



*RENEWABLE  
ENERGY  
PROGRAM*

CALIFORNIA ENERGY  
COMMISSION

**EXISTING  
RENEWABLE  
FACILITIES  
PROGRAM**

**FOURTH EDITION**

**GUIDEBOOK – COMMITTEE DRAFT**

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Arnold Schwarzenegger, Governor

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## DISCLAIMER

This draft guidebook was prepared at the direction of the California Energy Commission's Renewables Committee as part of the Implementation of Renewables Portfolio Standard Legislation - docket # 03-RPS-1078 and the Implementation of the Renewables Investment Plan Legislation - docket # 02-REN-1038. The report will be considered for adoption by the full Energy Commission at its Business Meeting on March 14, 2007. The Guidelines contained in this draft guidebook shall take effect once adopted by the Energy Commission.

**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 subsequently revised Pursuant to Public Resources Code Section 25747, subdivision (a), on November 30, 2005, and ~~again on June 29, 2006, and March 14, 2007.~~**

## **ABSTRACT**

The *Existing Renewable Facilities Program Guidebook* describes the requirements to apply for and receive production incentives from the Existing Renewable Facilities element of the Energy Commission's Renewable Energy Program. The purpose of this program is to improve the competitiveness of existing in-state renewable generating facilities so these facilities may become self-sustaining without further public funding, and to secure for California the environmental, economic, and reliability benefits these facilities provide by continuing to operate. The *Guidebook* outlines eligibility and legal requirements, details how funding awards will be made, describes invoicing procedures, and includes necessary forms and instructions for program participants.

## **KEYWORDS**

renewable energy, production incentives, renewables portfolio standard, biomass, solar thermal electric, wind, existing renewable

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# I - Introduction

The California Energy Commission (Energy Commission) has developed this *Guidebook* to implement and administer its Existing Renewable Facilities Program pursuant to Senate Bill 1038<sup>1</sup> and Senate Bill 1250.<sup>2</sup> These laws, along with the Reliable Electric Service Investments Act,<sup>3</sup> extend the collection of a non-bypassable system benefit charge initiated in 1998 under Assembly Bill 1890<sup>4</sup> and authorize the expenditure of funds collected to support existing, new, and emerging renewable resources. The goal of these laws is to establish a competitive, self-sustaining renewable energy supply for California while increasing the near-term quantity of renewable energy generated in-state.

This *Guidebook* describes the requirements for receiving funding under the Existing Renewable Facilities Program (ERFP). The ERFP is one of several program elements within the Energy Commission's Renewable Energy Program.

The Energy Commission has adopted other guidebooks to address the requirements to receive funding under other elements of the Renewable Energy Program. In addition, the Energy Commission has adopted guidelines governing the overall administration of the Renewable Energy Program in the *Overall Program Guidebook*, which describes how the Renewable Energy Program and its elements will be administered.

~~This *Existing Renewable Facilities Program Guidebook* is one of several guidebooks the California Energy Commission (Energy Commission) has adopted to implement the Renewable Energy Program pursuant to Senate Bill 1038 (SB 1038, Sher, Statutes of 2002, Chapter 515). It describes the requirements for receiving funding under the Existing Renewable Facilities Program (ERFP) element of the Renewable Energy Program.~~

~~The Energy Commission has adopted other guidebooks to address the requirements for the 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 program will be administered and includes information on requirements that apply to all program elements of the Renewable Energy Program.~~

To qualify for funding under the ERFP, applicants must satisfy the requirements contained in both the *Overall Program Guidebook* and this *Existing Renewable Facilities*

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<sup>1</sup> Senate Bill 1038; Chapter 515, Statutes of 2002. The pertinent provisions of SB 1038 were formerly codified in Public Utilities Code Sections 383.5 and 445, but are now codified in Public Resources Code Sections 25740 through 25751 as a result of Senate Bill 183 (Chapter 666, Statutes of 2003).

<sup>2</sup> Senate Bill 1250; Chapter 512, Statutes of 2006. SB 1250 amends pertinent provisions in Public Resources Code Sections 25740 through 25751, including requirements related to the ERFP in Section 25742.

<sup>3</sup> Public Utilities Code Section 399, et seq., as enacted by Assembly Bill 995 (Chapter 1051, Statutes of 2000) and Senate Bill 1194 (Chapter 1050, Statutes of 2000).

<sup>4</sup> Assembly Bill 1890; Chapter 854, Statutes of 1996.

*Program Guidebook*. This guidebook supersedes the previous guidebook, *Existing Renewable Facilities Program Resources Account Guidebook, Third~~Fifth~~ Edition*.

For more information about the Renewable Energy Program, please visit the Commission's website at [www.energy.ca.gov/renewables](http://www.energy.ca.gov/renewables).

## II - Purpose

The purpose of the ERFP is designed to improve the competitiveness of existing in-state renewable generating facilities so these facilities may become self-sustaining without further public funding, and to, ~~as well as~~ secure for California the environmental, economic, and reliability benefits these facilities provide by continuing to operate.

The Renewable Energy Program is funded under SB 1038, with funds collected from the ratepayers of the three largest investor-owned utilities (IOU) in California to support existing, new, and emerging renewable electricity generation technologies. For more information about the Renewable Energy Program, please visit the Commission's website at [www.energy.ca.gov/renewables](http://www.energy.ca.gov/renewables).

## III - Overview

The ERFP provides funding in the form of production incentives to eligible renewable energy facilities for each kilowatt-hour of eligible electricity generated. -To qualify for funding, applicants must ensure that the renewable facility and electricity generated meet a number of requirements. -The facility must use ~~utilize~~ an eligible renewable energy resource to generate electricity, and ~~the facility must be located either within the state or located near the state's border~~ with and have its first point of grid interconnection to the transmission systems within the state. -Eligible renewable energy resources include biomass, solar thermal electric, and wind. In addition, the facility must not be owned by an electrical corporation or local publicly owned electric utility and must be certified by the Energy Commission as eligible for California's Renewables Portfolio Standard (RPS). Lastly, the electricity generated must not be sold under a fixed price contract with an energy price above the applicable target price<sup>5</sup> on a monthly average basis, ~~receive incentives from the Agricultural Biomass-to-Energy Incentive Grant Program~~, be used on-site, or sold in a manner avoiding competitive transition charge payments.

Applicants for ~~eligible~~ renewable facilities seeking funding from the ERFP must register ~~with the~~ submit an Application for ERFP Funding Eligibility form (CEC-1250E-1) to the

<sup>5</sup> This applies to any facility that receives energy payments for a majority of its generation that were known or ascertainable at the time the contract was entered into or amended, and the fixed price portion has an annual average that is greater than the applicable ERFP-target price.

~~Energy Commission as a renewable supplier and meet further eligibility requirements to apply for funding and be an RPS-certified facility. -Qualifying generators are will be issued a Funding Award Notice. one of two certificates: one for being a registered renewable supplier or one showing that the facility is a registered renewable supplier eligible to receive funds from the program. Two separate certificates are issued because only a subset of the facilities eligible for registration as renewable suppliers are eligible for funding. This subset includes facilities utilizing biomass, solar thermal, or wind energy. Applicants for any facility that previously participated in the Existing Renewable Facilities Program Existing Renewable Resources Account under Senate Bill 90 (SB 90, Sher, Statutes of 1997, Chapter 905) are required to re-register submit form CEC-1250E-1 and update their information in order to qualify for funding under the ERFP. All applicants seeking funding must apply to the Energy Commission by submitting form CEC 1038E-2.~~

Applicants that are eligible for funding must submit monthly invoices to document and receive funding for their eligible generation. The Energy Commission reviews these invoices and makes incentive payments based on the eligible generation and the applicable production incentive rate.

## **A. Program Funding**

~~The ERFP has been is -allocated 10 percent of the funds collected under SB 1250 for the Renewable Energy Program. Although existing wind facilities are technically eligible for funding, they currently, do not require assistance. Therefore, all ERFP funds are available for eligible existing solid-fuel biomass facilities and solar thermal electric facilities. However, the Energy Commission reserves the right to allocate funding for existing wind energy facilities in the future based on changes in market conditions. \$27,000,000 annually. Of this amount, \$20,250,000 is available to facilities utilizing biomass or solar thermal technology. These facilities are referred to as Tier 1 facilities. The remaining \$6,750,000 is available to facilities utilizing wind technology, which are referred to as Tier 2 facilities.~~

~~The funds available to each tier the ERFP annually are allocated monthly in equal amounts. -Any funds not disbursed in a given month are rolled over into the following month for distribution. within the same tier. The Energy Commission may reallocate any unused funds from one tier to another if the funds remain unused for two or more months and the Energy Commission determines a need for the reallocation exists.~~

## **B. Eligibility Requirements**

Facilities must satisfy the following requirements to participate in the ERFP.

