

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



June 11, 2009

Ray Sardo
CalCERTS, Inc.
31 Natoma St, Suite 120
Folsom, Ca 95630

RE: Deficient or Incomplete Application for Confidentiality
Home Energy Rating System Provider (09-HERS-1)

DOCKET	
09-HERS-1	
DATE	June 11 2009
RECD.	June 11 2009

Dear Mr. Sardo

On June 11, 2009, CalCERTS, Inc. submitted materials to the California Energy Commission for confidential designation. Pursuant to California Code of Regulations, an entity seeking confidentiality for certain materials needs to submit an application for confidentiality. (Cal. Code Regs., tit. 20, § 2505 et seq.) We have identified the application and/or materials submitted as deficient¹ or incomplete for the reason[s] listed below:

- ☐ The submitted application and/or supporting materials do not have an identifiable and/or complete docket number typed or printed on the materials. (Cal. Code Regs., title 20, § 1209(b)(2))
- ☒ The materials, for which confidentiality is sought, have not been submitted with the application. (Cal. Code Regs., title 20, § 2505(a)(1)(A))
- ☐ We have received materials labeled as confidential, but there is no accompanying application for confidentiality. (Cal. Code Regs., title 20, § 2505(a)(1)(A))
- ☐ The application for confidentiality has not been signed by an authorized representative of your company, and/or does not include the certification as required by regulation. (Cal. Code Regs., title 20, § 2505(a)(1)(G))
- ☐ We have not received the required number of copies of the confidential material. Either one original and twelve paper copies or one original and one electronic copy are required. However, if you are submitting paper copies, we will accept five copies for confidential filings. (Cal. Code Regs., title 20, § 1209(c))
- ☐ The data submitted with your application for confidentiality is inconsistent with the data identified in your application. Please make sure that the data is clearly identified and labeled. (Cal. Code Regs., title 20, § 2505(a)(1)(B))

Once the deficiencies identified above have been corrected, please return the completed application for confidentiality to the Energy Commission's Executive Director. Be advised that the record[s] for which confidentiality is requested shall not be disclosed for 14 days from the date of this letter. If you have any questions concerning this matter, please contact Deborah Dyer, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

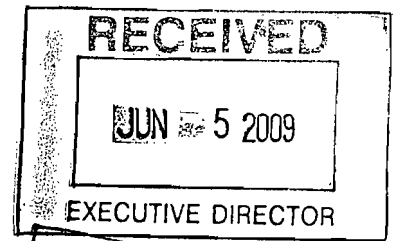
KIMBERLY VAN VORST
Office Supervisor II

¹ A deficient or incomplete application shall be returned to the applicant with a statement of its defects. The record or records for which confidentiality was requested shall not be disclosed for fourteen days after return of the application to allow a new application to be submitted except as provided in Section 2507 of this Article. (Cal. Code Regs., title 20, § 2505(a)(2))

cc: Legal Office
Project Manager

Greenberg Traurig

Ray A. Sardo
Tel. 916.442.1111
Fax 916.448.1709
sardor@gtlaw.com



May 6, 2009

**VIA E-MAIL &
FIRST-CLASS MAIL**

PRIVILEGED AND CONFIDENTIAL

Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street, MS-39
Sacramento, CA 95814

**Re: CalCERTS' Application for Confidential Designation under Title 20 Cal.
Code Regs. § 2505 *et seq.*
Project Docket No. 09-HERS-1**

Dear Ms. Jones:

CalCERTS™ is re-applying for certification to engage in the business of training, instructing, and certifying Raters under California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675. CalCERTS previously applied for certification in 2003. CalCERTS' 2003 application, which was approved by the California Energy Commission ("CEC"), requested that all application materials submitted by CalCERTS be designated confidential pursuant to Section 2505 of Title 20 of the California Code of Regulations and Government Code section 6254. A true and correct copy of the 2003 letter CalCERTS sent the CEC requesting that these materials be kept confidential is attached as Exhibit "A" and is incorporated herein by reference.

SAC 441,448,091v1 5-6-09

In a letter dated July 30, 2003, the CEC approved CalCERTS' request for confidentiality subject to two minor exceptions. First, although the CEC designated CalCERTS' application "confidential," it declined to fix that designation in perpetuity unless CalCERTS submitted additional information justifying permanent confidential status. Second, the CEC declined to grant confidential status to one section of CalCERTS' application, which was entitled "Personal Profile and Conflict of Interest Affidavit." A true and correct copy of the CEC's July 20, 2003 letter to CalCERTS is attached as Exhibit "B" and incorporated herein by reference.

CalCERTS is now applying for recertification to engage in the business of training, instructing, and certifying Raters. CalCERTS' current application, which is attached as Exhibit "D", is somewhat broader than its previous application in that CalCERTS has made some additions to its traditional training program, and now seeks CEC approval of those additions. For example, CalCERTS' current application requests approval for "update training" for existing Raters that was not part of CalCERTS' 2003 application. Despite these slight differences, CalCERTS' current application seeks a confidential designation for information that is "substantially similar" to information that was previously deemed confidential by the Commission. Therefore, CalCERTS hereby submits a new request that all materials submitted with its current application, with the exception of "Personal Profile and Conflict of Interest Affidavit," be deemed confidential pursuant to subdivision (a)(4) of Section 2505 of Title 20 of the California Code of Regulations. That subdivision provides:

Repeated Applications for Confidential Designation. If an applicant is seeking a confidential designation for information that is substantially similar to information that was previously deemed confidential by the Commission pursuant to Section 2508, or for which an application for confidential designation was granted by the Executive Director pursuant to subdivision (a)(3)(A) of this section, the new application need contain only a certification, executed under penalty of perjury, stating that the information submitted is substantially similar to the previously submitted information and that all the facts and circumstances relevant to confidentiality remain unchanged. An application meeting these criteria will be approved.

Attached to this letter as Exhibit "C" is a certification executed by Mike Bachand, President of CalCERTS, which states that the information submitted in CalCERTS' current application is substantially similar to previously submitted information which has already been deemed confidential by the CEC, and that all the facts and circumstances relevant to confidentiality remain unchanged.

CalCERTS respectfully asks that the CEC grant its request for confidentiality, and that the confidential designation be maintained for as long as the submitted materials meet the criteria for trade secret, proprietary, or confidential status.

Melissa Jones
May 6, 2009
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Please feel free to contact me if you have any questions regarding this letter, or CalCERTS' request for confidentiality. I would also appreciate a confirmation letter confirming that CalCERTS' request has been approved, similar to the letter the CEC sent CalCERTS on July 30, 2003, and which I have attached as Exhibit "B." Thank you for your consideration of this matter.

Sincerely,



Ray A. Sardo

Enclosure (CalCERTS application for certification)

cc: Mike Bachand, President
CalCERTS
31 Natoma St, Suite 120
Folsom, CA 95630