



RENEWABLE
ENERGY
PROGRAM

CALIFORNIA
ENERGY
COMMISSION

DOCKET
02-REN-1038
DATE <u>NOV 23 2005</u>
RECD. <u>NOV 23 2005</u>

NEW RENEWABLE FACILITIES PROGRAM

DRAFT GUIDEBOOK 03-RPS-1078

MAY 2004 NOVEMBER
2005
500-04-001F
CEC-300-2005-026-50



Arnold Schwarzenegger, Governor

CALIFORNIA ENERGY COMMISSION

Joseph Desmond
Chairman

Jackalyne Pfannenstiel
Vice Chair

Commissioners:
Arthur H. Rosenfeld
James D. Boyd
John L. Geesman

B.B Blevins
Executive Director

Heather Raitt
Technical Director
Renewable Energy Program

Drake Johnson
Acting Office Manager
Renewable Energy Office

Valerie Hall
Deputy Director
Efficiency, Renewables, and Demand Analysis Division

~~The Energy Commission established the Renewable Portfolio Standard (RPS) proceeding on March 5, 2003 in response to the statutory requirements of Senate Bill 1078 (Chapter 516, Statutes of 2002, Sher) and Senate Bill 1038 (Chapter 515, Statutes of 2002, Sher), both enacted on September 12, 2002. These laws took effect January 1, 2003 and are codified in Public Utilities Code (PUC) sections 399.11 through 399.15, and sections 381, 383.5, and 445, respectively.~~

~~Senate Bill 67 (Chapter 731, Statutes of 2003, Bowen) and Senate Bill 183 (Chapter 666, Statutes of 2003, Sher) were subsequently enacted and revised certain eligibility requirements for out-of-state renewable facilities. These bills were enacted in October 2003 and took effect on January 1, 2004. Senate Bill 67 and Senate Bill 183 are codified in PUC section 399.16 and Public Resources Code (PRC) sections 25740 through 25751, respectively.~~

~~This guidebook was developed as part of an ongoing collaborative process between the Energy Commission and the California Public Utilities Commission as directed by Senate Bill 1078 which requires the two agencies to work together to implement the RPS. The guidebook reflects current requirements but will be revised periodically to reflect market and regulatory developments and lessons learned as California gains experience in implementing the RPS. These guidelines were formally adopted by the California Energy Commission on February 19, 2003, pursuant to Public Utilities Code Section 383.5, Subdivision (h) and revisions are under consideration for adoption pursuant to Public Resources Code Section 25747, Subdivision (a). These guidelines were subsequently revised and This guidebook was formally adopted by the California Energy Commission on April 21, 2004 pursuant to Public Utilities Code Section 383.5, Subdivision (h), and Public Resources Code Section 25747, Subdivision (a), on April 21, 2004, May 19, 2004 and January , 2006, pursuant to PUC section 383.5 subdivision (h), paragraph (1) and PRC section 25747 subdivision (a), which authorize the Energy Commission to adopt guidelines to govern its funding programs and portions of the RPS under Senate Bill 1038 and Senate Bill 1078. These guidelines are exempt from the formal rulemaking requirements of the Administrative Procedures Act.~~

~~The requirements in this guidebook are based on applicable law, as set forth in Senate Bill 1078 and Senate Bill 1038 and revised under Senate Bill 183 and Senate Bill 67, the *Renewables Portfolio Standard Decision on Phase 1 Implementation Issues* (publication number 500-03-023F), the *Renewables Portfolio Standard Decision on Phase 2 Implementation Issues* (publication number 500-03-049F), staff analysis, advice from the Energy Commission's technical support contractor, and public input.~~

Table of Contents

Introduction	1
Related Publications	2
Guidebook Organization	2
Program Overview	43
Eligibility	5
Prevailing Wage	76
Multiple Awards.....	98
Eligible Generation.....	98
Award Determination.....	98
Payment Terms.....	1110
SEP Allocation	1110
Caps.....	1110
Generation Requirements.....	1211
Invoicing Process.....	1211
Basis for SEP Termination.....	1413
Appendix A – Forms and Instructions	1615
Appendix B - Acronyms.....	30

Introduction

The California Energy Commission developed this *New Renewable Facilities Program Guidebook* pursuant to Senate Bill 1038 (SB 1038, Chapter 515, Statutes of 2002, Sher) and Senate Bill 1078 (SB 1078, Chapter 516, Statutes of 2002, Sher). The guidebook describes the requirements to qualify for and receive production incentives, referred to as supplemental energy payments (SEPs), from the New Renewable Facilities Program (NRFP) element of the Energy Commission's Renewable Energy Program.

SB 1078 directs the Energy Commission to "allocate and award supplemental energy payments" to "eligible renewable energy resources to cover above-market costs of renewable energy." The California Public Utilities Commission (CPUC), in consultation with the Energy Commission, will determine what constitutes these above-market costs by establishing a market price referent.

The Energy Commission will award SEPs to eligible renewable energy facilities through the NRFP, which is currently allocated approximately \$69.525 million by SB 1038.

SEPs will be available to cover the appropriate above-market costs of renewable resources selected by retail sellers to fulfill their RPS obligations. For the purposes of this guidebook, "retail sellers" refers to California's three largest investor-owned utilities (IOUs): Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), and Southern California Edison Company (SCE). These entities are also referred to as "electrical corporations" as defined in the glossary included in the *Overall Program Guidebook for the Renewable Energy Program (Overall Program Guidebook*, publication number 500-04-026).

SB 1038 contains the following specific directions for awarding SEPs. The Energy Commission:

- Shall make payments for ten years or for the length of the contract with the electrical corporation if it is of a lesser duration.
- | • Shall reduce or terminate SEPs for projectsfacilities that either fail to commence or maintain operations in accordance with contractual obligations or that fail to meet eligibility requirements.
- Shall manage the funds in an equitable manner so that retail sellers may meet their RPS obligations.
- May establish payment caps.
- May require an applicant competing for funding to post a forfeitable bid bond or other financial guaranty of the applicant's good faith intent to move forward with the projectfacility expeditiously.

- May provide preference to facilitiesprojects that provide tangible, demonstrable benefits to communities with a plurality of minority or low-income populations.

SB 1038 further states that facilities may NOT receive SEPs if the electricity produced is any of the following:

- Sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments.
- Used on-site or sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.
- Produced by a facility owned by an electrical corporation or a local publicly owned electric utility.

Related Publications

The Energy Commission has adopted other guidebooks to address the requirements for receiving funding from other elements of the Renewable Energy Program, as well as guidelines governing the overall administration of the program. The *Overall Program Guidebook* describes how the Renewable Energy Program will be administered and includes information on requirements that apply to all program elements of the Renewable Energy Program.

In addition, the Energy Commission is proposing has adopted guidelines governing the eligibility and certification of renewable energy facilities under the RPS. These guidelines are set forth in the *Renewables Portfolio Standard Eligibility Guidebook* (publication number 500-04-002F) describing the Energy Commission's proposed eligibility guidelines and certification process, and including criteria for SEP eligibility. The guidebooks are available online at [www.energy.ca.gov/portfolio/documents/index.html].~~www.energy.state.ca.gov/portfolio~~.

To qualify for SEPs under the NRFP, an applicant must satisfy the requirements contained in this *New Renewable Facilities Program Guidebook*, the *Overall Program Guidebook*, and the *Renewables Portfolio Standard Eligibility Guidebook*.

Guidebook Organization

This guidebook is organized as follows:

1. Introduction
2. Program Overview
3. Eligibility
4. Prevailing Wage Requirements

- 5. Multiple Awards
- 6. Award Determination
- 7. Eligible Generation
- 8. Payment Terms
- 9. Forms and Samples

Program Overview

The NRFP is intended to foster the development of new in-state renewable facilities and secure for California the environmental, economic, and reliability benefits these facilities will provide. Towards this end the NRFP provides funding to eligible in-state renewable facilities. It also provides funding to eligible out-of-state renewable facilities, but only under certain conditions as specified in the *Renewables Portfolio Standard Eligibility Guidebook*.

The NRFP ~~will~~ provides grant funding in the form of production incentives, referred to as SEPs, to eligible renewable facilities for each kilowatt-hour of eligible electricity they generate. To qualify for funding, applicants must show that their proposed renewable facility meets a number of requirements as specified in ~~Public Utilities Code Section 383.5(d), as amended by~~ Public Resources Code Section 25743. The *Renewables Portfolio Standard Eligibility Guidebook* provides more information on eligibility criteria.

First, these facilities must be certified by the Energy Commission as an eligible renewable energy resource for purposes of meeting the state's Renewable Portfolio Standard. Second, the facilities must begin commercial operations or be repowered on or after January 1, 2002, or such later date as determined by the Energy Commission. Finally, the facilities must not be owned by an IOU or local publicly owned electric utility, and the electricity generated must not be sold under certain long-term contracts with an in-state IOU, used on-site, or sold in a manner avoiding competitive transition charge payments.

Applicants for eligible renewable facilities must compete for NRFP funding by participating in competitive RPS solicitations ~~to be held~~ by PG&E, SCE and SDG&E. Applicants who are selected by the utilities as winning bidders under the solicitations may be awarded power purchase contracts to supply power. Any contracts proposed by the utilities are subject to CPUC approval.

The contracts will be based in part on the energy price bid by the applicants in the solicitations, measured in cents per kilowatt-hour. If the energy price bid ~~by a winning applicant~~ is above a benchmark price, or market price referent, established by the CPUC ~~after the bids are submitted to the utilities, an applicant that is deemed~~ then the bidder ~~may be~~ eligible ~~may to~~ receive SEPs from the NRFP. The CPUC announces the market price referent that applies to the current year RPS solicitation after the IOUs select their initial "short list" of bidders with whom the IOUs may be interested in pursuing contract negotiations. SEPs are calculated based on the difference between the ~~bids~~ bid contract price and the ~~benchmark price~~ market price referent, up to any Energy Commission-established caps. SEPs are to be paid for the lesser of ten years or the length of the utility contract, with a further restriction that no SEPs will be made for contracts with terms of less than three years.

