receive administrative cost and incentive payments.

A. Incentive Payments

DSGS providers shall pay eligible incentive amounts directly to participants and submit to the CEC claims for reimbursement of these payments.

B. Administrative Costs

The CEC shall reimburse DSGS providers for up to \$5 million per year in administrative costs based on the administrative cost structure identified in the initial application. The DSGS provider shall select one of the following administrative cost structures:

- Actual incremental costs incurred in administering the program, such as costs derived from employee timesheets or invoices from third-party contractors, pending specified conditions, and for indirect/overhead costs (not to exceed 10 percent of actual incremental costs).
- 10 percent of incentive payments provided to participants.

C. Reimbursement Process

1. Reimbursement Claim Timing

DSGS providers shall submit reimbursement claims within 15 business days after the end of each month. The CEC shall accept and review reimbursement claims on a first-come, first-served basis.

- a. The date and time of the electronically submitted completed reimbursement claim will establish the order for the queue for review of reimbursement claims.
- b. The CEC shall notify DSGS providers if reimbursement claims are incomplete. The DSGS provider shall supplement the incomplete claim within five business days. Failure to respond within the five business days will result in the CEC's cancellation of the reimbursement claim.
- c. The cancellation of a reimbursement claim does not preclude a DSGS provider from resubmitting a reimbursement claim, but the date and time of the electronic resubmission will determine the order of review of the reimbursement claim.

2. Reimbursement Claim Package

The reimbursement claim package must include the following items:

- a. The following information in a format provided by the CEC:
 - i. Reporting period

- ii. DSGS provider name
- iii. DSGS provider's contact name, title, email address, and phone number
- iv. For each standby period during the reporting period:
 - Date EEA Watch or EEA 1 was issued
 - Start and end times of the EEA Watch or EEA 1 period
 - For each participant with resources enrolled in the standby and energy payment structure:
 - Participant name
 - Type of resources dispatched (backup generators, demand response, or both)
 - Address where each resource was deployed
 - Total MWh committed for each resource at the time of the EEA Watch or EEA 1
- v. For each dispatch period during the reporting period:
 - Date EEA 2 or EEA 3 was issued
 - Start and end times of the EEA 2 or EEA 3 period
 - For each participant with resources enrolled in the energy payment only structure and standby and energy payment structure:
 - Participant name
 - Type of resources dispatched (backup generators, demand response, or both)
 - Address where each resource was deployed
 - Total MWh reduced from each resource
- vi. For each participant enrolled in the capacity payment and bid structure:
 - Participant name
 - Dates, hours, capacity amount, and price for each bid
 - Dates, hours, and amount (MW) dispatched by the balancing authority
 - Dates, hours, amount (MW) delivered, and settlement price
- b. Amount of administrative costs being claimed based on the selected administrative cost reimbursement structure described in Section B. DSGS providers seeking reimbursement based on actual incremental costs must provide documentation evidencing claimed administrative costs.
- c. Documentation evidencing load reduction activities, such as a file of all bids and dispatches that includes customer meter IDs and dates and times of dispatches.
- d. Payee data record (STD-204). If the designated payee has already submitted a complete STD-204 form with a prior reimbursement claim and has received a payment within the past year from the CEC, a new STD-204 is not needed.

- e. Attestation, submitted under penalty of perjury, that the payment will reimburse eligible incentive payments and administrative costs and to the accuracy and completeness of the information submitted.

3. Reimbursement Claim Review and Approval

If, during the CEC staff review, a complete and timely submitted reimbursement claim package is found to contain minor errors, discrepancies, or omissions, the CEC staff will request clarification from the DSGS provider. The DSGS provider will be responsible for obtaining all information requested by CEC staff from participants to process the request. CEC staff may impose a reasonable deadline for DSGS providers to respond to and provide any information requested under this section.

If the reimbursement claim package demonstrates that a claimed cost is ineligible for reimbursement, CEC staff will not approve the claimed cost.

Payment of approved eligible incentive payments and administrative costs will be made to the payee according to the Payee Data Record (STD-204).