### 1. Eligible Renewable Energy Resource

Facilities must use eligible solid-fuel biomass, solar thermal electric, or wind energy to generate electricity. Eligible solid-fuel biomass is limited to the following:

- a. Agricultural crops and agricultural wastes and residues.
- b. Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.
- c. Wood and wood wastes that meet all of the following requirements:
  - i. Have been harvested under an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code).
  - ii. Have been harvested for forest fire fuel reduction or forest stand improvement.
  - iii. Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture and the Department of Forestry and Fire Protection, unless approved by these agencies.

Before January 1, 2007, eligible biomass facilities were permitted to use up to 25 percent fossil fuel annually on a total energy input basis consistent with the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) and Section 292.204, Subdivision (b), of Title 18 of the Code of Federal Regulations. However, the law as amended by SB 1250 contemplates restrictions on the use of fossil fuel for biomass facilities. Because existing solid-fuel biomass facilities may require at least a minimal amount of fossil fuel use to operate,<sup>6</sup> facilities participating in the ERFP are allowed to use up to 5 percent fossil fuel on a total energy input basis annually, and still have 100 percent of their generation eligible for ERFP funding. Facilities that use more than 5 percent fossil fuel will have their eligible generation reduced by the corresponding percentage of fossil fuel use. The total energy input of a facility shall be determined annually on a calendar year basis in a manner consistent with Section 292.204(b) of Title 18 of the Code of Federal Regulations, and expressed in millions of British Thermal Units (mmBTU).

Although facilities that use wind energy to generate electricity are eligible to participate in the ERFP, it is unlikely that any such facilities will qualify for funding unless market conditions change significantly.

In addition, facilities must be certified as eligible for California's RPS. Information is provided in the Energy Commission's *Renewables Portfolio Standard Eligibility Guidebook*.

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<sup>6</sup> For example, fossil fuel may be required for ignition, startup, testing, flame stabilization, and control uses, and to alleviate or prevent unanticipated equipment outages or emergencies.

## 2. In-State Location

A facility must be physically located in California, or located near California's border with its first point of interconnection to the Western Electricity Coordinating Council's (WECC) transmission grid located in California. Facilities that are located out-of-state are not eligible for ERF funding.

## 3. Operational Date

Facilities must have commenced commercial operations on or before September 26, 1996.

## 4. Facility Ownership

Facilities must not be owned by an electrical corporation as defined in Public Utilities Code Section 218 or a local publicly owned electric utility as defined in Public Utilities Code Section 9604(d).

## 5. Fixed Price Contract

A facility must not be selling its electrical generation under a fixed price power purchase contract that provides energy price payments above the facility-specific target price as determined by the Energy Commission. This applies to any facility with a power purchase contract that provides energy payments for a majority of the facility's generation, where the energy payments are based on a price per unit measure of electricity that (1) was known or ascertainable at the time the contract was entered into or amended, and (2) has an average fixed energy price greater than the applicable facility specific target price established by the Energy Commission.

## 6. Eligible Electrical Generation

To qualify for ERF funding, a facility's electrical generation must satisfy the following requirements:

- a. The energy must be generated after January 1, 2007.
- b. The energy must be sold to customers within the state of California.
- c. The energy must not receive monthly energy payments at a price equal to or greater than the applicable target price as determined by the Energy Commission.
- d. The energy must not be used on site for the facility's own electrical demand (also referred to as self-generation).

- e. The energy must not be sold to customers of local publicly owned electric utilities.
- f. The energy must not receive incentive payments or funding from any of the Renewable Energy Program elements or from the Energy Commission's New Renewable Resources Account under Senate Bill 90.<sup>7</sup>
- g. The energy must not be excluded from any applicable competitive transition charge payments (such as over-the-fence transactions<sup>8</sup>) or sold in a manner avoiding these payments.

Energy from incremental generation additions or enhancements to a facility and energy sold through a power exchange may be eligible for funding from the ERFP.

### **C. Facility Specific Funding**

The Energy Commission will evaluate each eligible renewable energy facility that applies for ERFP funding to establish the facility's award, if any, with the goal of making the facility self-sustaining by December 31, 2011. The Energy Commission must evaluate all facilities seeking an ERFP award. By law, the Energy Commission must consider the following factors in performing this evaluation:

- The cumulative amount of funds the facility has previously received from the Energy Commission and other state sources.
- The value of any past and current federal or state tax credits.
- The facility's contract price for energy and capacity.
- The market value of the facility.
- An estimate of the incentive payment needed (in cents/kWh) above the energy payments the facility will receive during the calendar year the applicant is applying for. Also an explanation of why this incentive level is needed.
- An explanation of how the incentive payments from the ERFP will allow the facility to become cost-competitive by the end of the 2011.

Based on its evaluation, the Energy Commission will establish facility-specific target prices and production incentive caps that reflect each facility's funding requirements. The target price represents the price for the facility's energy below which the facility could not reasonably expect to operate sufficiently without need of program funding. The production incentive caps represent the highest incentive level the Energy Commission believes is reasonable given the program funding, the energy market, and the prices received by other eligible renewable energy facilities.

<sup>7</sup> Senate Bill 90; Chapter 905, Statutes of 1997; as codified in former Public Utilities Code Sections 383.5 and 445.

<sup>8</sup> See Public Utilities Code Section 372 of the Public Utilities Code.

Once the Energy Commission evaluates a facility and establishes the appropriate target price and production incentive cap, the facility may qualify for ERF funding based on the facility's eligible electrical generation and available program funding, as explained in the following section.

## **BD. Production Incentive Rate**

ERFP funds are paid ~~monthly~~ to eligible renewable suppliers in the form of ~~as a~~ simple cent per kilowatt-hour (kWh) production incentive for each hour of qualifying electricity that an eligible facility generates. The incentive rates vary by ~~facility tier~~ and are based on the **lowest** of three possible calculations:

- 1) The difference between the facility-specific a pre-determined target price and the facility's market price as determined by the Energy Commission,
- 2) The facility-specific a pre-determined cents per kWh production incentive cap, or
- 3) The funds-adjusted price for the facility tier. The funds-adjusted price is calculated as follows:
  - a) Divide the total program funds available in a given month by the total payments due that month for eligible facilities (as calculated using the minimum of formulas (1) and (2) above) to obtain an a Adjustment Fund Multiplier (AFM)), and
  - b) Multiply the minimum of formula (1) and (2) by the AFM to determine the funds-adjusted price for each facility.

## **E. Determination of Facility Funding, Target Prices, and Caps**

For the Energy Commission to evaluate a facility and establish an appropriate target price and cap, an applicant must annually submit the following information for its facility, using form CEC-1250E-1:

- The cumulative amount of any funds the facility has previously received from the Energy Commission since January 1, 1998, itemized by Energy Commission program. The total funds received from the ERF do not need to be provided since that information is available to ERF staff. However, please provide the time frame the facility has been receiving funding from the ERF.
- The cumulative amount of any funds the facility has previously received from other state government sources since January 1, 1998, itemized by program or state source. Also provide information on any corresponding costs or losses incurred in connection with such sources/programs, and an explanation of how and why these costs or losses were incurred.

- The amount of funds the facility will receive or is expected to receive from other state government sources through December 31, 2011, and any costs or losses expected to be incurred in connection with the receipt of such funds.
- The value of any past and current federal tax credits since 1998. (If the facility qualifies for these tax credits but is or has been unable to take advantage of them, explain the reason[s] why.)
- The value of any past and current state tax credits since 1998. (If the facility qualifies for these tax credits but is or has been unable to take advantage of them, explain the reason[s] why.)
- The facility's monthly average contract price for energy (in cents per kWh) and capacity (in dollars per MW-yr) under its current power purchase contract. If the monthly average energy price is not constant for all months of the year or is scheduled to change during the application year, please provide specific monthly data.
- The market value of the facility. A facility's market value may be based on the facility's assessed value for property tax purposes. If market value is based on the facility's assessed value for property tax purposes, please indicate whether the assessment is made by the county and/or another local or state government entity. Other calculations for market value may be the facility's net present value of their contract revenue stream, book value, or salvage value. When reporting the facility's market value, please state the basis for this determination.
- An estimate of the target price needed under the ERF (in cents/kWh) to ensure the continued operation of the facility through the application year. Also include an explanation of why this target price level is needed, and how the incentive payments from the ERF will allow the facility to become cost-competitive by December 31, 2011. (Explain how changes in contract prices and market conditions relative to previous ERF incentive levels affect the estimated target price provided by applicant.)
- An estimate of the production incentive cap needed under the ERF (in cents/kWh) and an explanation of why this cap level is needed given the facility's circumstances.
- An explanation of the public benefits provided by the operation of the facility.

Applicants must annually submit the following information on fossil fuel use for its facility, using form CEC-1250E-4:

- The percentage of fossil fuel used by the facility on a total energy input basis during the previous calendar year and whether the facility is expected to use less than 5 percent fossil fuel during the application year.

Facilities that wish to receive payments based on criteria other than monthly average energy prices should provide the above requested information in the appropriate timebase so the Energy Commission may properly evaluate the facilities and establish appropriate target prices and caps. Additionally, applicants seeking incentives based on criteria other than monthly average must provide an explanation that justifies the need for ERF incentives on a different basis.