Contract negotiations differ on a case-by-case basis and, consequently, the Energy Commission is likely to receive SEP requests one at a time rather than collectively.

However, awarding SEPs on a first-come, first-served basis without information on the potential demand for SEPs may result in inefficient use of public funds. Consequently, the IOUs must provide the Energy Commission with data to inform policy makers about the potential demand for SEP funds before the Energy Commission will consider awarding SEPs to winning bidders from the IOU's' RPS solicitations.

After an eligible new or repowered renewable facility executes a contract through an RPS solicitation that is priced higher than the market price referent, it may apply for SEPs. If the contract is priced at or below the market price referent, then the contract does not qualify for SEPs, and the seller need not apply to the Energy Commission. Instead, the IOU would directly file an advice letter to the CPUC requesting approval of the contract.

However, if the contract requires SEPs, then the seller should apply to the Energy Commission for SEP funding before the IOU files its advice letter with the CPUC. The Energy Commission will review the application to determine whether the facility qualifies for SEPs, the amount of SEPs the contract qualifies for, and whether a cap on available SEPs is necessary. The Energy Commission will send the seller, utility, and CPUC a Funding Confirmation Letter showing the amount of SEPs the Energy Commission anticipates awarding to the applicant. If the Funding Confirmation Letter states that less SEPs are available than was requested, then the IOU and the seller have an opportunity to renegotiate and restructure their contract terms, based on SEP availability.

Assuming the seller's application is accepted (or that any needed re-negotiations are successful) the IOU then files an advice letter to the CPUC requesting approval of the contract. After the contract is approved by the CPUC the Energy Commission will disclose information on its webpage identifying the name of the seller, the procuring IOU, and the total anticipated SEP award and incentive level.

Once the contract is approved and the facility completes any required environmental review of the renewable facility under the National Environmental Policy Act and/or the California Environmental Quality Act, the Energy Commission may enter into grant agreements with the seller.

~~The Energy Commission may enter into grant agreements with the winning applicants of utility solicitations once applicants enter into utility contracts and complete any required environmental review of their renewable facilities under the National Environmental Policy Act and/or the California Environmental Quality Act.~~

Once the renewable facilities are constructed and commence commercial operations, the applicants may submit monthly invoices to the Energy Commission to begin receiving SEPs under their NRFP grants.

Eligibility

A checklist for SEP eligibility is shown below, followed by a description of each item.

- Facility is certified/pre-certified as an eligible renewable energy resource by the Energy Commission.

To compete for SEPs, entities must be either pre-certified or certified by the Energy Commission as an eligible renewable resource qualifying for the RPS and for SEPs. The certification process is described in the *Renewables Portfolio Standard Eligibility Guidebook*, publication number 500-04-002D.

- Facility/facility owner has met all fuel-specific eligibility and/or reporting requirements described in the *Renewables Portfolio Standard Eligibility Guidebook*.
- Facility/facility owner has a power purchase contract with an IOU that has been approved by the CPUC and resulted from a CPUC-approved RPS solicitation.

The Energy Commission will pay SEPs to the party with which an IOU holds a contract for the purchase of power generated by a certified new or repowered renewable energy facility under the provisions of the RPS.

If the contracting entity is not the owner of the certified renewable energy facility, the contracting entity must identify and establish its rights to sell the power generated by the certified renewable energy facility. Further, any renewable energy facility that sells its generation to a contracting entity will be obligated to document the facility's eligibility and generation.

To receive SEPs, applicants must be selected as a winning bidder in a CPUC-approved RPS solicitation and enter into a power purchase contract with the IOU conducting that solicitation. In addition, the power purchase contract must be approved by the CPUC. Parties with bilateral contracts signed outside of a CPUC-approved RPS solicitation are not eligible for SEPs.

- Facility owner does not have an existing Senate Bill 90 (SB 90, Chapter 905, Statutes of 1997, Sher) funding award for the renewable energy facility, or
- Facility owner has an existing SB 90 funding award for the renewable facility and agrees to relinquish that award to be eligible for SEPs. If so, facility must specify that it has either:
- ✓ Commenced commercial operations and received SB 90 payments, or
 - ✓ Not commenced commercial operations and not received SB 90 payments

ProjectsFacilities cannot receive both SEPs and SB 90 award payments. A projectfacility with a conditional funding award from the Energy Commission's New

Renewable Resources Account under SB 90 can participate in an RPS solicitation to secure a power purchase contract but must relinquish its SB 90 award if it wishes to receive SEPs.

Bidders with SB 90 awards whose projectsfacilities have not commenced commercial operations must state their intention to either (1) keep their SB 90 award and agree to be ineligible for SEPs or (2) relinquish the SB 90 award and compete for potential SEPs. Bidders with SB 90 awards whose projectsfacilities are already online must do the same, with the further understanding that any funding awarded through SEPs will be reduced by the amount of SB 90 payments already made to these projectsfacilities.

A winning bidder in an RPS solicitation that chooses to keep its SB 90 award can receive payments under the terms and conditions of the SB 90 award but cannot receive SEPs resulting from the RPS solicitation. A winning bidder that chooses to relinquish its SB 90 award and any payments already made under that award must do so once it executes a contract with a utility. This must be done even if the bidder does not ultimately qualify for SEPs because its bid was below the market price referent for that solicitation. If a bidder does not secure a contract under the RPS solicitation, however, the bidder will not be required to relinquish its SB 90 award.

Winning bidders in an RPS solicitation that choose to keep their SB 90 awards must comply with the Energy Commission's RPS requirements, including the RPS tracking and verification requirements, to the same extent as winning bidders who are awarded SEPs. It may be necessary to amend a winning bidder's SB 90 funding award agreement to implement this requirement.

Prevailing Wage

Facilities owners that are awarded SEPs are subject to the state's prevailing wage law with respect to any of the following types of work activities performed on the facility:

- Construction (includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work).
- Alteration.
- Demolition.
- Installation.
- Repair.

Work of this type is subject to prevailing wage law pursuant to Public Utilities Code Section 399.14, subdivision (h), and the Department of Industrial Relations (DIR) Determination Re: Salton Sea 6 Geothermal Power Plant Project, Public Work Case 2002-043 (April 10, 2003).

A facility owner is not subject to the state prevailing wage law with respect to maintenance work that is performed on the facility. Pursuant to DIR Determination Re: Maintenance, Renewable Energy Resources, Public Work Case 2002-043 (November 12, 2003), maintenance work on a renewable energy facility does not fall within the scope of Public Utilities Code Section 399.14, Subdivision (h), and therefore is not subject to the payment of prevailing wage.

For purposes of compliance with the prevailing wage law, the facility owner shall comply with the provisions applicable to recipients of public funds AND the provisions applicable to an awarding body. As such, compliance with the state prevailing wage law includes without limitation the following:

1. Determining work activities and trades subject to the prevailing wage law.
2. Ascertaining applicable prevailing wage rate for each covered worker performing work activities subject to the prevailing wage law on the Project.
3. Specifying in calls for bids, bid specifications, and construction contracts the applicable prevailing wage.
4. Ensuring all contracts for work activities on the Project subject to prevailing wage include appropriate flowdown provisions.
5. Posting the applicable prevailing wage information at each job site of the Project.
6. Paying the prevailing wage as applicable.
7. Overtime and working hour requirements.
8. Apprenticeship obligations.
9. Payroll recordkeeping requirements.
10. Withholding payments from contractors as necessary to satisfy wage and penalty assessments issued by the Labor Commissioner.
11. Other obligations as required by law.

The applicable provisions of the state prevailing wage law are set forth in Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000.

Facility owners must comply with the state prevailing wage law as a condition of receiving a SEP Award Agreement and any SEPs. All SEP Award Agreements will include appropriate provisions requiring the facility owner to comply with the state prevailing wage law as both the recipient of public funds and the awarding body, and requiring the facility owner to include appropriate flowdown provisions in all agreements with contractors and subcontractors for the performance of work activities on the facility. In addition, once the facility is constructed, the facility owner and all construction contractors and subcontractors that performed work activities on the facility subject to prevailing wage must submit a certification verifying compliance with the state prevailing wage law. The facility owner must submit this certification within 90 days of completing the facility's construction. Lastly, the facility owner must certify as part of any payment invoice submitted to the Energy Commission that it has continued to comply with the state prevailing wage law.

Multiple Awards

Facilities that divide their electricity generation among two or more separate power purchase contracts can be eligible for SEPs provided that all of the generation from each contract is reported to the Energy Commission's RPS tracking and verification system. Facilities, however, are only eligible for SEPs for the first ten years of generation from their initial RPS contract(s).

Generation that is awarded SEPs may not compete for a second award once the contract with an IOU expires, even if SEPs were awarded for a period of less than 10 years. If a power purchase contract with an IOU is terminated for some reason beyond a generator's control, the generator may appeal this provision to the Energy Commission. The appeal process is outlined in the *Overall Program Guidebook*. The cumulative number of years of SEP payments cannot exceed 10 years under any circumstances.

Eligible Generation

The Energy Commission will only pay SEPs for eligible generation. A renewable energy facility may not receive SEPs if the electricity produced is any of the following:

- Sold under an existing long-term contract with an existing in-state IOU entered into prior to January 1, 2002, if the contract includes fixed energy or capacity payments.
- Used on-site or sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.
- Produced by a facility owned by an IOU or a local publicly owned electric utility.

Award Determination

To allow the Energy Commission to determine the availability of public goods charge (PGC) funding, bidders in IOU solicitations who wish to receive SEPs must include in their bids an estimate of the amount of generation to be produced by the projectfacility and sold to the procuring IOU over the term of the proposed funding period (up to a maximum of 10 years). This estimate will then be used to determine each bidder's total potential SEP award. The bidders' estimate of energy generation should only include generation that is eligible for SEPs.