CHAPTER 6:

Administration

A. Effective Date of Guidelines

The DSGS Program Guidelines will take effect only after they have been approved at a CEC business meeting. Once finalized, the CEC will post the adopted DSGS Program Guidelines on its [website](https://www.energy.ca.gov/programs-and-topics/programs/demand-side-grid-support-program), available at <https://www.energy.ca.gov/programs-and-topics/programs/demand-side-grid-support-program>. At that time, the CEC will publicly notice the commencement of the DSGS program to signal the CEC is accepting applications for the program.

Applicants and interested persons may also obtain the program guidelines by contacting DSGS@energy.ca.gov.

B. Interpretation

Nothing in these guidelines shall be construed to abridge the powers or authority of the CEC or any CEC-designated committee as specified in Division 15 of the Public Resources Code, commencing with Section 25000, or Division 2 of Title 20 of the California Code of Regulations, commencing with Section 1001.

C. Compliance and Verification

As a condition of receiving a DSGS incentive, all DSGS providers must agree to provide CEC staff with access to relevant documents to verify details of load reduction activities and confirm that funding is being used to reimburse eligible administrative costs and incentive payments as directed by DSGS Program Guidelines. CEC staff, and its agents, may take various steps, as needed, to ensure compliance with program requirements.

DSGS providers must agree to provide information, access to participant application records, and documentation evidencing load reduction activities as reasonably requested by CEC staff to verify eligibility for DSGS incentives. These steps may include:

1. Requesting relevant documents or other materials from the DSGS provider.
2. Contacting the participant.
3. Contacting the ISO or applicable balancing authority.
4. Performing an audit, as discussed below in Section E.

D. Enforcement

In addition to any other rights the CEC has, the CEC may take any of the following actions necessary to enforce the CEC's rights and program requirements. By applying for funds under this program, DSGS providers agree that any effort to enforce this funding arrangement in court shall have the venue in Sacramento County, and this funding arrangement shall be interpreted in accordance with and governed in all respects by California law.

1. Recovery of Overpayment

In addition to all rights and remedies available to the CEC, the CEC may direct its chief counsel to commence formal legal action against any current or former DSGS provider or participant to recover any portion of an incentive or administrative payment, and any other amounts due under the law, that the CEC's executive director determines the DSGS provider or former DSGS provider was not otherwise entitled to receive.

2. Fraud and Misrepresentation

The executive director may initiate an investigation of any current or former DSGS provider or applicant that the executive director has reason to believe may have misstated, falsified, or misrepresented information in submitting an application, reimbursement request, or any reporting or other information required under the program. Based on the results of the investigation, the executive director may take any action deemed appropriate, including, but not limited to, removal from the program and recovery of any overpayment, and, with the concurrence of the CEC, recommending the Attorney General initiate an investigation and prosecution under Government Code Section 12650, et seq., or other provisions of law.

3. Noncompliance With Guidelines

The CEC may seek remedies for noncompliance with guideline requirements and terms, including but not limited to termination of enrollment, withholding requested payments, recovery of funds, or any other administrative or civil action.

Without limiting any of its other remedies, the CEC may, for eligible DSGS provider's or applicant's noncompliance with any guideline requirements, withhold future reimbursement payments, demand and be entitled to repayment of past reimbursements, and suspend or cancel the DSGS provider's enrollment.

E. Audits

DSGS providers and participants shall keep separate, complete, and correct accounting of the costs involved in participating in this program. The CEC, the Bureau of State Audits, or their authorized agents may audit any applicant or participant to verify compliance with all program requirements, including the accuracy of any information included as part of the application, reimbursement claim, or report required under these guidelines. As part of an audit, a DSGS provider may be required to provide the CEC or its authorized agents with all information and records necessary to verify the accuracy of any information included in the DSGS provider's application, reimbursement claims, or reports. A DSGS provider may also be required to open its business records for on-site inspections and audit by the CEC or its authorized agents to verify the accuracy of any information included therein. An audit may be performed at any time within five years after payment by the CEC of the DSGS provider's final reimbursement payment.

If an audit finds that a DSGS provider has incorrectly stated or falsified information included on the DSGS provider's application, reimbursement claims, or reports, the CEC shall notify the DSGS provider of its findings in writing within 30 days of completing the

audit. Based on the audit results and without limiting any of CEC's other rights, a DSGS provider may be required to refund all or a portion of the DSGS reimbursement payments it has received. In addition, the DSGS provider's enrollment may be terminated and enforcement actions initiated following Section D of Chapter 6: Administration.