The Energy Commission will review this information and establish an annual target price and cap for each facility. The Energy Commission reserves the right to establish the same or similar target prices and caps for various groups and/or categories of facilities. Applicants may request that the Energy Commission establish a single target price and cap for a group/category of facilities at the time applications are submitted. Such requests should be submitted with an explanation and justification of why the facilities in the group/category should be assigned the same target price and cap. A request to establish group/category prices does not relieve applicants from the requirement of submitting the aforementioned information for each facility seeking funding.

The target price assigned will be in effect for one calendar year. For the 2007 calendar year, this information must be submitted within 30 days of the adoption of this *Guidebook*. Applicants, however, are encouraged to submit all required documentation as soon as possible after the publication of the adopted guidebook. For the 2008 calendar year and beyond, the applicants -must submit the aforementioned information by January 31<sup>st</sup> of each year to be evaluated for funding for that calendar year.

The Energy Commission intends to determine funding eligibility and establish facility-specific target prices and caps within 30 days of receiving a complete application, which must include any necessary supporting documentation. Applicants will be informed in writing of their eligibility status and funding award determination. Applicants that are determined to be eligible for funding will be issued a Funding Award Notice, which will identify the following information:

- Pertinent information about the applicant, the facility, and the facility's power purchase agreement.
- The facility-specific target price and production incentive cap for that calendar year.
- The terms and conditions under which the ERF funding will be provided, including any funding restrictions and prevailing wage requirements.

A sample Funding Award Notice is included in Section IX of this *Guidebook*.

The Funding Award Notice must be signed by an authorized representative of the facility and returned to the Energy Commission to acknowledge the facility's agreement to be bound by the terms and conditions of the ERF.

~~The pre-determined target prices and incentive caps for each tier are shown in Table 1 below.<sup>9</sup> The Energy Commission may adjust the target prices and incentives caps if appropriate to reflect changing market and contractual conditions and to account for inflation.~~

~~Effective November 1, 2005, the target price and incentive cap for Tier 1 biomass facilities **ONLY** will be increased by 0.8 cents/kWh and 0.5 cents/kWh, respectively for~~

<sup>9</sup>~~The target prices and caps shown in Table 1 differ from those in the Commission's Investment Plan, *Investing in Renewable Electricity Generation in California (P500-00-022, June 2001)*, due to changes in market conditions since the Investment Plan was published.~~

eligible generation produced from November 1, 2005 through April 30, 2006. The target price will be 6.17 cents/kWh and the incentive cap will be 1.5 cents/kWh for Tier 1 biomass facilities during this period.

Effective May 1, 2006, the target price and incentive cap for Tier 1 biomass facilities **ONLY** will be increased by 0.5 cents/kWh above the level adopted in February 2003, for eligible generation produced from May 1, 2006 through December 31, 2006. The target price and incentive cap for Tier 1 biomass facilities during this period will be 5.87 cents/kWh and 1.5 cents/kWh, respectively.

**Table 1**  
**Target Prices and Payment Caps**  
**for Existing Renewable Facilities**  
**(cents per kWh)**

		2002	2003	2004	2005*	2006*
Tier 1 (Biomass, Solar Thermal)	Target Price	5.50	5.37	5.37	5.37	5.37
	Cap	1.0	1.0	1.0	1.0	1.0
Tier 2 (Wind)	Target Price	3.8	3.8	3.8	3.8	3.8
	Cap	1.0	1.0	1.0	1.0	1.0

\* The Target Price for Tier 1 biomass **ONLY** will be 6.17 cents/kWh for November 1, 2005 through April 30, 2006 generation, and 5.87 cents/kWh for May 1, 2006 through December 31, 2006 generation. The Cap for Tier 1 biomass **ONLY** will be 1.5 cents/kWh for November 1, 2005 through December 31, 2006 generation.

## **GF. Determination of Market Price**

The Energy Commission will establish a market price for each facility eligible to receive funding from the ERFP. The market price for each facility will be based on the facility's average energy price per kWh.

For facilities eligible to receive funding from the ERFP, the value of the market price will be determined on a monthly basis according to one of the following options, depending on the type of power purchase contract a facility has for its energy payments. Additionally, the determination of the market price may vary by year and tier.

1)1. For facilities with an investor owned utility (IOU) power purchase contract that provides variable monthly energy payments based on the short-run avoided cost (SRAC) prices for a majority of the generation, the value of the market price shall be the monthly time-period weighted average short-run-avoided energy cost (SRAC) price specific to the IOU each of the three major utility service areasthe facility is selling its generation to (such as Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), or San Diego Gas & Electric Company (SDG&E)). This applies to facilities receiving variable monthly payments based on the SRAC for a majority of their generation.

~~2)2. For facilities with contracts receiving fixed monthly average energy prices for a majority of their generation, the value of the market price for all generation from the facilities will be the fixed monthly average energy price, (as specified in the facility's contract), paid for a majority of their generation<sup>10</sup> (for example e.g. with Department of Water Resources (DWR), the California Power Authority (CPA), an IOU, - and so forthete). Any California Power Exchange (PX) adjustments incorporated into the fixed-price contracts with the IOUs will be incorporated in determining the market price.~~

~~3. For facilities that do not fall under the provisions of options (1) or (2) above, the market energy price component will be determined by the Energy Commission based on the actual energy price received by the facility. In many cases, this value will be the SRAC price, as listed in option (1) above, which was used as the representative market price for all facilities not under a utility contract from 1998 through 2001.~~

### **Determination of Market Price for Facilities Receiving "All-In" Prices**

The Energy Commission reserves the right to establish a target price that reflects the "all-in" price received by these facilities if their contract does not specifically identify the energy price received by the facility.

### **Determination of Market Price for 2003 to 2006**

~~For facilities in Tier 2, the market price shall be determined using average monthly energy prices as specified above for 2002.~~

~~When registering for the first time or re-registering for the ERF, applicants for facilities in Tier 1 **ONLY** will have the one-time option of having their market price based on average monthly energy prices as specified above for 2002 or on time-of-use (TOU) energy prices. Whichever method is chosen shall remain in effect until the end of 2006. For those choosing to have incentive payments based on TOU prices, the TOU periods that will be considered are those specified in the IOU contracts (e.g. on-peak, partial-peak, mid-peak, off-peak, and super off-peak). The Energy Commission will **NOT** make payments based on hourly fluctuations in market prices. To receive incentive payments based on TOU energy prices, third party statements submitted must clearly summarize generation by TOU periods in addition to meeting all the requirements specified later in this guidebook (Section V). For facilities that qualify to have their ERF incentive payments based on TOU energy prices, the value of the market price for all generation from the facilities will be based on the TOU energy prices paid for a majority of their generation (e.g. for a facility that receives 75% of payments based on 5.37 cents/kWh and 25% based on SRAC, the market price for all generation will be based on the 5.37~~

<sup>10</sup> ~~For facilities that signed 5.37 fixed-price cents/kWh amendments to their IOU contracts and receive 75 percent% of payments based on 5.37 cents/kWh these fixed prices and 25 percent% based on SRAC, the market energy price component will be 5.37 cents/kWh equal to the fixed-price value. For facilities in the PG&E territory that signed 5.37 cents/kWh amendments, the market price will be approximately 6.0 cents/kWh during the winter period and 4.7 cents/kWh during the summer period. (Exact values will be used for calculating payments)~~

cents/kWh TOU prices). Furthermore, the Energy Commission will use the TOU generation values specified in the third party verification, without adjustment.

Applicants who choose to have payments based on TOU prices, but do not have third party statements that meet the Energy Commission's requirements, will have payments based on average monthly energy prices until their third party verification is in the appropriate form. Additionally, these applicants will need to provide the Energy Commission with documentation on their process to obtain third party verification that is in compliance with the Energy Commission's TOU requirements. Failure to do so in a timely manner will result in the facility being paid based on average monthly energy prices until 2006.

## **IV -- Registration Application Process**

### **A. Required Forms**

Facilities must apply for ERFPP eligibility to be evaluated and determined eligible for program funding. To apply, facilities must complete an Application for ERFPP Funding Eligibility form (CEC-1250E-1). Applicants for biomass facilities must also submit the Biomass Fuels and Fossil Fuels Usage Report for Biomass Facilities (CEC-1250E-4) in order to provide fossil fuel use information, be an RPS certified facility, and submit necessary supporting documentation.

To register a facility as a Renewable Supplier, applicants must satisfy the requirements below and submit a completed form CEC-1038E-1/CEC-1250E-1, Registration Form for Renewable Suppliers, to the Energy Commission. Applicants that meet the funding eligibility requirements below and wish to receive funds from the ERFPP must submit a completed form CEC-1038E-2/CEC-1250E-2, along with all other necessary forms. This requirement applies to all applicants, including applicants whose facilities received funding under SB 90/SB 1038. NO payments shall be made to any applicant that fails to submit the necessary forms and information.