For each solicitation, the Energy Commission will compare the requested SEPs with the available PGC funds to determine if PGC funds are adequate to cover SEPs for all the selected winning bidders. The Energy Commission may impose a cap on SEP awards

as discussed below under “Payment Terms.” If funding is available to cover only a portion of the SEPs for which a bidder might otherwise be eligible, the bidder may choose to take a partial award or decline the award entirely.

The CPUC will announce the market price referents that apply to the current year RPS solicitation after the IOUs select their initial “short list” of bidders with whom the IOUs may be interested in pursuing contract negotiations. For short-listed bids priced under the market price referent, the IOU must submit a completed response to the Energy Commission’s Short List Data Request (CEC-SEP-1) -to provide aggregated information on the bids. The data requested includes: the total number of facilities; the weighted-average price of the bids; the amount of electricity bid; the percentage of the IOU’s APT represented by the bids; and the percentage of the generation bid that would require new transmission. For each short-listed bid above the market price referent, the IOU must report the total amount of generation per year, applicable market price referent, contract term, and other specific data as required (CEC-SEP-2). This information is necessary for the Energy Commission to make informed decisions when allocating SEPs to individual applicants.

The completed Short List Data Request is due to the Energy Commission not later than three months after the release of the market price referent. Additionally, the Energy Commission must receive a completed Short List Data Request at least 30 days prior to when a winning bidder from the IOU’s RPS solicitation applies to the Energy Commission for SEPs. If the Energy Commission receives a SEP application before a completed Short List Data Request is filed by the contracting IOU, the Energy Commission will return the application.

A winning bidder (seller) may apply for SEPs from the Energy Commission only after it has executed a contract with an IOU. The seller (representing a renewable facility that is eligible for the RPS and SEPs) must submit a completed CEC-SEP-4 form to the Energy Commission. The information required includes: the applicable market price referent, the contract price, the amount of generation expected under contract, and the amount of SEP funding requested. The applicant must also identify if it was awarded SB 90 funds. The procuring IOU must provide supporting documentation in CEC-SEP-3 including: the applicable market price referent, the contract price, the delivery start and end dates, and what the seller disclosed to the IOU regarding whether it had received SB 90 funding. For transparency, the Energy Commission will transmit the seller’s completed application (CEC-SEP-4) to the IOU and the IOU’s completed CEC-SEP-3 to the seller.

The Energy Commission will notify the CPUC, IOU, and ~~bidders-sellers~~ of the availability of PGC funds within 30 days of receiving all data needed to conduct this evaluation. The Energy Commission will ~~also notify the CPUC, IOU and winning bidders of the potential PGC award per winning bidder. notify the bidder, utility, and CPUC about whether the full SEP request will be met, or what portion of the requested SEPs could be met, and . If the SEP award does not cover the full contract price, the utility and bidder have an opportunity to re-negotiate the contract terms.~~

After contracts requiring SEPs are approved by the CPUC, the Energy Commission will publish information on its webpage identifying the names of the sellers, the procuring IOUs, and the total anticipated SEP awards and incentive levels.

The Energy Commission will approve final PGC awards after ~~winning bidders~~the seller has have met all of ~~their its~~ environmental review requirements. At that time, the Energy Commission will sign a SEP Award Agreements with the ~~winning bidders~~seller. A sample SEP Award Agreement is shown in the Forms and Samples section of this guidebook. This agreement is provided as an example only and will be modified as necessary in the future prior to the Energy Commission's issuance and approval of any SEP Award Agreements. ~~once the CPUC approves standard terms and conditions for IOU contracts and IOU solicitations are held.~~

SB 1038 states that "The Energy Commission may provide preference to projectsfacilities that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations." This preference will be evaluated on a case-by-case basis as projectsfacilities apply for SEPs, with specific protocols added to the program guidelines as needed as the program progresses.

Payment Terms

SEP Allocation

The issue of how the RPS will apply to Energy Service Providers (ESPs) or Community Choice Aggregators (CCAs) is still unresolved. The Energy Commission recognizes the eventual participation of these parties but at this time does not intend to set aside any portion of available PGC funds for non-utility entities.

Caps

SB 1038 allows the Energy Commission to establish payment caps on SEPs. This could include a cap on the cents per kilowatt-hour SEP, on the amount of funding per projectfacility, or the total amount of PGC funds available for a given solicitation to achieve the most efficient management of PGC funds. At this time, the Energy Commission is not proposing to establish caps in advance but instead intends to evaluate the bids received in each solicitation and determine the need for caps at that time. Any caps would be established during the Energy Commission's 30-day evaluation period to determine the potential PGC award per winning bidder.

Because the Energy Commission has the authority to revise guidelines upon approval at a Business Meeting with 10 days notice, any needed caps could be set and implemented in a timely manner without delaying the final results of a solicitation. The Energy Commission will not impose any additional caps once it enters into conditional funding awards with bidders.

Generation Requirements

The bidder's seller's estimated annual generation by the project facility over the term of the proposed funding period will be specified in the seller's SEP Award Agreement. funding award agreement. The Energy Commission will not pay SEPs for any generation above the "expected generation" the seller specified in CEC-SEP-4. In other words, the seller will not receive SEPs for any generation that exceeds the total expected generation over the term of the SEP Award Agreement as given in the seller's SEP application. The "expected generation" from CEC-SEP-4 is incorporated as part of the seller's award from the Energy Commission.

The estimated generation may vary from year to year However, the seller should not overestimate its annual generation when applying for SEPs. The Energy Commission will evaluate each facility's actual generation over the first three years of the funding period. If the actual generation during those first three years averages less than 85 percent of the estimated generation for that three-year period, the Energy Commission will contact the facility for an explanation for the undergenerationunder-generation.

After evaluating the explanation provided by the facility, the Energy Commission may decide to reduce the facility's SEP award to reflect the amount of actual average annual generation. Generators may appeal any proposed award reduction under the *Overall Program Guidebook*. Funds removed from a project facility award as a result of undergenerationunder-generation will be returned to the Renewable Resource Trust Fund for subsequent distribution or reallocation.

Generation in excess of a bidder's estimated annual generation as specified in the seller's SEP Award Agreement awardee's funding award is not eligible for SEPs.

Invoicing Process

To receive SEPs, projects facilities that have commenced commercial operations must submit monthly invoices identifying the amount of eligible power generated by the project facility. The SEP payment period will begin after the initial delivery date of the first kilowatt-hour of energy sold under a power purchase contract with an IOU approved by the CPUC resulting from a CPUC-approved RPS solicitation.

The monthly invoice form shall consist of a completed and properly executed CEC-SEP-51 form, a copy of which is included with this guidebook, or its replacement at the time, together with an attached invoice or written statement from the purchasing entity verifying the project facility's eligible power generation for the billing month. Invoices are due 45 days after the end of the month in which the energy is generated; for generation during the month of January, invoices are due March 10, and checks are expected to be mailed April 1.

If the purchasing entity's statement is not received in time to submit it with a projectfacility's invoice, projectsfacilities may submit an invoice with other evidence of the amount of eligible power generated during the billing month. A letter explaining why the purchasing entity's statement could not be submitted and describing the evidence submitted in its place must also be submitted with the invoice. Examples of alternative evidence that may be submitted when verification from the purchasing entity is not available include, but are not limited to, statements from the CA ISO or a scheduling coordinator. The Energy Commission will evaluate these invoices on a case-by-case basis and notify the submitting party whether the amount claimed in the invoice, or any part of it, will be accepted and paid upon. The Energy Commission may elect to pay only that portion of the amount invoiced that appears to be reasonable given the evidence submitted in support of the invoice, the prior months' generation, and other factors deemed pertinent at the time of evaluation.

Once the third party statement becomes available, it must be furnished to the Energy Commission so that payment adjustments will be made for any differences in the estimated eligible generation and actual eligible generation.

This procedure will be in effect only while the interim generation tracking system is in place. The Energy Commission will use settlement data to verify generation once the Energy Commission's electronic tracking system is operational.

Additionally, biomass facilities receiving SEPs must submit an annual report to the Energy Commission describing fuel use as follows: tons of biomass by type of biomass, the air district from which the biomass originated if the fuel may have been open-field burned had it not been used for electricity production, and an attestation from the fuel supplier(s) that the biomass fuel continues to meet the RPS eligibility standards. The report is due to the Energy Commission on February 15th of each year to report on the biomass supply consumed in the previous calendar year. This information is required pursuant to Senate Bill 183 (Chapter 666, Statutes of 2003, Sher), as codified in Public Resources Code Section 25743 (f).

Invoices may be submitted to the Energy Commission at the following address:

California Energy Commission
New Renewable Facilities Program, MS-45
1516 Ninth Street
Sacramento, CA 95814

Invoices may be submitted by telefax to (916) 653-8251, but an original signed copy of the invoice must also be submitted before payment will be mailed to the projectfacility.

To receive funding, projectsfacilities must also complete the State of California Vendor Record (STD-204) form shown in the "forms" section of this guidebook. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN) as

required by the State Revenue and Taxation Code, Section 18646, and Federal Internal Revenue Code, Section 6109. This form must be on file with the Energy Commission before any payments can be made. If you have any questions about this form, please contact the California Franchise Tax Board at 1-800-852-5711.

Basis for SEP Termination

The Energy Commission reserves the right to terminate any SEP Award Agreement for reasonable cause by providing 30 days notice to the seller's agent specified in the SEP Award Agreement awardee. This 30-day period applies from the signing of the SEP Award Agreement to the end of the period of payments to the project facility. The Energy Commission may not terminate SEP awards if the circumstances are corrected, or if all parties agree upon an alternative course of action. The Energy Commission does not intend to terminate SEP awards without reasonable cause.

Examples of reasonable cause include but are not limited to:

- Seller Awardee failing to maintain certification as an eligible renewable resource, or knowingly providing false or misleading information about itself or the project facility, as determined by the Energy Commission, in facility's awardee's application for certification.