F. Authorized Third Parties

Authorized third parties may complete applications on behalf of an eligible DSGS provider but may not sign attestations on their behalf. A letter of authorization from the DSGS provider specifying any authority or responsibility delegated to the third party is required as part of the application package.

G. Records Retention: Use and Disclosure of Information and Records and Confidentiality

Any entity receiving a DSGS payment from the CEC must retain all records required to be submitted to the CEC for a period of five years after the date the project receives its final, or most recent, incentive payment from the CEC. Unless an applicable exception or exemption to public disclosure applies, all documents submitted to the CEC or its technical assistance providers, including as part of any audit, are considered public records subject to disclosure under the California Public Records Act. The CEC or other state agencies may also use any of these documents or information for any purpose, including to determine eligibility and compliance with the DSGS Program, applicable law, or a particular guideline document; evaluate related or relevant programs or program elements; or prepare reports. These documents and information include but are not limited to applications, invoices and any documentation submitted in support of the applications, all incentive deliverables, and documents prepared for other reporting requirements.

If the CEC requires a DSGS provider or participant to provide copies of records that the DSGS provider or participant believes contain confidential, proprietary, or any other information entitled to protection under the California Public Records Act or other law, the DSGS provider or participant may request that such records be designated confidential according to the CEC's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505. If the confidential information within a document can be redacted without removing the portion of the record that is required for verification of compliance with these guidelines, the DSGS provider or participant shall submit versions of documents submitted with the confidential information masked or redacted rather than requesting confidential designation. Questions regarding whether redactions may inhibit verification of compliance with these guidelines should be submitted to CEC staff with sufficient time to resolve the question before reimbursement.

DSGS providers and participants considering confidentiality should note that DSGS funds are subject to information disclosure requirements to ensure transparency. Information concerning the identity of DSGS providers and participants and the incentive amount is public information and will be published in CEC reports and disclosed in response to requests filed under the California Public Records Act. This information, as well as other

public information, may also be disclosed through the CEC's website, another State of California agency website, or through other means.

In addition to any other disclosure requirements under the law, the CEC can disclose confidential information and records to other governmental entities, including other local, state, or federal agencies that are funding eligible projects, and law enforcement authorities for civil and criminal investigation and enforcement.

H. Nondiscrimination Statement of Compliance

While participating in the DSGS program, DSGS providers, DSGS participants, and subcontractors will not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status, or denial of family care leave. DSGS providers, DSGS participants, and subcontractors will ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

DSGS providers, DSGS participants, and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations, are incorporated into these guidelines by reference and made a part of it as if set forth in full. The DSGS provider, DSGS participants, and subcontractors will give written notice of their obligations under this section to labor organizations with which they have a collective bargaining or other agreement.

DSGS providers shall include and shall ensure all subcontractors include the nondiscrimination and compliance provisions in this section in all subcontracts under this program.

I. Drug-Free Workplace Certification

By participating in the DSGS program, the DSGS provider certifies under penalty of perjury under the laws of the State of California that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - The dangers of drug abuse in the workplace

- The person's or organization's policy of maintaining a drug-free workplace
 - Any available counseling, rehabilitation, and employee assistance programs
 - Penalties that may be imposed upon employees for drug abuse violations.
3. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed project:
- Will receive a copy of the company's drug-free policy statement.
 - Will agree to abide by the terms of the company's statement as a condition of employment on the project.

In addition to any other rights and remedies available to the CEC, failure to comply with these requirements may result in suspension of payments under the DSGS program or termination of participation, and the DSGS provider may be ineligible for any future state awards if the CEC determines that any of the following has occurred: (1) the DSGS provider has made false certification or (2) violates the certification by failing to carry out the requirements as noted above.

J. Americans With Disabilities Act

By participating in the DSGS program, the DSGS provider assures the CEC that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. Section 12101, et seq.), which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA.

K. Air or Water Pollution Violation

This term applies to DSGS providers receiving more than \$10,000. Under state laws, DSGS providers shall not be (1) in violation of any order or resolution not subject to review promulgated by the California Air Resources Board or an air pollution control district, (2) subject to cease and desist order not subject to review issued under Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions, or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

L. Prompt Payment

Payment will be made in accordance with the Prompt Payment Act, Government Code Chapter 4.5, commencing with Section 927, which requires payment of properly submitted, undisputed invoices within 45 days of receipt or automatically pay late payment penalties when applicable.