### **A. Renewable Supplier Registration**

To qualify for registration as a Renewable Supplier, an applicant must ensure that the facility satisfies the following requirements:

1. The facility must use one or more of the following energy sources to generate electricity: solar, wind, geothermal, solid-fuel biomass, waste tire, municipal solid waste, digester gas, or hydropower with a generating capacity of 30 megawatts or less. The 30 megawatt limitation applies to the sum capacity of all hydroelectric turbine generators employed at the facility.
2. The facility may use no more than 25 percent fossil fuel. This percentage is determined on an annual basis in a manner consistent with section 292.204(b) of

~~Title 18 of the Code of Federal Regulations. This section provides that the content of all fossil fuels used, in the aggregate, may not exceed 25 percent of the total energy input of the facility during a given calendar year.~~

~~Registration as a Renewable Supplier does **NOT** imply Energy Commission endorsement or verification of renewable status nor certification as an eligible RPS facility. Registration as a Renewable Supplier merely indicates that the applicant has certified under penalty of perjury that its facility meets the registration requirements of a Renewable Supplier and has obtained a CEC ID number from the Energy Commission.~~

## ~~**B. Funding Eligibility Registration**~~

~~Facilities registered as Renewable Suppliers are eligible for funding if they satisfy the requirements below and apply to the Energy Commission by submitting a completed Form CEC-1038E-2 CEC-1250E-2, Funding Eligibility Form for Renewable Suppliers, and annually provide the information requested under the section "Determination of Target Prices."~~

- ~~1. The facility must be located in California, or located near California's border with its first point of interconnection to the Western Electricity Coordinating Council's transmission grid located in California.~~
- ~~2. The facility was operational prior to September 26, 1996 **AND** is certified as a qualifying small power production facility pursuant to section 292.207 of Title 18 of the Code of Federal Regulations. This includes repowered facilities.~~
- ~~3. The facility is **NOT** owned by an electrical corporation as defined in Public Utilities Code section 218 or a local publicly owned electric utility as defined in Public Utilities Code section 9604(d).~~
- ~~4. The facility is **NOT** selling its generation under a fixed price contract with energy and capacity prices above the applicable target price. This applies to any facility with a power purchase contract that provides energy payments for a majority of a facility's generation that are based on a price per unit measure of electricity that (1) was known or ascertainable at the time the contract was entered into or amended and (2) has an total (average monthly average fixed energy price and plus average annual capacity price portion greater than the applicable facility-specific ERF target price.~~

~~In addition, a facility's energy must be generated **AFTER January 1, 2007** and meet the following requirements.~~

- ~~a. The energy must be sold to customers **WITHIN** the state of California.~~
- ~~b. The energy must **NOT** receive monthly energy and capacity payments at a price equal to or greater than the applicable target price.~~

- ~~c. The energy must **NOT** be used on site (self-generation).~~
- ~~d. The energy must **NOT** be sold to customers of local publicly owned electric utilities.~~
- ~~e. The energy must **NOT** receive incentive payments from other Renewable Energy Program elements under SB 1038 and SB 1250 or the Energy Commission's New Renewable Resources Account under SB 90.~~
- ~~f. The energy must **NOT** be excluded from any applicable competitive transition charge payments (such as over-the-fence transactions<sup>11</sup>) or sold in a manner avoiding these payments.~~
- ~~g. The energy must **NOT** receive funding under the Agricultural Biomass-to-Energy Incentive Grant Program pursuant to Food and Agriculture Code sections 1101, et sequentia.~~

In addition, ~~to Form CEC-1038E-2, all Renewable Supplier applicants~~ applying for funding must submit a completed State of California Vendor Data Record (STD-204). The ~~s~~State of California requires all parties entering into business transactions that may lead to payment(s) from the state to provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646, and 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. In addition, corporate and limited liability entities must be in good standing on the records of the California Secretary of State to receive payments. The Energy Commission will check an applicant's Renewable Supplier's standing with the Secretary of State when reviewing applications for funding eligibility and notify the Renewable Supplier applicant if there are any problems.

~~In addition, all All applicants suppliers~~ applying for funding must also submit a completed ~~CEC-1038E-4~~CEC-1250E-3 form, Authorized Signature Form. Only monthly invoices signed by persons listed on this form shall be accepted.

All forms necessary to apply for registration and funding are available in Section IXVII of this guidebook, on the Energy Commission website, or by contacting the Energy Commission's Call Center.

Website: <http://www.energy.ca.gov/renewables/>

Call Center E-mail: [Renewable@energy.state.ca.us](mailto:Renewable@energy.state.ca.us)

Call Center Phone: (800) 555-7794

Completed original forms **must** be mailed to:

<sup>11</sup> See Section 372 of the Public Utilities Code.

California Energy Commission  
Attn: ~~Tony Goncalves~~ Jason Orta  
Renewable Energy Program  
California Energy Commission  
1516 Ninth Street, MS-45  
Sacramento, CA 95814-5512

Applicants may submit their forms by telefax to meet a submittal deadline, provided the original forms are subsequently submitted by mail. Forms should be telefaxed to (916)-~~653-8251~~653-2543. See Section IXVII of this gGuidebook for instructions on completing forms.

~~A facility's qualifying generation becomes eligible for funds after the date the Energy Commission receives its completed forms, provided the Energy Commission determines the facility is eligible to receive funding. Pre-registration generation is not eligible, with one exception. The Energy Commission cannot register facilities or determine funding eligibility until after it formally adopts this guidebook. Therefore, for January 2002 through February 2003 ONLY, a facility's generation will be eligible for funding as long as the Energy Commission receives the facility's eligibility forms by close of business (5 p.m.) on March 10, 2003.~~

~~After March 10, 2003 this point, applicants wishing to register and be eligible for funding must have their forms to the Energy Commission no later than close of business (5 p.m.) on the first business day of the month if they are to be eligible to receive incentive payments for that month's generation. Applicants submitting forms after this time will not be eligible for funds until the following month.~~

### **C. Supplemental Funding Eligibility Requirements for Biomass Facilities**

Biomass facilities applying for funding will be required to sign an annual attestation by January 30<sup>th</sup> of each year certifying to the satisfaction of the Energy Commission that the fuel that will be used in the upcoming year is limited to the following:

- Agricultural crops and agricultural wastes and residues.
- Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.
- Wood and wood wastes that meet all of the following requirements:
  - Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code).

~~—Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.~~

~~iv. Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture and the Department of Forestry and Fire Protection, unless approved by these agencies.~~

~~If an applicant is ineligible for funding when it applies for Renewable Supplier registration, it should apply for funding eligibility at the beginning of the month that the facility becomes eligible. For example, a Renewable Supplier should apply for funding eligibility on or before June 1, 2003, if its fixed price contract with an energy price above the applicable target price ends on June 15, 2003, as it will become eligible for funding on this date. In this example, only the qualifying portion of energy generated in June 2003 would be eligible for funding.~~

## **CB. Processing Registration and Eligibility Forms**

~~The Energy Commission expects to review and process applications for registration and funding eligibility within 4030 business days of their receipt, unless questions or concerns arise regarding the applications. If questions arise, the applicant will be contacted and may be asked to submit additional information. Otherwise, the Energy Commission will notify applicants in writing once registration and funding eligibility is determined.~~

~~If an application for registration is approved, the facility will be issued a certificate from the Energy Commission stating the facility is a registered Renewable Supplier, along with a five-digit supplier number to be used in all subsequent transactions. If a facility's application for funding eligibility is approved, the registered Renewable Supplier facility will be issued a five-digit supplier number and will be informed in writing of eligibility status and funding award determination. Facilities that have been previously issued a CEC ID number under the ERFP should continue to use the same number, and include the number on their application. Applicants that are eligible for funding will receive a Funding Award Notice for the current calendar year. In prior versions of this *Guidebook*, applicants were assigned a five-digit supplier number. Instead of using the five-digit supplier number, please use the RPS Certification # assigned to that facility for identification purposes. along with a certificate stating that it is eligible to receive funds from the ERFP along with. All funding eligibility certificates previously issued under SB 90 provisions in accordance with prior versions of this *Guidebook* become null and void on the date this *gGuidebook* is formally adopted by the Energy Commission. Facilities that are eligible for funding from the ERFP will be issued a new funding eligibility certificate.~~

## DC. -Updating Registration and Eligibility Forms

All applicants will be required to resubmit the application form (CEC-1250E-1) and to complete the Biomass Fuel and Fossil Fuel Usage Report for Biomass Facilities form (CEC-1250E-4) by January 31<sup>st</sup> of each year. The Energy Commission will re-evaluate each application and make a determination of eligibility and funding for the calendar year. Eligible applicants that are approved for funding will be issued a new Funding Award Notice.

When changes occur during a calendar year that may affect a facility's eligibility, the facility All program participants must submit new forms identifying changes if any of to the information submitted on their original registration, funding eligibility application, Vendor Data Record, or authorized signature form changes.- Any new-revised forms submitted should be noted as amendments to the original application forms.- From time to time, the Energy Commission may require facilities to submit revised forms to ensure all data are current.