Entities holding SEP Award Agreements must be certified by the Energy Commission as eligible renewable resources and must maintain that certification as specified instructed in the *Renewables Portfolio Standard Eligibility Guidebook* (publication number 500-04-002D). Failure to maintain certification or providing false or misleading information about the seller or project facility in the application for certification are cause for terminating the SEP Award Agreement award termination.

- Seller's Awardee's utility contract is terminated for any reason.

If the power purchase agreement that serves as the basis of the SEP award is terminated for non-performance or any other reason, the Energy Commission will terminate the seller's SEP Award Agreement award at the same time. However, if a seller's SEP awardees whose utility contracts is have been terminated for reasons beyond the seller's awardee's control, the seller may petition the Energy Commission as described in the *Overall Program Guidebook* for permission to compete for a subsequent SEP award.

- Seller's utility contract is modified or renegotiated such that the total energy price being paid under that contract below the applicable market price referent.

If the power purchase agreement that serves as the basis of the SEP award is modified or renegotiated after a SEP Award Agreement is approved and the total energy price being paid under the power purchase agreement is now below the

applicable market price referent, the Energy Commission will terminate seller's SEP Award Agreement.

- The funding needed to fund a SEP award is not available through the Renewable Resource Trust Fund.

Receipt of SEPs is contingent on availability of funds. The Energy Commission may terminate a SEP Award Agreement if the Renewable Resource Trust Fund does not receive the funds expected, for example if state or federal laws alter the amount of money allocated to the NRFP or the structure of the program prior to the expected end of the SEP funding period.

Appendix A – Forms and Instructions

[Although the forms CEC-SEP -1, CEC-SEP -2, and CEC-SEP -3 are not shown in underline strikeout, these forms are proposed for November 2005 update to this guidebook]

- [Instructions for Completing CEC-SEP-1](#)
- [CEC-SEP -1 Short List Data Request for Bids Below the MPR](#)
- [CEC-SEP -2 Short List Data Request for Bids Above the MPR](#)
- [CEC-SEP -3 Data Request for SEP Application](#)
- [CEC-SEP -4 Data Request for SEP Determination](#)
- [CEC-SEP-5 Monthly Invoice for Supplemental Energy Payments New Renewable Facilities Program](#)
- [STD-204 Payee Data Record](#)
- [Sample Supplemental Energy Payment Award Agreement](#)

BIDS B BELOW MARKET PRICE REFERENT

INSTRUCTIONS

- 1] UTILITY CONTACT INFORMATION:** Identify the utility name. Also identify the name, phone number, and e-mail of the utility contact person whom the Energy Commission may contact with questions about the information submitted in this form. Identify the date the form was completed for submittal to the Energy Commission.
- 2] ESTIMATED AGGREGATE GENERATION:** Provide an estimate of the annual generation in GWh, aggregated for all bids on the short list priced at or below the MPR. In the event that a project has multiple bids with varying quantities of generation, or otherwise bids a range of generation per year, show a range of values to aggregate the maximum and the minimum estimated energy generation for the bids on the short list . The spreadsheet will total the aggregate estimated energy delivery for years 1-10 and 11-20.
- 3]** Enter the total number of projects. Where one project submits multiple bids, count as one project.
- 4]** Identify the percentage of the utility's 2004 annual procurement target that the utility anticipates meeting as a result of the selected projects which require no SEPs.
- 5]** Identify percentage of the GWhs (as represented in the table for section 2) in the utility's short listed bids that represent projects that require transmission development or upgrades beyond installing gen-ties?
- 6]** Provide a single aggregated, levelized, generation-weighted price for all bids below the MPR expressed in 2004 dollars. To do so, levelize the price for each bid expressed in 2004 dollars and then weight the bid price by the generation.
- 7]** The information on this form should be current as of the date shown.



CEC-SEP-1

CALIFORNIA ENERGY COMMISSION SHORT LIST DATA REQUEST BIDS BELow MARKET PRICE REFERENT

November 2005 4/1/2005

1. UTILITY CONTACT INFORMATION

Utility	
Contact Name	
Phone	
E-mail	
Date	

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 CCR section 2505.

2. ESTIMATED AGGREGATED GENERATION PER YEAR

Year	Annual Estimated Generation (GWh)		Year	Annual Estimated Generation (GWh)	
	Minimum	Maximum		Minimum	Maximum
1			11		
2			12		
3			13		
4			14		
5			15		
6			16		
7			17		
8			18		
9			19		
10			20		
Total: 1-10	0	0	Total: 11-20	0	0

3. Total number of projects. Where one project submits multiple bids, count as one project.		
4. What percentage of the utility's 2004 annual procurement target does the utility anticipate meeting as a result of the selected projects which require no SEPs?		%
5. What percentage of the GWhs (as represented in the table above) in the utility's short listed bids represent projects that require transmission development beyond installing gen-ties?		%
6. Provide a single aggregate, weighted-average price for all bids below the MPR		cents/KWh
7. The data provided above reflects the utility's 2004 RPS solicitation short list updated as of:		date

BIDS ABOVE MARKET PRICE REFERENT

INSTRUCTIONS

This form includes 6 separate worksheets to provide information on 6 shortlisted bids above the MPR. If you need to report information for more than 6 bids, you may create additional worksheets and copy the template.

1] UTILITY CONTACT INFORMATION: Identify the utility name. Also identify the name, phone number, and e-mail of the utility contact person the Energy Commission may contact with questions about the information submitted in this form. Identify the date the form was completed for submittal to the Energy Commission. The information on this form should be current as of the date shown.

2] PRODUCT TYPE: Identify the type of product bid into the utility's solicitation for renewable energy. The product type is either baseload, peaking or blended. Please note that the CPUC Decision 04-04-026 (R.04-04-026, July 12, 2004) states that the blended MPR applies "...only to those products that very clearly do not fit in the baseload or peaking categories. We do not expect that this blending will be necessary or appropriate for the substantial majority of the bids received by the utility. To insure transparency in this process, the utilities should be prepared to discuss any utilization of this method with their PRGs."

3] CONTRACT TERM: Please provide the number of years of energy delivery proposed in the bid.

4] LEVELIZED BID PRICE: Identify the contract price leveled over the contract term expressed in the year's dollars for which delivery is expected to begin. For example, if the energy deliveries begin in year 2008, then express the contract price leveled in 2008 dollars.

5] YEAR ENERGY DELIVERY WOULD BEGIN: Identify the expected start date of energy delivery proposed in the bid.

6] ADJUSTED MPR: Provide the MPR that is used for this contract, in the year's dollars for which delivery is expected to begin. For example, if the energy deliveries begin in year 2008, then express the MPR in 2008 dollars. The MPR should be adjusted using the CPUC prescribed discount rates and inflation factors. **Please attach documentation to support your computation.**

7] HAVE NEGOTIATIONS BEGUN? Reply "yes" or "no" to the following question: "Has the utility initiated contract negotiations for this bid?"

8] ESTIMATED DATE TO COMPLETE NEGOTIATIONS: Identify the approximate month and year the utility anticipates a contract may be executed with this bidder.

9] NEW TRANSMISSION? Reply "yes" or "no" to the following question: "Is new transmission beyond a gen-tie addition or upgrade needed to connect this bidden project to the grid?"

10] BID PRICE/ ESTIMATED ANNUAL GENERATION: Identify the weighted-average bid price in nominal cents per KWh for each year of expected delivery. Also, provide an estimate of the annual generation in GWh for the facility. In the event that a project has multiple bids with varying quantities of generation, or otherwise bids a range of generation per year, show a range of values.

11] ESTIMATED SUPPLEMENTAL ENERGY PAYMENT: a) Identify the supplemental energy payment leveled for ten years (or for the contract term if it is less than 10 years). The leveled supplemental energy payment should be expressed in the year's dollars for which delivery is expected to begin. For example, if the energy deliveries begin in year 2008, then express the leveled supplemental energy payment in 2008 dollars.

b) Identify the total amount of supplemental energy payments requested over the contract term or ten years, whichever is less.

Please attach documentation to support your computation of 7a and b.



CALIFORNIA ENERGY COMMISSION SHORT LIST DATA REQUEST BIDS ABOVE MARKET PRICE REFERENT

1. UTILITY CONTACT INFORMATION	
Utility	
Contact Name	
Phone	
E-mail	
Date	

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 CCR section 2505.

Seller #1

2. Product Type	(Baseload, Peaking, or Blended)
3. Contract Term	(10, 15, 20 year, other?)
4. Levelized Bid Price Over Contract Term	(cents per KWh)
5. Year Energy Delivery Would Begin	(month/yy)
6. Adjusted MPR	(cents per KWh)
7. Have Negotiations Begun?	(Y/N)
8. Estimated Date to Complete Negotiations	(month/yy)
9. New Transmission Beyond	(Y/N)

10. BID PRICE AND ESTIMATED GENERATION INFORMATION

Year	Annual Bid Price	Annual Estimated Generation (GWh)		Year	Annual Bid Price	Annual Estimated Generation (GWh)	
		Minimum	Maximum			Minimum	Maximum
1				11			
2				12			
3				13			
4				14			
5				15			
6				16			
7				17			
8				18			
9				19			
10				20			
Total: 1-10	NA	0	0	Total: 11-20	NA	0	0

11. ESTIMATED SUPPLEMENTAL ENERGY PAYMENT

a) the levelized supplemental energy payment:		cents/kWh
b) the total amount of supplemental energy payments:		dollars

Data Request for SEP Application INSTRUCTIONS

1] UTILITY IDENTIFICATION: Identify the utility name. Also identify the name, phone and fax numbers, and e-mail of the utility contact person the Energy Commission may contact with questions about the information submitted in this form.