M. Amendments

No amendment or variation of the terms of the agreement between the CEC and DSGS providers shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the agreement is binding on any of the parties.

The CEC may terminate agreements a DSGS provider without cause upon giving written notice. In this event, the DSGS provider will use all reasonable efforts to mitigate its expenses and obligations.

N. Termination Without Cause

The CEC may terminate agreements with a DSGS provider without cause upon giving written notice. In this event, the DSGS provider will use all reasonable efforts to mitigate its expenses and obligations.

O. Public Works

If a DSGS provider engages in public works or has subcontractors or DSGS participants engage in public works under this program, the DSGS provider shall comply with all applicable public work laws (for example, Labor Code Section 1720 et seq.), a requirement of which is to pay prevailing wages. If an entity engages in public works, then it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

P. Independent Capacity

In the performance under this program, DSGS providers, DSGS participants, and subcontractors and their respective agents and employees will act in an independent capacity and not as officers, employees, or agents of the CEC or the State of California.

Q. Third-Party Beneficiary

DSGS providers shall ensure every subcontract and agreement with DSGS participants under this program includes a provision indicating the CEC is a third-party beneficiary to the agreement.

R. Travel and Per Diem

1. Any travel for which DSGS providers and subcontractors want to be reimbursed must be preapproved in writing by the CEC before such costs are incurred.
2. The CEC shall only pay travel and per diem up to, but not to exceed, the rates allowed nonrepresented state employees. Current allowable travel reimbursement rates can be obtained from the [Commission's website](http://www.energy.ca.gov/contracts/TRAVEL_PER_DIEM.PDF) at http://www.energy.ca.gov/contracts/TRAVEL_PER_DIEM.PDF.
3. DSGS providers and their subcontractors shall not invoice for or spend, and the CEC shall not pay, any CEC funds for food or beverages other than for allowable per diem charges. DSGS providers and their subcontractors are responsible for any amounts more than this allowed amount.
4. DSGS providers and their subcontractors shall not invoice for or spend, and the CEC shall not pay, any CEC funds for alcohol or travel and meals for non-DSGS, entertainment, or public relations purposes.
5. DSGS providers shall not allow subcontractors to invoice for, and the CEC shall not pay, any funds for a profit amount greater than 10 percent.

S. Flow-Down Requirements

DSGS providers shall flow down in their agreements with subcontractors and DSGS participants, and shall ensure subcontractors flow down in their subcontracts, the requirements in the following terms:

- Compliance and Verification (Chapter 6, Section C)
- Enforcement (Chapter 6, Section D)
- Audits (Chapter 6, Section E)
- Records Retention (Chapter 6, Section G)
- Nondiscrimination Statement of Compliance (Chapter 6, Section H)
- Drug-Free Workplace Certification (Chapter 6, Section I)
- Americans with Disabilities Act (Chapter 6, Section J)
- Air and Water Pollution Violation (Chapter 6, Section K)
- Prompt Payment (Chapter 6, Section L)
- Public Works (Chapter 6, Section O)
- Third-Party Beneficiary (Chapter 6, Section Q)
- Travel and Per Diem (Chapter 6, Section R)
- Flow-Down Requirements (Chapter 6, Section S, this section)
- Survival of Terms (Chapter 6, Section V)
- A provision indicating the person or entity agrees to comply with all applicable laws and DSGS program requirements.

T. Severability

If any provision of these guidelines is unenforceable or held to be unenforceable, all other provisions of these guidelines will remain in full force and effect.

U. Waiver

No waiver of any breach of these guidelines constitutes waiver of any other breach. All remedies in these guidelines will be taken and construed as cumulative, meaning in addition to every other remedy provided in the guidelines or by law.