## **V - Incentive Payment Process**

### **A. Monthly Invoices**

To receive funding, an authorized representative of the Renewable Supplier eligible facility must submit monthly invoices to document the facility's eligible generation along with a written third-party verification of the eligible electricity generated. The Energy Commission ~~then~~ reviews these invoices and makes incentive payments based on the eligible generation and the applicable production incentive rate. See Section VII-IX of this Guidebook for the monthly invoice form (~~CEC-1038E-3~~ CEC-1250E-2) and instructions for completing this form.

A written statement from an independent third party verifying the facility's electricity production data for the billing month must accompany the facility's invoices. The third party must be independent of the facility and gather data on the amount of electricity production supplied by the facility to the transmission grid or distribution system each month ~~on a monthly basis~~. This may be a utility, the Independent System Operator created pursuant to Section 330 of the Public Utilities Code, an aggregator, a scheduling coordinator, or other similar entity.

Facilities ~~Renewable Suppliers~~ that do not use a IOU utility statement as their third-party verification must include a signed letter from an independent third party verifying the facility's generation. This letter must be submitted to the Energy Commission by the facility ~~Renewable Supplier~~, be on the third-party's letterhead, and include at a minimum: facility name, facility CEC ID number, generation month, and total generation for the month. If the independent third party's statement is **NOT received** in time to submit it

with the facility's invoice, the ~~facility Renewable Supplier~~ is expected to submit its monthly invoice with other evidence of the amount of eligible power generated during the billing month. A letter explaining that the third party's statement could not be submitted and describing the evidence submitted in its place must also be submitted with the invoice.

The Energy Commission will evaluate monthly invoices submitted without third party verification on a case-by-case basis and notify the ~~facility Renewable Supplier~~ whether the amount claimed in the invoice, or any part of it, will be accepted and paid. The Energy Commission may elect to pay only that portion of the amount invoiced ~~that~~ which 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. The third party statement **must** be subsequently furnished to the Energy Commission when available, so payment adjustments can be made for any differences in the estimated eligible generation and actual eligible generation. All monthly invoices and third party statements submitted to the Energy Commission become public records and are subject to public disclosure.

Invoices shall be submitted to the Energy Commission by the due dates shown in Table 2, Invoicing Schedule.

Invoices may be **submitted by telefax or by mail** to the following address:

California Energy Commission  
Renewable Energy Program  
Attention: Accounting Office, MS-2  
1516 Ninth Street  
Sacramento, CA 95814-5512

~~Tele~~Fax: (916) 653-1435

The Energy Commission must receive invoices at the above address no later than 11:59 p.m. if by telefax or 5 p.m. PST if by mail; on the due date specified in the Invoicing Schedule. If an invoice is incomplete, illegible, or received after the due date specified in the Invoicing Schedule, the ~~Renewable facility Supplier~~ will be notified by fax why the invoice is rejected. This notice will be faxed to the contact person identified on the eligibility form or monthly invoice form. The ~~facility Renewable Supplier~~ is responsible for ensuring that the contact information is ~~up-to-date~~ and current.

Facilities that ~~Renewable Suppliers~~ who fail to invoice the Energy Commission properly for a given billing month, as specified herein, shall **NOT** receive payment for that billing month.

After receiving invoices, the Energy Commission will calculate payments based on the incentive rate formulas and market price options described in Section III of this gGuidebook.

The ERF will not provide incentive payments to a facility with energy prices above the applicable target price. The authorized representative of an Renewable Supplier eligible facility is responsible for providing the Energy Commission with sufficient proof to document the prices received for generation funded through the ERF. Failure to provide adequate documentation shall result in **NO** incentive payments being made until such time as appropriate documentation is provided.

The Energy Commission will not require disclosure of the actual energy prices received for any month in which a facility does not seek ERF funding. For facilities receiving payments under SRAC, a utility statement (which should be submitted as third-party verification) shall be sufficient to meet this requirement.

## **~~A. Agricultural Biomass-to-Energy Incentive Grant Program Participants~~**

~~For facilities that received Agricultural Biomass-to-Energy Incentive Grant Program funding (Agricultural Grant Program) for January through June 2002 purchases, the following method will be used to determine incentive payments from the ERF:~~

- ~~1. All facilities that participated in the Agricultural Grant Program and are requesting ERF funds for January through June 2002 shall submit proof of the total incentive funds received for eligible purchases from the Agricultural Grant Program during the 2001/2002 fiscal year.~~
- ~~2. When submitting monthly invoices to the ERF for the months of January through June 2002, participants in the Agricultural Grant Program shall submit proof of monthly payments from the Agricultural Grant Program for the months being invoiced. Absent the appropriate proof of monthly payments, the Energy Commission shall assume that, for each month being invoiced, the facility received 1/12<sup>th</sup> of the total funds received for the 2001/2002 fiscal year from the Agricultural Grant Program.~~
- ~~3. The Energy Commission shall calculate incentive payments from the ERF as described in this guidebook and then subtract the value obtained in (2) above from this value. If no payments are made from the ERF for a given month, the facility simply keeps the value determined in (2) above.~~

## **B. Payments**

The Energy Commission intends to make incentive payments within 60 days of the end of the billing month. Table 2, Invoicing Schedule, lists invoice due dates and anticipated payment mailing dates. The It is anticipated that payment for your January and February 2007 January 2003 generation along with the retroactive payments for January through December 2002, should will be mailed to you on or about April 30, 2007. However, given the initial review that is required, and the determination of facility

specific target prices, this initial payment may be delayed. March 31, 2003. However, given the large number of invoices that will need to be reviewed, payment for 2002 and/or January 2003 generation may be delayed. Payment for your February 2003 generation should be mailed on or about April 30, 2003, and so on. The Energy Commission will send a statement that explains how the payment was calculated for the billing month. The statement will also give the program-to-date status both for the year facility and for the entire tier of which you are a part ERFP. A sample statement for January 2007/2003, using the numbers in the sample below, is included at the end of this gGuidebook. [Sample statement will be included with the final adopted guidebook only.]

### **C. Withholding Payments**

Periodically, the Energy Commission may adjust the make adjustments to your monthly payment (for instance, it may be necessary to correct a meter reading or reporting error from prior months). These adjustments will be reflected on your the monthly statement.

As discussed in Section III, facilities that use more than five percent fossil fuel on a total energy input basis annually will have their eligible generation reduced by the corresponding percentage of fossil fuel use. To address any overpayments as a result of excess fossil fuel usage, the Energy Commission will withhold payments for at least the final two billing months of each year (November and December). Payments for these months will be made once the Energy Commission has reviewed a facility's annual report on fuel usage and confirmed compliance with the five percent fossil fuel limitation or made adjustments to the facility's eligible generation based on excessive fossil fuel usage. The Energy Commission reserves the right to withhold payments for additional billing months if necessary to address a facility's excess fossil fuel usage. If the amount of the withheld payments is insufficient to address any overpayments, the facility shall reimburse the ERFP as specified by the Energy Commission in writing.

Applicants are required to provide fossil fuel and biomass fuel usage for the previous calendar year in the Biomass Fuel and Fossil Fuel Usage Report for Biomass Facilities (CEC-1250E-4), which is due by January 31<sup>st</sup> of each calendar year. Additionally, applicants shall include an attestation from the facility's fuel supplier(s) stating that the biomass fuel delivered to the facility for the previous year meets the applicable statutory requirements. The attestations for the fuel suppliers shall be submitted annual with form CEC-1250E-4, starting in 2008 for the 2007 calendar year. Applicants must keep specific records regarding the type and quantity of the biomass fuels used (for example the type of biomass purchased, the tons of biomass purchased, the supplier purchased from, and the location of the fuel's origin). The Energy Commission reserves the right to request specific documentation for auditing purposes.

If an applicant does not intend to reapply for funding eligibility, the applicant must still submit information on the fossil fuel usage by the facility for the previous year in order to receive payments for the final two billing months of the previous year.