2] SELLER IDENTIFICATION: Provide the seller's name, the facility name, and the CEC-RPS-ID number for the facility under contract. The **CEC-RPS-ID** is the number issued by the Energy Commission to identify facilities that are eligible for the Renewables Portfolio Standard. To be eligible for Supplemental Energy Payments, a facility must be certified or pre-certified as an eligible renewable energy resource for purposes of California's Renewables Portfolio Standard. A list of certified facilities is available on the Energy Commission's Web site at: www.energy.ca.gov/portfolio/index.html

3] RPS SOLICITATION INFORMATION: Identify the date that the competitive RPS solicitation was issued for which this facility was selected for contract. Identify the title or identifying number of the solicitation.

4] PRODUCT TYPE: Identify the type of product bid into a utility solicitation for renewable energy. Please note that the CPUC Decision 04-04-026 (R.04-04-026, July 12, 2004) states that the blended MPR applies "...only to those products that very clearly do not fit in the baseload or peaking categories. We do not expect that this blending will be necessary or appropriate for the substantial majority of the bids received by the utility." If the product is "blended," attach supporting documentation detailing how the blended MPR was calculated. Provide the MPR that is used for this contract, in the year's dollar for which delivery is expected to begin. For example, if the energy deliveries begin in year 2008, then express the MPR in 2008 dollars. The MPR should be adjusted using the CPUC prescribed discount rates and inflation factors. **Please attach documentation to support your computation.**

5] SB 90 FUNDING AWARDS: Check the appropriate box to indicate if the bidder disclosed that the facility had received a funding award from the Energy Commission pursuant to SB 90.

A facility with a conditional funding award from the Energy Commission's New Renewable Resources Account under SB 90 can participate in an RPS solicitation to secure a power purchase contract but must relinquish its SB 90 award if it wishes to receive SEPs. Bidders with SB 90 awards whose facilities have not commenced commercial operations must state their intention to either (1) keep their SB 90 award and agree to be ineligible for SEPs or (2) relinquish the SB 90 award and compete for potential SEPs. Bidders with SB 90 awards whose facilities are already online must do the same, with the further condition that any funding awarded through SEPs will be reduced by the amount of SB 90 funding award payments already made to these facilities.

A winning bidder in an RPS solicitation that chooses to keep its SB 90 award can receive payments under the terms and conditions of the SB 90 award but cannot receive SEPs resulting from the RPS solicitation. A winning bidder that chooses to relinquish its SB 90 award and any payments already made under that award must do so once it executes a contract with a utility. This must be done even if the bidder does not ultimately qualify for SEPs because its bid was below the market price referent for that solicitation. If a bidder does not secure a contract under the RPS solicitation, however, the bidder will not be required to relinquish its SB 90 award.

6] CONTRACT PRICE: **a)** Identify the contract price levelized over the contract term expressed in the year's dollars for which delivery is expected to begin. For example, if the energy deliveries begin in year 2008, then express the contract price levelized in 2008 dollars. **b)** If energy deliveries under the terms of the contract exceed ten years, identify the contract price levelized over the first ten years of energy delivery under the terms of the contract expressed in the year's dollars for which delivery is expected to

begin. For example, if energy deliveries begin in 2008 and will continue for 20 years under the contract, then express the contract price for the entire 20 year period as a levelized value over the first ten years of delivery in 2008 dollars. The levelization should be calculated using the CPUC prescribed discount rates and inflation factors. **Please attach documentation to support your computation of 6 a and b.**

7] CONTRACT TERM: Please provide the number of years that energy deliveries are to be made under the contract. Identify the expected start and end dates of energy delivery under the contract.

8] ATTESTATION: This form must be signed by an authorized representative of the utility and the original signed copy must be sent to the Energy Commission. Also, please e-mail an electronic version of the completed form to the Energy Commission.



California
Energy
Commission

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 CCR Section 2505.

CEC-SEP-3 (UTILITY) Data Request for SEP Application

November 2005

[1] Utility: _____	Contact Name: _____			
Phone: _____	Fax: _____	e-mail: _____		
[2] Seller: _____	Facility Name: _____			
CEC-RPS-ID#: _____				
[3] Date the RPS Solicitation was Issued _____				
Title of Solicitation _____				
[4] Market Price Referent:				
Product Type (choose one):				
<input type="checkbox"/> Baseload <input type="checkbox"/> Peaking <input type="checkbox"/> Blended				
Please specify MPR Value _____ cents/kWh.				
Please attach supporting documentation showing how the blended MPR was calculated.				
[5] SB 90 Funding Awards:				
Did this bidder state that the facility had received a funding award from the Energy Commission's New Renewable Resources Account pursuant to SB 90? <input type="checkbox"/> Yes <input type="checkbox"/> No				
[6] Contract Price:				
Provide in the year's dollars for which delivery under the term of the contract is expected to begin (see instructions):				
a) the contract price leveled over contract term: _____ cents/kWh				
b) the contract price leveled over the first 10 years of the contract: _____ cents/kWh				
[7] Contract Term:				
a) Identify the number of years in which energy will be delivered under contract _____				
b) Expected start date of energy deliveries under contract: _____				
c) Expected end date of energy deliveries under contract: _____				
[8] Attestation:				
I, (name/ title) _____, declare under penalty of perjury that the information provided in this form and attached hereto is true and correct to the best of my knowledge and that I, as an authorized agent of the utility referenced above, have authority to submit this information on the utility's behalf. I further declare under penalty of perjury that to the best of my knowledge the facility referenced above was selected through a competitive, RPS solicitation pursuant to CPUC Decision 04-07-029.				
Dated this _____ day of _____, 20 _____, at _____.	(day)	(month)	(year)	(place of execution)
Signature: _____				
Please fill out completely, sign, and submit completed form to: California Energy Commission. Attn: RPS Program. 1516 Ninth Street, MS-45. Sacramento, CA 95814 Also, please e-mail a copy to: RPSTrack@energy.state.ca.us				

Data Request for SEP Determination INSTRUCTIONS

+

1] SELLER CONTACT INFORMATION: Identify the name of the seller. Also identify the name, phone number, and e-mail of the seller contact person whom the Energy Commission may contact with questions about the information submitted in this form. The **CEC-RPS-ID** is issued by the Energy Commission to identify facilities that are eligible for the Renewables Portfolio Standard (RPS). To be eligible for Supplemental Energy Payments, a facility must be certified or pre-certified as an eligible renewable energy resource for purposes of California's RPS.

2] RPS SOLICITATION INFORMATION: Identify the name of the utility the seller is contracting with and the date and title of the competitive RPS solicitation under which this contract was selected.

3] SB 90 FUNDING AWARDS: A facility with a conditional funding award from the Energy Commission's New Renewable Resources Account under SB 90 can participate in an RPS solicitation to secure a power purchase contract, but must relinquish its SB 90 award if it wishes to receive SEPs. Bidders with SB 90 awards whose facilities have not commenced commercial operations must state their intention to either (1) keep their SB 90 award and agree to be ineligible for SEPs or (2) relinquish the SB 90 award and compete for potential SEPs. Bidders with SB 90 awards whose facilities are already online must do the same, with the further condition that any funding awarded through SEPs will be reduced by the amount of SB 90 funding award payments already made to these facilities.

A winning bidder in an RPS solicitation that chooses to keep its SB 90 award can receive payments under the terms and conditions of the SB 90 award but cannot receive SEPs resulting from the RPS solicitation. A winning bidder that chooses to relinquish its SB 90 award and any payments already made under that award must do so once it executes a contract with a utility. This must be done even if the bidder does not ultimately qualify for SEPs because its bid was below the market price referent for that solicitation. If a bidder does not secure a contract under the RPS solicitation, however, the bidder will not be required to relinquish its SB 90 award.

Winning bidders in an RPS solicitation that choose to keep their SB 90 awards must comply with the Energy Commission's RPS requirements, including the RPS tracking and verification requirements, to the same extent as winning bidders who are awarded SEPs. A winning bidder's SB 90 funding award agreement will be amended as necessary to implement this requirement.

4] FOR FACILITIES WITH SB 90 FUNDING AWARDS: Identify the facility name and registration number used for the facility under the Energy Commission's New Renewable Resources Account pursuant to SB 90. If a funding award agreement has been approved, identify the funding award agreement number assigned by the Energy Commission.

5] MARKET PRICE REFERENT: Identify the type of product bid into the utility solicitation for renewable energy for the purpose of identifying the appropriate MPR for the contract. Please note that the CPUC Decision 04-04-026 (R.04-04-026, July 12, 2004) states that the blended MPR applies "...only to those products that very clearly do not fit in the baseload or peaking categories. We do not expect that this blending will be necessary or appropriate for the substantial majority of the bids received by the utility." Identify the value of the MPR used for this contract.

6] CONTRACT PRICE/ ESTIMATED ANNUAL GENERATION: **a)** Identify the contract price leveled over the contract term expressed in the year's dollars for which delivery is expected to begin. For example, if the energy deliveries begin in year 2008, then express the contract price leveled in 2008 dollars. **b)** If energy deliveries under the terms of the contract exceed 10 years, identify the contract price leveled over the first 10 years of energy delivery under the terms of the contract expressed in the year's dollars for which delivery is expected to begin. The annual weighted average price should reflect the number of hours in the year that contracted deliveries are expected to receive applicable time of delivery prices. Also, if energy deliveries begin in 2008 and will continue for 20 years under the contract, then express the contract price for the entire 20 year period as a leveled value over the first 10 years of delivery in 2008 dollars. The levelization should be calculated using the CPUC prescribed discount rates and inflation factors. **Please attach documentation to support your computation of 6a and b.**

In the **table**, identify the nominal weighted average contract price for each year of expected delivery, expressed in the year's dollar for which delivery is expected to begin. The weighted average contract price should reflect both the contract price and expected deliveries during a given price period. For example, the calculation of the weighted average price for a product receiving an "X" peak price four hours a day, seven days a week, 365 days a year, and "Y" off peak price for the remainder would be: [(X peak price/hour) * (estimated generation to be delivered during the peak four hour period for the entire year)/ (total estimated generation to be delivered for the entire year)] + [(Y off peak price/hour) * (estimated generation to be delivered during the off peak period for the entire year)/(total estimated generation to be delivered for the entire year)].