V. Survival of Terms

Certain provisions will survive the withdrawal of a DSGS provider or participant from the program for any reason. The provisions include but are not limited to:

- Program Payments (Chapter 5)
- Compliance and Verification (Chapter 6, Section C)
- Enforcement (Chapter 6, Section D)
- Audits (Chapter 6, Section E)

- Records Retention: Use and Disclosure of Information and Records and Confidentiality (Chapter 6, Section G)
- Public Works (Chapter 6, Section O)
- Third-Party Beneficiary (Chapter 6, Section Q)
- Severability (Chapter 6, Section T)
- Waiver (Chapter 6, Section U)
- Survival of Terms (Chapter 6, Section V, this section)

Reference Documents

[Assembly Bill AB 205 \(Ting, 2022\)](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB205)

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB205

[California ISO Emergency Notifications Fact Sheet](http://www.caiso.com/Documents/Emergency-Notifications-Fact-Sheet.pdf)

<http://www.caiso.com/Documents/Emergency-Notifications-Fact-Sheet.pdf>

[North American Electric Reliability Corporation Reliability Standard EOP-011-1](https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-011-1)

[https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-011-1.pdf](https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-011-1)

Glossary

Key Words and Terms

Word/Term	Definition
Aggregator	An entity that collectively bids load reductions of many smaller customers into the balancing authority markets.
Balancing Authority Area	A balancing authority area as defined in Public Utilities Code section 399.12(c).
California ISO or ISO	California Independent System Operator
California Balancing Authority	A California balancing authority as defined in Public Utilities Code section 399.12(d).
CEC	State Energy Resources Conservation and Development Commission, commonly called the California Energy Commission, the Energy Commission, or the CEC
Community Choice Aggregator	Community choice aggregators as defined in Public Utilities Code section 331.1.
Customer(s)	A utility service account representing a home, business, or other entity.
DSGS Program Event	DSGS program events include the standby and dispatch periods described in the DSGS Program Events and Notification Process in Chapter 4, Section C and Section D, and a dispatch pursuant to the requirements outlined in Option 3: Capacity Payment and Bid Structure in Chapter 3, Section C.
DSGS Provider	A retail supplier as defined in Public Utilities Code Section 398.2, except for an investor-owned utility or community choice aggregator, that has enrolled in the DSGS program.
EEA Watch	An Energy Emergency Alert Watch issued by the ISO when analysis shows all available resources are committed or forecasted to be in use, and energy deficiencies are expected. Market participants are encouraged to offer supplemental energy.

EEA 1	An Energy Emergency Alert 1 as defined in the North American Electric Reliability Corporation’s Reliability Standard EOP-011-1. A balancing authority issues an EEA 1 when it is experiencing conditions where all available generation resources are committed to meet firm load, firm transactions, and reserve commitments, and is concerned about sustaining its required contingency reserves.
EEA 2	An Energy Emergency Alert 2 as defined in the North American Electric Reliability Corporation’s Reliability Standard EOP-011-1. A balancing authority issues an EEA 2 when it is no longer able to provide its expected energy requirements and is energy deficient.
EEA 3	An Energy Emergency Alert 3 as defined in the North American Electric Reliability Corporation’s Reliability Standard EOP-011-1. An energy deficient balancing authority issues an EEA 3 when it is unable to meet minimum contingency reserve requirements.
Extreme Event	An extreme event is defined in Public Resources Code Section 25790.5(b) to mean either of the following: <ul style="list-style-type: none"> • An event occurring at a time and place in which weather, climate, or environmental conditions, including temperature, precipitation, drought, fire, or flooding, present a level of risk that would constitute or exceed a one-in-ten event, as referred to by the North American Electric Reliability Corporation, including when forecast in advance by a load-serving entity or local publicly owned electric utility. • An event where emergency measures are taken by a California balancing authority, including when forecast in advance by the California balancing authority.
Investor-Owned Utility (IOU)	As used in this document, investor-owned utilities include Pacific Gas and Electric Company (PG&E), Southern California Edison, and San Diego Gas & Electric Company (SDG&E).
Net Energy Metering	A program that allows customers with onsite generation to receive a financial credit on their electric bills for any surplus energy fed back to their utility.
Participant	An energy customer or aggregator that has enrolled in the DSGS program through a DSGS provider.
Subcontract	An executed contract between a DSGS provider and a person or entity assisting the DSGS provider in fulfilling the requirements of this program that is not a DSGS participant. It also means any lower tier of sub-subcontract.

Subcontractor	A person or entity that executes a subcontract.
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