**Table 2**  
**Invoicing Schedule**

<b><u>Billing Month</u></b>	<b><u>Invoice Due Date*</u></b>	<b><u>Anticipated Payment Date</u></b>
<u>January and February 2007</u>	<u>April 10, 2007</u>	<u>April 30, 2007</u>
<u>March 2007</u>	<u>May 10, 2007</u>	<u>May 31, 2007</u>
<u>April 2007</u>	<u>June 11, 2007</u>	<u>July 2, 2007</u>
<u>May 2007</u>	<u>July 10, 2007</u>	<u>July 31, 2007</u>
<u>June 2007</u>	<u>August 10, 2007</u>	<u>August 31, 2007</u>
<u>July 2007</u>	<u>September 10, 2007</u>	<u>October 1, 2007</u>
<u>August 2007</u>	<u>October 10, 2007</u>	<u>October 31, 2007</u>
<u>September 2007</u>	<u>November 13, 2007</u>	<u>November 30, 2007</u>
<u>October 2007</u>	<u>December 10, 2007</u>	<u>December 31, 2007</u>
<u>November 2007</u>	<u>January 10, 2008</u>	<u>January 31, 2008 **</u>
<u>December 2007</u>	<u>February 11, 2008</u>	<u>February 29, 2008 **</u>
<u>January 2008</u>	<u>March 10, 2008</u>	<u>March 31, 2008</u>
<u>February 2008</u>	<u>April 10, 2008</u>	<u>April 30, 2008</u>
<u>March 2008</u>	<u>May 12, 2008</u>	<u>June 2, 2008</u>
<u>April 2008</u>	<u>June 10, 2008</u>	<u>June 30, 2008</u>
<u>May 2008</u>	<u>July 10, 2008</u>	<u>July 31, 2008</u>
<u>June 2008</u>	<u>August 11, 2008</u>	<u>September 1, 2008</u>
<u>July 2008</u>	<u>September 10, 2008</u>	<u>September 30, 2008</u>
<u>August 2008</u>	<u>October 10, 2008</u>	<u>October 31, 2008</u>
<u>September 2008</u>	<u>November 10, 2008</u>	<u>December 1, 2008</u>
<u>October 2008</u>	<u>December 10, 2008</u>	<u>December 31, 2008</u>
<u>November 2008</u>	<u>January 12, 2009</u>	<u>February 2, 2009 **</u>
<u>December 2008</u>	<u>February 10, 2009</u>	<u>March 2, 2009 **</u>
<u>January 2009</u>	<u>March 10, 2009</u>	<u>March 31, 2009</u>
<u>February 2009</u>	<u>April 10, 2009</u>	<u>April 30, 2009</u>
<u>March 2009</u>	<u>May 11, 2009</u>	<u>May 30, 2009</u>
<u>April 2009</u>	<u>June 10, 2009</u>	<u>June 30, 2009</u>
<u>May 2009</u>	<u>July 10, 2009</u>	<u>July 31, 2009</u>
<u>June 2009</u>	<u>August 10, 2009</u>	<u>August 31, 2009</u>
<u>July 2009</u>	<u>September 10, 2009</u>	<u>September 30, 2009</u>
<u>August 2009</u>	<u>October 13, 2009</u>	<u>November 2, 2009</u>
<u>September 2009</u>	<u>November 10, 2009</u>	<u>November 30, 2009</u>
<u>October 2009</u>	<u>December 10, 2009</u>	<u>December 31, 2009</u>
<u>November 2009</u>	<u>January 11, 2010</u>	<u>February 1, 2010 **</u>
<u>December 2009</u>	<u>February 10, 2010</u>	<u>March 1, 2010 **</u>
<u>January 2010</u>	<u>March 10, 2010</u>	<u>March 31, 2010</u>
<u>February 2010</u>	<u>April 12, 2010</u>	<u>April 30, 2010</u>
<u>March 2010</u>	<u>May 10, 2010</u>	<u>May 31, 2010</u>
<u>April 2010</u>	<u>June 10, 2010</u>	<u>June 30, 2010</u>
<u>May 2010</u>	<u>July 12, 2010</u>	<u>August 2, 2010</u>
<u>June 2010</u>	<u>August 10, 2010</u>	<u>August 31, 2010</u>
<u>July 2010</u>	<u>September 10, 2010</u>	<u>September 30, 2010</u>
<u>August 2010</u>	<u>October 11, 2010</u>	<u>November 1, 2010</u>
<u>September 2010</u>	<u>November 10, 2010</u>	<u>November 30, 2010</u>
<u>October 2010</u>	<u>December 10, 2010</u>	<u>December 31, 2010</u>
<u>November 2010</u>	<u>January 10, 2011</u>	<u>January 31, 2011 **</u>
<u>December 2010</u>	<u>February 10, 2011</u>	<u>February 28, 2011 **</u>
<u>January 2011</u>	<u>March 10, 2011</u>	<u>March 31, 2011</u>

<u>February 2011</u>	<u>April 11, 2011</u>	<u>May 2, 2011</u>
<u>March 2011</u>	<u>May 10, 2011</u>	<u>May 31, 2011</u>
<u>April 2011</u>	<u>June 10, 2011</u>	<u>June 30, 2011</u>
<u>May 2011</u>	<u>July 11, 2011</u>	<u>August 1, 2011</u>
<u>June 2011</u>	<u>August 10, 2011</u>	<u>August 31, 2011</u>
<u>July 2011</u>	<u>September 12, 2011</u>	<u>September 30, 2011</u>
<u>August 2011</u>	<u>October 10, 2011</u>	<u>October 31, 2011</u>
<u>September 2011</u>	<u>November 10, 2011</u>	<u>November 30, 2011</u>
<u>October 2011</u>	<u>December 12, 2011</u>	<u>January 10, 2012</u>
<u>November 2011</u>	<u>January 10, 2012</u>	<u>January 31, 2012 **</u>
<u>December 2011</u>	<u>February 10, 2012</u>	<u>February 29, 2012 **</u>

\* Invoices are due approximately 40 days after the billing month. If the invoice due date falls on a weekend or State of California Holiday, invoices are due on the next business day.

\*\* Payments may be withheld and/or delayed to address overpayments associated with a facility's excess fossil fuel usage.

### ***Sample Calculation of Incentive Payment***

Below is an example of how the incentive payment would be calculated for a Tier 1 facility in PG&E's service territory for January 2003 based on an average monthly energy price. In the example, any numbers used other than target prices and caps are for illustration only and should not be considered accurate representations of market price, expected available funds, individual renewable facility generation, or total renewable generation.

Tier 1 funds available for January 2003	\$1,687,500
Target price for Tier 1	5.37 cents/kWh
Cap for Tier 1	1.00 cents/kWh
Market Price (PG&E's SRAC)	2.90 cents/kWh
Total qualifying generation in Tier 1	300,000,000 kWhs
Facility generation for January 2003	15,000,000 kWhs
Tier 1 funds to be paid using minimum of — (Target - Market Price) and Cap	\$1,875,000
Adjustment Fund Multiplier (AFM)	0.90 (\$1,687,500/\$1,875,000)

Using these numbers to calculate the three payment formulas, the results would be:

1) Tier 1 target price - market price	2.47 cents/kWh
2) Tier 1 Cap	1.0 cents/kWh
4.3) Minimum of 1) and 2) (from above)	
— multiplied by the AFM	0.9 cents/kWh

In this example, the lowest of the three formulas would be number 3; therefore, for January 2003, the Tier 1 facility would receive 0.9 cents per kilowatt-hour, or \$135,000.

## **VI – Annual Reporting Requirements for Biomass Facilities**

~~Biomass facilities that receive funding from the ERFPP are required to annually report to the Energy Commission the types and quantities (tonnage) of biomass fuels used to generate electricity at the facility. Additionally, facilities under these reporting requirements should Tspecific documentation for auditing purposes although it is not required with form.~~

Biomass facilities that receive funding from the ERFPP are required to annually report to the Energy Commission the types and quantities (tonnage) of biomass fuels used to generate electricity at the facility. The Energy Commission will also report the types and quantities of fuels used by each facility per year annually in the Renewable Resource Trust Fund's Annual Report to the Legislature. To meet the mandated deadlines for the Annual Report, all facilities eligible for funding must resubmit an update of form CEC-1250E-4 by August 15<sup>th</sup> of each year. The fossil fuel section of this form does not need to be filled out for the mid-year update. To maintain consistency between the generation and incentive payment information reported in the Annual Report and the fuel usage information, the submittals due on August 15<sup>th</sup> of each year shall provide biomass fuel usage from May of the previous year through April of the current year. As an example, the submittal due August 15, 2008, will cover fuel usage from May 1, 2007, through April 30, 2008. (Payment for April generation is made in June, and the Annual Report is done on a fiscal year basis.)

## **VII – Prevailing Wage Requirements**~~Future Program Requirements~~

### **A. Facility Monitoring**

~~The Energy Commission intends to review individual facility generation to ensure that the overall purpose and objectives of the program are being met. In instances where a decline in generation occurs, the Energy Commission may conduct a more thorough investigation of the facilities in question to determine the causes of the degradation in production and uses of ERFPP funds. The Energy Commission may revise program elements if continued funding in these cases seems inconsistent with program goals.~~

### **B. Prevailing Wage Requirements**

Facility owners that receive production incentives under the ERFPP must comply with the state prevailing wage law in accordance with Public Utilities Code Section 399.14, subdivision (h), which provides as follows:

Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Sections 25742 and 25743 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives or supplemental energy payments is "public works" for the purposes of

Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

As a result of Section 399.14, subdivision (h), any construction, alteration, demolition, installation, and/or repair work performed on an eligible renewable energy resource that receives ERFPP production incentives is deemed to be “public works” and is subject to the state prevailing wage law with respect to any such work performed on the facility. Generally, this means that, the facility must comply with California Labor Code section 1771 by paying prevailing wage for such work done on such facilities and also must fulfill the reporting and apprenticeship requirements set forth in California Labor Code sections 1776 and 1777.5.