Also, in the **table** provide an estimate of the annual generation for which the facility will receive SEPs. Please note that the importance of accurately estimating the annual generation.

- If the seller **UNDER-estimates** the annual generation: The Energy Commission will not pay SEPs for any generation above the maximum generation specified in the contract between seller and utility, consistent with the Energy Commission's program guidelines (*New Renewable Facilities Program Guidebook*, available at: www.energy.ca.gov/portfolio/document). In other words, the seller will not receive SEPs for any deliveries made pursuant to this contract that exceeds the amount shown on this form and incorporated as part of the seller's award from the Energy Commission.
- If the seller **OVER-estimates** the annual generation: Facilities receiving SEPs must meet minimum generation requirements or face a penalty. The Energy Commission will evaluate the actual generation of each facility receiving SEPs during the first three years of the funding period against the estimated generation contained in the facility's funding award agreement. If the actual generation during those first three years averages less than 85 percent of the estimated generation for that three-year period, the Energy Commission will contact the facility for an explanation for the under-generation and may decide to reduce the facility's SEP award to reflect the amount of actual average annual generation. Please see "Generation Requirements" in the program guidelines.

7] SUPPLEMENTAL ENERGY PAYMENT REQUEST

- a) Identify the supplemental energy payment leveled for ten years (or for the contract term if it is less than ten years). The leveled supplemental energy payment should be expressed in the year's dollars for which delivery is expected to begin. For example, if the energy deliveries begin in year 2008, then express the leveled supplemental energy payment in 2008 dollars.

b) Identify the total amount of supplemental energy payments requested over the contract term or ten years, whichever is less. **Please attach documentation to support your computation of 7a and b.**

7] BENEFITS TO MINORITY OR LOW INCOME COMMUNITIES: Attach any information submitted with the facility's bid to the utility describing the facility's benefit to minority or low income communities. Pursuant to the program guidelines, the Energy Commission may provide preference to facilities that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations as evaluated on a case-by-case basis when facilities apply for SEPs.

8] ATTESTATION: This form must be signed by an authorized representative of the seller and the original signed copy must be sent to the Energy Commission. Also, please e-mail an electronic version to the Energy Commission.



California
Energy
Commission

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 CCR Section 2505.

**CEC-RPS-4 (SELLER)
SEP Application
(page 1)**

[1] Seller: _____ Contact Name: _____

Phone: _____ e-mail: _____

Facility Name: _____ CEC-RPS-ID: _____

[2] Contracting Utility: _____ Date Solicitation was Issued _____

Title of Solicitation _____

[3] SB 90 Funding Awards: Has the facility ever received a funding award from the Energy Commission's New Renewable Resources Account? Yes – complete question 4 No – skip to question 5

[4] For Facilities with Energy Commission SB 90 Funding Awards:

Facility name: _____ CEC SB 90 Registration. ID #: _____

Funding Award Agreement number, if applicable: _____

Has facility agreed to relinquish its SB 90 award and notified the Energy Commission? Yes No

If "no," facility is not eligible to receive SEPs.

[5] Market Price Referent: Product type (choose one): Baseload Peaking Blend

MPR _____ (cents/kWh)

[6] Contract Price/ Estimated Maximum Annual Generation (in GWhs) During Term of Contract:

Provide in the year's dollars for which delivery under the term of the contract is expected to begin (see instructions):

a) the contract price leveled over contract term: _____ cents/kWh

b) the contract price leveled over the first ten years of the contract: _____ cents/kWh

Provide the actual, nominal, weighted-average contract price per year (cents/kWh) and the annual maximum generation expected for each year of the term of the contract during which energy deliveries are anticipated.

Year	Contract Price	Expected Generation	Year	Contract Price	Expected Generation
Year 1:			Year 11:		
Year 2:			Year 12:		
Year 3:			Year 13:		
Year 4:			Year 14:		
Year 5:			Year 15:		
Year 6:			Year 16:		
Year 7:			Year 17:		
Year 8:			Year 18:		
Year 9:			Year 19:		
Year 10:			Year 20:		
Total 1-10:			Total 11-20:		



California
Energy
Commission

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 CCR Section 2505.

**CEC-RPS-4 (SELLER)
SEP Application
(page 2)**

[7] Supplemental Energy Payment Request: Provide in the year's dollars for which delivery begins (see instructions):

- a) the levelized supplemental energy payment: _____ cents/kWh
b) the total amount of supplemental energy payments: _____ dollars

[8] Benefits to Low Income or Minority Communities: Attach information submitted with bid describing the benefits.

[9] Attestation:

I, (name and title) _____, declare under penalty of perjury that the information provided in this form and attached hereto is true and correct to the best of my knowledge and that I, as an authorized agent of the seller referenced above, have authority to submit this information on the seller's behalf. I further declare under penalty of perjury that to the best of my knowledge, the energy identified in box 6 above to be produced by the above-noted facility (a) will not receive any fixed energy or capacity payments under a contract with an electrical corporation entered into prior to January 1, 2002; (b) will not be used for on-site (self) generation; (c) is not excluded from any applicable competitive transition charge; and (d) will be delivered to the in-state zone or hub designated in the utility contract.

Dated this _____ day of _____, 20 _____. at _____.
(day) (month) (year) (place of execution)

Signature: _____

*Please fill out completely, sign, and submit completed form to:
California Energy Commission, Attn: RPS Program, 1516 Ninth Street, MS-45, Sacramento, CA 95814.
Also, please e-mail a copy to: [RPSTrack@energy.state.ca.us]*

Instructions for Completing CEC-SEP-4 Monthly Invoice Report for New Renewable Facilities Program

1. **Company Name** – Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name.
2. **Generation Period** – The month and year for which generation is being submitted.
3. **Date Submitted** – Date invoice submitted to the Energy Commission.
4. **CEC RPS ID** – Certified Renewable Suppler identification number assigned to the facility by the Energy Commission under the certification process described in Renewables Portfolio Standard Eligibility Guidebook (publication number 500-04-002D).
5. **Eligible Production (in kWhs)** – Number of kWhs of generation eligible for funding during the generation period, based on the statement of an independent third party. If eligible generation is sold to more than one entity in a given month, attach a separate statement itemizing the amount of eligible generation sold to each entity. Third-party verification is only required while the Energy Commission's interim tracking system is in place; once the final electronic tracking system is in operation, the third-party verification is no longer necessary.
6. **Declaration** – The declaration must be completed by an officer of the company such as the Chief Executive Officer, Chief Financial Officer, or a similar officer with authority to bind the company.

| Note: For administrative convenience, the format of the CEC-SEP-1-CEC-SEP-5 form, as well as the information requested, may be modified in the future. [Such modifications will not be deemed substantive in nature.]

MONTHLY INVOICE FOR SUPPLEMENTAL ENERGY PAYMENTS

NEW RENEWABLE FACILITIES PROGRAM

Note: All data submitted on this form is subject to public disclosure



RENEWABLE
ENERGY
PROGRAM

CALIFORNIA ENERGY COMMISSION

Please submit invoice to:

California Energy Commission
New Renewable Facilities Program, MS-45
1516 Ninth Street, Sacramento, CA 95814-5512
Telefax: (916) 653-8251

**Instructions for completing this form are in the Guidebook for
the New Renewable Facilities Program (pub. no.).**

Please print or type

Company Name:

Generation Period:

Date Submitted:

CEC RPS ID #:

Eligible Production (in kWhs)

Please check one:

	,					,					

- Estimated Generation
(attach explanation letter)
- Based upon attached third-party statement

DECLARATION

I, (print name) _____, declare under penalty of perjury that the information provided in this invoice is true and correct to the best of my knowledge and that I, as an authorized agent of the above named company, have authority to submit this invoice on the company's behalf. I further declare under penalty of perjury that I have reviewed the electricity production data included in the attached statement(s) and that, to the best of my knowledge, it does not overstate the amount of electricity production supplied to the transmission grid or distribution system by the above named company. I further declare under penalty of perjury that prevailing wages were paid for work activities on the facility that was subject to the prevailing wage law and covered by period of this invoice, and that above named company and all contractors and subcontractors complied with the prevailing wage law.

Dated _____ at _____.
(month/day/year) _____ (place of execution)

Signature: _____ Title: _____

VENDOR DATA RECORD

(Required in lieu of IRS W-9 when doing business with the State of California)

NOTE: Governmental entities, federal, state, and local (including school districts) are not required to submit this form.

SECTION 1 must be completed by the requesting state agency before forwarding to the vendor.

1 PLEASE RETURN TO:	DEPARTMENT/OFFICE California Energy Commission Accounting Office MS #2 STREET ADDRESS 1516 Ninth Street Sacramento, CA 95814 CITY, STATE, ZIP CODE TELEPHONE NUMBER	PURPOSE: Information contained in this form will be used by state agencies to prepare Information Returns (Form 1099) and for withholding on payments to nonresident vendors. Prompt return of this fully completed form will prevent delays when processing payments. <i>(See Privacy Statement on reverse.)</i>
---	--	---

2	VENDOR'S BUSINESS NAME
SOLE PROPRIETOR--ENTER OWNER'S FULL NAME HERE <i>(Last, First, M.I.)</i>	
MAILING ADDRESS <i>(Number and Street or P. O. Box Number)</i>	
(City, State, and Zip Code)	

3	CHECK ONE BOX ONLY		NOTE: State and local governmental entities, including school districts are not required to submit this form.
VENDOR ENTITY TYPE	<input type="checkbox"/> MEDICAL CORPORATION (<i>Including dentistry, podiatry, psychotherapy, optometry, chiropractic, etc.</i>)	<input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> ESTATE OR TRUST <input type="checkbox"/> INDIVIDUAL/SOLE PROPRIETOR	
	<input type="checkbox"/> EXEMPT CORPORATION (<i>Non-profit</i>)	<input type="checkbox"/> ALL OTHER CORPORATIONS	

4	SOCIAL SECURITY NUMBER REQUIRED FOR INDIVIDUAL/SOLE PROPRIETOR BY AUTHORITY OF THE REVENUE AND TAXATION CODE SECTION 18646 (See reverse)		NOTE: Payment will not be processed without an accompanying taxpayer I.D. number.							
VENDOR'S TAXPAYER I. D. NUMBER	FEDERAL EMPLOYER'S IDENTIFICATION NUMBER (FEIN) <table border="1" style="width: 100%;"><tr><td style="width: 25%;"></td><td style="width: 10%; text-align: center;">—</td><td style="width: 25%;"></td><td style="width: 20%;"></td><td style="width: 10%;"></td></tr></table>			—				SOCIAL SECURITY NUMBER <table border="1" style="width: 100%;"><tr><td style="width: 33%;"></td><td style="width: 33%; text-align: center;">—</td><td style="width: 33%;"></td></tr></table>		—
	—									
	—									
	IF VENDOR ENTITY TYPE IS A CORPORATION, PARTNERSHIP, ESTATE OR TRUST, ENTER FEIN.		IF VENDOR ENTITY TYPE IS INDIVIDUAL/SOLE PROPRIETOR, ENTER SSN.							