Section 399.14, subdivision (h), addresses the following types of work:

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

Work of this type is made subject to the state prevailing wage law by 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).*

Under DIR Determination *Re: Maintenance, Renewable Energy Resources, Public Work Case 2002-043 (November 12, 2003)*, a facility owner is not subject to the state prevailing wage law with respect to maintenance work that is performed on the facility. Under this DIR Determination, 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 required to pay prevailing wage.

A facility owner who contracts for work covered by the prevailing wage law is the agent awarding the contract for the public work, and therefore is the “awarding body” as defined in California Labor Code section 1722. This means that 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 requirements to pay prevailing wage under 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 flow down provisions.

5. Posting the applicable prevailing wage information at each job site of the project.
6. Ensuring payment 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, California Code of Regulations, Title 8, Chapter 8, Subchapter 3, commencing with Section 16000.

Facility owners must comply with the state prevailing wage law as a condition of receiving ERFP funding and any production incentives under the ERFP. All ERFP Funding Award Notices 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 flow down provisions in all agreements with contractors and subcontractors for the performance of work on the facility that are subject to the prevailing wage law. In addition, upon completion of any work subject to the state prevailing wage law pursuant to Public Utilities Code section 399.14, subdivision (h), the facility owner and all involved contractors and subcontractors 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 work. 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.

DIR oversees prevailing wage issues, including coverage determinations, enforcement, record keeping, and apprenticeship requirements. The Energy Commission recommends that questions concerning prevailing wage requirements generally, or as they may apply to facilities requesting SEPs, be directed to DIR. Contact information for DIR may be found at [www.dir.ca.gov](http://www.dir.ca.gov).

Pursuant to Public Utilities section 399.14, subdivision (h), the Energy Commission is working with the Department of Industrial Relations to clarify the application of the State's prevailing wage law to Renewable Suppliers receiving production incentives under the ERFP. Section 399.14(h) provides as follows:

Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to [Public Utilities Code] Section 383.5, including, but not limited to, work performed to qualify, receive, or maintain production incentives or supplemental energy payments is a "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

~~In general, any construction or repair work defined as “public work” under Labor Code section 1720, is subject to state’s prevailing wage law, which imposes an obligation on private contractors to pay prevailing wages and obligation on award bodies to ensure prevailing wages are paid. If the Department of Industrial Relations determines that Renewable Supplier’s are subject to the prevailing wage law by virtue of their receipt of ERFPP production incentives, the Energy Commission will implement program changes to ensure prevailing wage requirements are addressed.~~

## **VIII - Definitions**

For definitions of pertinent terms refer to the *Overall Program Guidebook* for the Renewable Energy Program.

**Table 2  
Invoicing Schedule**

<b>Billing Month</b>	<b>Invoice Due Date*</b>	<b>Anticipated Payment Date</b>
January through December 2002	March 10, 2003	March 31, 2003
January 2003	March 10, 2003	March 31, 2003
February 2003	April 10, 2003	April 30, 2003
March 2003	May 12, 2003	June 2, 2003
April 2003	June 10, 2003	June 30, 2003
May 2003	July 10, 2003	July 31, 2003
June 2003	August 11, 2003	September 1, 2003
July 2003	September 10, 2003	September 30, 2003
August 2003	October 10, 2003	October 31, 2003
September 2003	November 10, 2003	December 1, 2003
October 2003	December 10, 2003	December 31, 2003
November 2003	January 12, 2004	February 2, 2004
December 2003	February 10, 2004	March 1, 2004
January 2004	March 10, 2004	March 31, 2004
February 2004	April 12, 2004	April 30, 2004
March 2004	May 10, 2004	June 1, 2004
April 2004	June 10, 2004	June 30, 2004
May 2004	July 12, 2004	August 2, 2004
June 2004	August 10, 2004	August 31, 2004
July 2004	September 10, 2004	September 30, 2004
August 2004	October 11, 2004	November 1, 2004
September 2004	November 10, 2004	November 30, 2004
October 2004	December 10, 2004	December 31, 2005
November 2004	January 10, 2005	January 31, 2005
December 2004	February 10, 2005	February 28 2005
January 2005	March 10, 2005	March 31, 2005
February 2005	April 11, 2005	May 2, 2005
March 2005	May 10, 2005	May 31, 2005
April 2005	June 10, 2005	June 30, 2005
May 2005	July 11, 2005	August 1, 2005
June 2005	August 10, 2005	August 31, 2005
July 2005	September 12, 2005	September 30, 2005
August 2005	October 10, 2005	October 31, 2005
September 2005	November 10, 2005	November 30, 2005
October 2005	December 12, 2005	January 2, 2006
November 2005	January 10, 2006	January 31, 2006
December 2005	February 10, 2006	February 28, 2006
January 2006	March 10, 2006	March 31, 2006
February 2006	April 10, 2006	May 1, 2006
March 2006	May 10, 2006	May 31, 2006
April 2006	June 12, 2006	June 30, 2006
May 2006	July 10, 2006	July 31, 2006
June 2006	August 10, 2006	August 31, 2006
July 2006	September 11, 2006	October 2, 2006
August 2006	October 10, 2006	October 31, 2006
September 2006	November 10, 2006	November 30, 2006
October 2006	December 11, 2006	January 1, 2007
November 2006	January 10, 2007	January 31, 2007
December 2006	February 12, 2007	February 28, 2007

\* Invoices are due approximately 40 days after the billing month. If the invoice due date falls on a weekend or State of California Holiday, invoices are due on the next business day.

## **VIII-IX - Forms, Instructions, and Samples**

(Forms presented in this Guidebook are in draft form and provided to illustrate the information that will be requested. Forms may be reformatted prior to being to release of the final adoption version of this guidebook).

~~CEC-1038~~CEC-1250E -1 -- Application for Funding Eligibility Registration Form for Renewable Suppliers

~~CEC-1038E -2~~ -- Funding Eligibility Form for Renewable Suppliers

~~CEC-1038~~CEC-1250E -23 -- Monthly Invoice Form for Renewable Suppliers

~~CEC-1038~~CEC-1250E -34 – Authorized Signatures Form

CEC-1250E -4 – Biomass Fuels and Fossil Fuels Usage Report for Biomass Facilities

STD-204 -- Vendor Data Record

Sample Funding Award Notice

Sample of Monthly Payment Statement

## **~~Instructions for CEC-1250E-1/CEC-1038E-1 Registration Form for Renewable Suppliers~~**

~~To qualify for registration as a Renewable Supplier, the facility must use one (or more) of the following energy sources to generate electricity: solar, wind, geothermal, solid-fuel biomass, waste tire, municipal solid waste, digester gas, or hydropower with a generating capacity of 30 megawatts or less. The facility can not use more than 25 percent fossil fuel. The facility may be located in California or out-of-state. Being registered as a Renewable Supplier does not automatically make you eligible for funds from the ERF; to be eligible for funding, you must meet the eligibility requirements outlined in the guidebook. Furthermore, registration as a Renewable Supplier does **NOT** imply Energy Commission endorsement or verification of renewable status. Registration as a Renewable Supplier merely indicates that the applicant has certified under penalty of perjury that its facility meets the registration requirements of a Renewable Supplier and has obtained a CEC ID number from the Energy Commission. Following are specific instructions on filling out each section of CEC-1038E-1:~~

- ~~1. **Name of Facility** -- Current full name of the generating facility.~~
- ~~2. **QFID Number** -- The ID number assigned by your utility. This is sometimes also called the log number~~
- ~~3. **Physical Address of Facility** -- Actual physical location of the generating facility and the telephone and telefax numbers for the facility~~
- ~~4. **Contact Person** -- Name, title, telephone/telefax number, and email address of contact person for questions or concerns the Energy Commission may have~~
- ~~5. **Facility Owner** -- Name, address, and telephone and telefax numbers of the business or company that owns the facility~~
- ~~6. **Energy Source** -- Energy source used for generation at the facility~~
- ~~7. **Capacity of Facility** -- The sum capacity, in kilowatts, of all electrical generating equipment employed at the facility~~
- ~~8. **Operational Date** -- Date the facility began generating electricity~~
- ~~9. **Percentage of Fossil Fuel Used (if applicable)** -- Please indicate the overall percentage of fossil fuels used (if any) on a total energy input basis for the calendar year immediately prior to the date of application; if none, enter N/A~~
- ~~10. **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~~

**E**



**Please submit form to:  
California Energy Commission  
Renewable Energy Program  
1516 Ninth Street, MS-45  
Sacramento, CA 95814-5512**

**Please print or type.  
Instructions for completing this form  
are contained in the Existing Renewable  
Facilities Guidebook.**

1. Name of Facility		2. QFID Number	
3. Physical Address of Facility			Telephone
City	State	Zip	Telefax
4. Contact Person		Title	
Telephone	Telefax	E-mail Address	
5. Facility Owner		Title	
Address			Telephone
			Telefax
City	State	Zip	
6. Energy Source (check all that apply)			
<input type="checkbox"/> Biomass	<input type="checkbox"/> Solar Thermal	<input type="checkbox"/> Wind	<input type="checkbox"/> Geothermal
<input type="checkbox"/> Digester Gas	<input type="checkbox"/> Landfill Gas	<input type="checkbox"/> Municipal Solid Waste	<input type="checkbox"/> Small Hydro
<input type="checkbox"/> Photovoltaic	<input type="checkbox"/> Waste Tire		
<input type="checkbox"/> Other (specify) _____			
7. Capacity of Facility (in kW)	8. Operational Date	9. % of Fossil Fuel used (if applicable)	

I, (print name and title) \_\_\_\_\_,  
as an authorized officer of the above noted facility owner hereby declare under the penalty of perjury that the information provided in this form is true and correct to the best of my knowledge.