5	<p>VENDOR RESIDENCY STATUS</p> <p>CHECK APPROPRIATE BOX(ES)</p> <p><input type="checkbox"/> California Resident - Qualified to do business in CA or a permanent place of business in CA</p> <p><input type="checkbox"/> Nonresident (<i>See Reverse</i>) Payments for services by nonresidents may be subject to state withholding</p> <p><input type="checkbox"/> WAIVER OF STATE WITHHOLDING FROM FRANCHISE TAX BOARD ATTACHED</p> <p><input type="checkbox"/> SERVICES PERFORMED OUTSIDE OF CALIFORNIA</p>	<p>NOTE:</p> <ol style="list-style-type: none"> An estate is a resident if decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident. (<i>See reverse.</i>)
---	--	--

6	<p><i>I hereby certify under penalty of perjury that the information provided on this document is true and correct. If my residency status should change, I will promptly inform you.</i></p>		
CERTIFYING SIGNATURE	AUTHORIZED VENDOR REPRESENTATIVE'S NAME (Type or Print)		TITLE
	SIGNATURE 		DATE

ARE YOU A RESIDENT OR A NONRESIDENT?

Each corporation, individual/sole proprietor, partnership, estate or trust doing business with the State of California must indicate their residency status along with their vendor identification number.

A **corporation** will be considered a "resident" if it has a permanent place of business in California. The corporation has a permanent place of business in California if it is organized and existing under the laws of this state or, if a foreign corporation has qualified to transact intrastate business. A corporation that has not qualified to transact intrastate business (e.g., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains a permanent office in this state that is permanently staffed by its employees.

For **individuals/sole proprietors**, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose which will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.

For withholding purposes, a **partnership** is considered a resident partnership if it has a permanent place of business in California. An **estate** is considered a California estate if the decedent was a California resident at the time of death and a **trust** is considered a California trust if at least one trustee is a California resident.

More information on residency status can be obtained by calling the Franchise Tax Board at the numbers listed below:

From within the United States, call 1-800-852-5711
From outside the United States, call 1-916-854-6500
For hearing impaired with TDD, call 1-800-822-6268

ARE YOU SUBJECT TO NONRESIDENT WITHHOLDING?

Payments made to nonresident vendors, including corporations, individuals, partnerships, estates and trusts, are subject to withholding. Nonresident vendors performing services in California or receiving rent, lease or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for state income taxes. However, no withholding is required if total payments to the vendor are \$1500 or less for the calendar year.

A nonresident vendor may request that income taxes be withheld at a lower rate or waived by sending a completed form FTB 588 to the address listed below. A waiver will generally be granted when a vendor has a history of filing California returns and making timely estimated payments. If the vendor activity is carried on outside of California or partially outside of California, a waiver or reduced withholding rate may be granted. For more information, contact:

Franchise Tax Board
Withhold at Source Unit
Attention: State Agency Withholding Coordinator
P.O. Box 651
Sacramento, CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

If a reduced rate of withholding or waiver has been authorized by the Franchise Tax Board, attach a copy to this form.

PRIVACY STATEMENT

Section 7(b) of the Privacy Act of 1974 (Public Law 93-5791) requires that any federal, state, or local governmental agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State must provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646 to facilitate tax compliance enforcement activities and to facilitate the preparation of Form 1099 and other information returns as required by the Internal Revenue Code, Section 6109. The TIN for individual and sole proprietorships is the Social Security Number (SSN).

It is mandatory to furnish the information requested. Federal law requires that payments for which the requested information is not provided be subject to a 31% withholding and state law imposes noncompliance penalties of up to \$20,000.

You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact business.

Please call the Department of Finance, Fiscal Systems and Consulting Unit at (916) 324-0385 if you have any questions regarding this Privacy Statement. Questions related to residency or withholding should be referred to the telephone numbers listed above. All other questions should be referred to the requesting agency listed in Section 1.

**DRAFT SAMPLE SUPPLEMENTAL ENERGY PAYMENT (SEP)
AWARD AGREEMENT**

This agreement is provided as an example only and will be modified.

1. **Purpose.** This SEP-Award Agreement ("Agreement") is entered into between _____ ("Grantee Awardee") and the California Energy Commission ("Energy Commission") for the purpose of creating a funding award to provide Supplemental Energy Payments ("SEPs") pursuant to the Energy Commission's New Renewable Facilities Program Guidebook Guidelines ("Guidelines"). Grantee Awardee was selected as a winning bidder in (title of solicitation) dated _____ (date the utility released the solicitation) and awarded a power purchase contract with to supply electricity from its _____ facility ("Facility"), as described in Exhibit A. This Agreement commits funding to pay SEPs for Grantee's Facility subject to the Guidelines and the terms and conditions specified herein. Grantee and must comply with the terms and conditions of the Guidelines, this Agreement, and power purchase contract _____ with _____ to remain be eligible to receive for funding under this Agreement. from the Renewable Resource Trust Fund.
2. **Incorporation by Reference.** The Energy Commission's Guidelines are not attached hereto, but are incorporated by reference and made a part of this Agreement.
3. **SEP award Amount.** The total amount of Grantee's Awardee's SEP award under this Agreement is _____, and is based on the difference between the Grantee's contract price Awardee's bid of ____ cents/kWh and the applicable market price referent of _____ for solicitation # _____, subject to any Energy Commission imposed caps, and the following estimated annual levels of eligible electrical power generation, as identified in Grantee's Awardee's bid.

Year 1 Generation	_____	kWhs
Year 2 Generation	_____	kWhs
Year 3 Generation	_____	kWhs
Year 4 Generation	_____	kWhs
Year 5 Generation	_____	kWhs
Year 6 Generation	_____	kWhs
Year 7 Generation	_____	kWhs
Year 8 Generation	_____	kWhs
Year 9 Generation	_____	kWhs
Year 10 Generation	_____	kWhs
 Total	_____	 kWhs

4. Contingent Funding. Funding for this Agreement is contingent on the availability of adequate funding from the Energy Commission's Renewable Resource Trust Fund.

4.5. Term. The term of this Agreement shall be from the date of execution by both Grantee Awardee and the Energy Commission to _____ years after the projectfacility's online date unless terminated earlier by the Energy Commission pursuant to the Guidelines.

5.6. Non-Transferability of SEP award. The SEP award created by this Agreement is specific to Grantee Awardee and the _____ projectfacility. This SEP award is not transferable or assignable to another projectfacility and may not be assigned to another entity without the Energy Commission's prior written permission.

6.7. Assignment. Grantee Awardee shall not assign its rights nor delegate its duties under this Agreement without the Energy Commission's advance written approval.

7.8. Indemnification. Grantee Awardee agrees to indemnify, defend, and save harmless the Energy Commission, its officers, agents, and employees from any and all claims and losses accruing and resulting to any and all contractors, subcontractors, material men, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with Grantee's Facility or this funding Award Agreement award, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Grantee or Grantee's officers, agents, employees, contractors, subcontractors, material men, laborer, or any other person, firm, or corporation in connection with Awardee in the performance of work to develop, construct, or operate Grantee's Facility or receive funding under this awardAgreement.

8.9. Review and Disclaimer. Review by the Energy Commission of the design, operation, or maintenance of Grantee's Awardee's Facility or related interconnection or generation facilities shall not constitute any representation as to the economic or technical feasibility, operational capacity, or reliability of such facilities. Grantee Awardee shall not in any in no way represent to any third party that the Energy Commission's review of Grantee's Awardee's facility is a representation by the Energy Commission as to the Facility's economic or technical feasibility, operational capability, or reliability. Grantee Awardee is solely responsible for its Facility's economic and technical feasibility, operational capability, and reliability.

9.10. Certification. Grantee Awardee has provided evidence of facility certification as an eligible renewable resource and must maintain that certification as outlined in the Energy Commission's *Renewables Portfolio Standard Eligibility Guidebook* (publication number 500-04-002D). Failure to do so may result in Grantee's Awardee's SEP Award Agreement being canceled as specified in the Guidelines.

10.11. SEP Award Termination Cancellation. Grantee Awardee acknowledges that this

~~its SEP award Agreement and or SEP award payments under this Agreement may be terminated canceled for reasonable cause pursuant to the Guidelines by providing 30 day written notice to the Grantee contact specified in paragraph 11. Consistent with the Guidelines, reasonable cause includes the following:~~

- ~~Grantee's failure to maintain certification as an eligible renewable resource, or knowingly providing false or misleading information about itself or the facility, as determined by the Energy Commission, in facility's application for certification.~~
- ~~Termination of the power purchase contract referenced in paragraph 1 of this Agreement for any reason.~~
- ~~The power purchase contract referenced in paragraph 1 of this Agreement is modified or renegotiated such that the total energy price paid under the power purchase contract is below the applicable market price referent.~~
- ~~Insufficient funds in the Energy Commission's Renewable Resource Trust Fund to adequate fund this Agreement.~~

11.12. Supplemental Energy Payments. Grantee Awardee acknowledges that its eligibility to receive SEPs under this Agreement shall be contingent upon its satisfaction of all terms and conditions set forth in the Guidelines and this Agreement.

12.13. Invoicing. Grantee Awardee shall invoice for payments under this Agreement in accordance with the procedures specified in the applicable Guidelines.

13.14. Records Retention. Unless stated otherwise in the applicable Renewable Guidelines, Grantee Awardee shall:

- keep all records relating to and verifying the accuracy of information stated in an invoice for payment submitted pursuant to this Agreement for a period not less than three years after the end of the calendar year in which payment for the invoice is made;
- keep all records relating to and verifying the accuracy of information stated in a report submitted to the Energy Commission pursuant to the Guidelines for a period not less than three years after the end of the calendar year in which the report is submitted; and
- keep all records relating to and verifying the overall usage, on a total energy input basis, of all fossil fuels and non-fossil fuels used to generate electricity in a given calendar year for a period not less than four years after the end of that calendar year.

14.15. Grantee Awardee Contact. Grantee's Awardee's cContact under this Agreement shall be _____. Any notice to Grantee Awardee under this Agreement shall be forwarded to the Grantee Awardee contact at the following address:

15.16. Energy Commission Contact. The Energy Commission's contact under this Agreement shall be _____. Any notice to the Energy Commission under this Agreement shall be forwarded to the Energy Commission contact at the following address:

California Energy Commission
1516 Ninth Street, MS-_____
Sacramento, California 95814
Attn: _____

16.17. CEQA Review. The Energy Commission has reviewed the _____ projectFacility and finds that:

- the projectFacility has complied with California Environmental Quality Act ("CEQA") and/or National Environmental Policy Act ("NEPA"), or
- the projectFacility is exempt from CEQA and/or NEPA under _____, or
- the projectFacility is subject to a formal environmental study under the California Environmental Quality Act (CEQA) and/or the National Environmental Policy Act (NEPA), and that _____ is the Lead Agency responsible for conducting a formal environmental study and preparing related environmental documents. Energy Commission approval of this SEP Award Agreement is expressly conditioned on this lead agency's CEQA and/or NEPA study and approval of the projectfacility. Grantee Awardee shall provide Commission staff with a copy of the lead agency's environmental documents once prepared and finalized, and proof of the agency's approval of the projectfacility as part of completing milestone #3 as identified in the attached ProjectFacility Award Package. Grantee Awardee acknowledges that its failure to secure projectfacility approval by the _____ lead agency will result in the cancellation of this SEP Award Agreement and Grantee's Awardee's SEP award from the New Renewable Facilities Program.

18. Prevailing Wage. For purposes of this paragraph, "public works" means construction, alteration, demolition, installation, and repair or maintenance work over \$1,000, but does not include maintenance work; and "Contractor" means all contractors and subcontractors that perform public works activities for the Facility.

A. Grantee/General Requirements

a) Grantee shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for any public works activities performed on the Facility funded by this Agreement. For purposes of compliance with the prevailing wage law, Grantee shall comply with the provisions applicable to recipients of public funds AND the provisions applicable to an awarding body. As such, compliance with the state prevailing wage law includes without limitation:

- 1) Determining public works activities and trades subject to the prevailing wage law;
- 2) Ascertaining applicable prevailing wage rate for each covered worker performing work activities subject to the prevailing wage law on the Facility;
- 3) Specifying in calls for bids, bid specifications, and construction contracts the applicable prevailing wage;
- 4) Ensuring all contracts for public works activities for the Facility include appropriate flowdown provisions;
- 5) Posting the applicable prevailing wage information at each job site of the Facility;
- 6) Paying the prevailing wage, as applicable;
- 7) Complying with overtime and working hour requirements;
- 8) Complying with apprenticeship obligations;
- 9) Complying with payroll recordkeeping requirements;
- 10) Withholding payments from contractors as necessary to satisfy wage and penalty assessments issued by the Labor Commissioner; and
- 11) Complying with other obligations as required by law.

b) Grantee shall submit to the Energy Commission within 90 days of completing the Facility's construction a certification signed by Grantee and all contractors performing public works activities on the Facility certifying that prevailing wages were paid as required by law. The certification shall be as provided in Appendix B.

c) Grantee shall submit to the Energy Commission, as part of any payment request or invoice, a certification stating i) that prevailing wages were paid for public works activities performed for the Facility during the period covered by the invoice, and ii) that Grantee and all contractors complied with the prevailing wage law.

B. Flowdown Requirements

Grantee shall ensure that all agreements with contractors for public works activities for the Facility contain the following provisions:

a) Contractor shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for all construction, alteration, demolition, installation, or repair work over \$1,000 performed under the contract. Contractor's obligations under prevailing wage laws include without limitation:

- 1) Payment of not less than the applicable prevailing wage for public works activities performed for the Facility;
 - 2) Compliance with overtime and working hour requirements;
 - 3) Compliance with apprenticeship obligations;
 - 4) Compliance with payroll recordkeeping requirements; and
 - 5) Compliance with other obligations as required by law.
- b) Contractor shall ensure that the above requirements are included in all subcontracts for public works activities for the Facility.

17.19. Understanding of Guidelines and Their Application. Grantee Awardee warrants that it has read and understands the Energy Commission's -Guidelines applicable to the New Renewable Facilities Program and acknowledges that these Guidelines govern the payment of any funds under this Agreement and authorize the Energy Commission to cancel the Agreement Awardee's SEP award or any SEP award payments under the Agreement for reasonable cause, to conduct random audits of Grantee's Awardee's invoices for SEP payments, to conduct inspections of Grantee's Facility Awardee's facilities and books as part of these audits, to initiate enforcement actions to recover any SEP award payments the Grantee Awardee was not otherwise entitled to receive, to initiate investigations of Grantee Awardee to verify fraud or misrepresentation in connection with Grantee's Awardee's application for or receipt of this Agreement its SEP award or any payments of a SEP award payment, or to take action as otherwise authorized by the Guidelines to properly administer the New Renewables Facilities Program. Renewable Resource Trust Fund. Grantee Awardee further understands that the Energy Commission's Guidelines are subject to change pursuant to Public Resources Code Section 25747 and that any changes made to the Guidelines shall apply to Grantee Awardee and the payment of SEP its SEP award under this Agreement.

18.20. Law Governing. This Agreement shall be interpreted, governed, and construed under the laws of the State of California.

Signature of Facility Representative
Title

Signature of CEC Representative
Title

DRAFT SAMPLE SUPPLEMENTAL ENERGY PAYMENT (SEP)
AWARD AGREEMENT

EXHIBIT A
FACILITY DESCRIPTION

DRAFT SAMPLE SUPPLEMENTAL ENERGY PAYMENT (SEP)
AWARD AGREEMENT

EXHIBIT B
PREVAILING WAGE COMPLIANCE CERTIFICATION

This certificate is to be completed by Grantee, signed by Grantee and all construction contractors and subcontractors, and submitted to Energy Commission within 90 days of completing the Facility's construction.

Grantee: _____

Energy Commission Award Agreement Number: _____

Facility: _____

Date Facility Construction Completed: _____

Grantee hereby certifies as follows:

1. All construction contracts and subcontracts to perform work activities subject to the state prevailing wage law for the above referenced Facility contained requirements that the construction contractors and subcontractors comply with prevailing wage law and pay prevailing wages in accordance with the requirements of the California Labor Code.
2. Prevailing wages have been paid as required by law.
3. All construction contractors and subcontractors have maintained labor records as required by the Labor Code and such records shall be made available to the Energy Commission upon request.
4. The undersigned Grantee acknowledges that disbursement of any payments of SEP under the above noted Agreement by the Energy Commission is expressly made in reliance upon the representations made in this certification.

Grantee: _____

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Each contractor and subcontractor performing work activities subject to the prevailing wage law for the above referenced Facility must sign below. Include additional pages if necessary.

Construction Contractor and Subcontractors hereby certifies as follows:

1. The contract with Grantee to perform work activities subject to the prevailing wage law for the above referenced Facility contained requirements that the construction contractor and all its subcontractors comply with prevailing wage law and pay prevailing wages in accordance with the requirements of the Labor Code.
2. Prevailing wages have been paid as required by law.
3. Construction contractor and all its subcontractors have maintained labor records as required by the Labor Code and such records shall be made available to the Energy Commission upon request.
4. The undersigned construction Contractor acknowledges that disbursement of any payments of SEP under the above noted Agreement by the Energy Commission is expressly made in reliance upon the representations made in this certification.

Construction Contractor

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Construction Contractor

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Appendix B - Acronyms

AB	—	Assembly Bill
CCA	—	community choice aggregator
CEQA	—	California Environmental Quality Act
CPUC	—	California Public Utilities Commission
CTC	—	competitive transition charge
DIR	—	Department of Industrial Relations
ESP	—	electric service provider
IOU	—	investor-owned utility
ISO	—	Independent System Operator
kWh	—	kilowatt-hour
LFG	—	landfill gas
MSW	—	municipal solid waste
MW	—	megawatt
<u>MmWh</u>	—	megawatt-hour
NEPA	—	National Energy Policy Act
NRFP	—	New Renewable Facilities Program
PGC	—	Public Goods Charge
PG&E	—	Pacific Gas and Electric Company
PPA	—	power purchase agreement
PUC	—	Public Utilities Code
PV	—	photovoltaic
REP	—	Renewable Energy Program
RPS	—	Renewable Portfolio Standard
SB	—	Senate Bill
SCE	—	Southern California Edison Company
SDG&E	—	San Diego Gas and Electric Company
SEP	—	supplemental energy payment
TIN	—	taxpayer identification number
WECC	—	Western Electricity Coordinating Council