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

Signature: \_\_\_\_\_

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

**Instructions for ~~CEC-1250E-1~~~~CEC-1038E-2~~**  
**Application for ERFPP Funding Eligibility ~~Funding Eligibility Form~~**  
**for Renewable Suppliers**

If a facility meets the eligibility requirements described in the Guidebook for Existing Renewable Facilities Program, it may apply for funding using ~~CEC-4038E-1250E-12~~. A vendor data record (STD-204) and authorized signatures form (~~CEC-4038E-1250E-34~~) must be submitted with the ~~CEC-1250-1038E-12~~ in order to receive funding. Following are specific instructions for completing each section of ~~CEC-4038~~1250E-12:

If this form does not provide enough space for the answers of certain questions, please use a separate sheet and include that sheet with this form.

Please select whether you are submitting an original application or submitting amendments to a previous application.

Select Original Application if you have never registered for funding eligibility for the facility in question. All items in the form must be completed or the application will not be accepted.

Select Amendment if you are changing information previously submitted to the Energy Commission (must have a CEC ID # previously assigned). Fill out the required information section, and any other information that has changed from previous filings. However, when the Energy Commission requires that all facilities update their information (requirement to receive ERFPP funds starting January 2002), all items in the form must be completed.

1. **CEC ID Number** – The ID number assigned to the facility by the Energy Commission when the facility registered as a Renewable Supplier (1998 – 2006), or the ID number assigned by the Energy Commission if the facility first applied for funding from the ERFPP after January 1, 2007. ~~The Registered Renewable Supplier ID number assigned to the facility by the Energy Commission~~ (first time applicants leave this blank; this number will be assigned by the Energy Commission if you application is approved).
2. **Name of Facility** – Current full name of the generating facility.
3. **QFID Number** – The ID number assigned by your utility. This is sometimes also called the log number.
4. **RPS Certification Number** – The ID number assigned to your facility by the California Energy Commission when it was certified for RPS eligibility.
- 4.5. **Contact Person** – Name, title, telephone/telefax number, and email address of contact person for questions or concerns the Energy Commission may have.
4. **Physical Address of Facility** – ~~Actual physical location of the generating facility and the telephone and telefax numbers for the facility.~~

6. **Facility Owner** – Name, address, and telephone and telefax numbers of the business or company that owns the facility.
7. **Payee Name** – Name and address to which payments are to be sent.
8. **Qualifying Facility Status** – Indicate whether the facility is certified as a Qualifying Facility pursuant to Section 292.207 of Title 18 of the Code of Federal Regulations.
9. **Facility Ownership** – Indicate whether the facility is now, or has been in the past, owned by an investor-owned utility, or a local publicly owned electric utility.
10. **Self-generation** – Indicate if **all** of energy generated at this facility is used exclusively on site (self-generation).
11. **CTC Exclusion** – Indicate if **all** of the energy generated at this facility is excluded from any applicable competitive transition charge (such as an over-the-fence transaction).
12. **Energy Sold to Out-of-State Customers** – Indicate if all of the energy generated at this facility is sold to customers located outside of California.
13. **Energy Sold to Local Publicly-Owned Electric Utility Customers** -- Indicate if all of the energy generated at this facility is sold to customers of a local publicly-owned electric utility.
14. **First Month's Generation** -- Indicate the month and year for the first month's generation for which you intend to submit an invoice to the Energy Commission.
15. **Third-Party Billing Statement** – Include a copy of the most recent utility (or other independent third-party metering entity) billing statements (please include the entire statement).
16. **Type of Energy Contract** – Select whether you have a contract with an IOU, CA Department of Water Resources/California Power Authority, or other entity. Within each category please make the appropriate selections to further specify the type of contract the facility has.
17. **Energy Source** – Energy source used for generation at the facility.
18. **Capacity** – The sum capacity, in kilowatts, of all electrical generating equipment employed at the facility.
19. **Operational Date** – Date the facility began generating electricity.
- ~~19. **Percentage of Fossil Fuel Used (if applicable)** – Please indicate the overall percentage of fossil fuels used (if any) on a total energy input basis for the 1996 calendar year; if none, enter N/A~~

~~20. **Energy Price** — Select whether you wish to have incentive payments from the ERFPP bases on an average monthly energy price or on time-of-use energy prices. The method selected here will remain in effect until the end of 2006.~~

~~21. **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~~

20. Total funding (in \$) received from California state government sources other than the California Energy Commission since January 1, 1998. Please itemize by program or state source in the rows below.

21. Total funding (in \$) expected from the California Energy Commission's Existing Renewable Facilities Program for generation through December 31, 2011.

22. Total funding (in \$) expected from other state government sources through December 31, 2011. Please itemize by program or state source in the rows below.

23. Total state tax credits received by facility (in \$) since 1998.

24. Total federal tax credits received by facility (in \$) since 1998.

25. Facility's average monthly contract price for energy (in cents/kWh) under current power purchase contract.

26. Facility's average annual capacity price (in cents/kWh) under current power purchase contract.

27. Market value of the facility (in \$). (A facility's market value may be based on the facility's assessed value for property tax purposes. If market value is based on the facility's assessed value for property tax purposes, please indicate whether the assessment is made by the county and/or another local or state government entity. Other calculations for market value may be the facility's net present value of their contract revenue stream, book value, or salvage value. When reporting the facility's market value, please state the basis for this determination.)

28. Estimate of monthly incentive payment needed under the ERFPP (in cents/kwh) for the calendar year in which applicant is applying for funding. Please provide an explanation of how the incentive payments from the ERFPP will allow the facility to become cost-competitive and self-sufficient by December 31, 2011. (Please attach an explanation why this incentive level is needed.)

~~29.~~ 29. An explanation of the public benefits provided by the operation of the facility.

30. For facilities that wish to receive payments based on something other than monthly average energy prices provide an explanation and justification on the need to provide incentives from the ERFPP on a different basis.

31. ~~24.~~ 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.

**E**

# APPLICATION FOR FUNDING ELIGIBILITY EXISTING RENEWABLE FACILITIES PROGRAM



*RENEWABLE  
ENERGY  
PROGRAM*

CALIFORNIA ENERGY COMMISSION

Please submit form to:

**California Energy Commission  
Renewable Energy Program  
1516 Ninth Street, MS-45  
Sacramento, CA 95814-5512**

Please print or type.

Instructions for completing this form are contained in the Existing Renewable Facilities Guidebook.

Please select one below

Original Application (fill out all section of this form to be eligible for funding)

Amendment (fill out the required section completely along with any other sections that require changes)

## SECTION 1 – REQUIRED INFORMATION

1. CEC ID #	2. Name of Facility	3. QF ID #	4. RPS Certification #
5. Contact Person		Title	
Telephone	Fax	E-mail Address	

## SECTION 2 – FACILITY INFORMATION

6. Facility Owner			
Address		Telephone	
		Telefax	
City	State	Zip	
7. Payee Name (30 Characters Maximum, including spaces)			
Payee Address		Telephone	
City	State	Zip	Fax

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

**E**

## APPLICATION FOR FUNDING ELIGIBILITY EXISTING RENEWABLE FACILITIES PROGRAM

### SECTION 3 – ELIGIBILITY INFORMATION

8. Is the facility certified as a Qualifying Facility pursuant to Section 292.207 of Title 18 of the Code of Federal Regulations?

Yes  No

9. Is the facility now, or has the facility previously been, owned by an investor-owned or local publicly owned electric utility?

Yes  No

10. Is the **entire** output from this facility to be used **exclusively** for on-site (self) generation?

Yes  No

11. Is the entire output from this facility excluded from an applicable competitive transition charge?

Yes  No

12. Is the entire output from this facility sold directly to an out-of-state customer?

Yes  No

13. Is the entire output from this facility sold directly to a customer of a local publicly owned electric utility (such as a municipal utility)?

Yes  No

14. What is the first month's generation for which you plan to submit an invoice?

\_\_\_\_\_ Month \_\_\_\_\_ Year

15. Please include a copy of one of your recent billing statements from your utility (or other independent third-party metering entity).

16. Type of Energy Contract (Select one of the following three options)

Investor Owned Utility

Utility

PG&E  SCE  SDG&E  Other (specify): \_\_\_\_\_

Contract Type

SO1  SO2  SO3  ISO4  Negotiated  Other (specify): \_\_\_\_\_

Specify date contract was originally signed - \_\_\_\_\_

Specify date the contract is scheduled to end - \_\_\_\_\_

Is this facility currently receiving energy payments under an amendment to the above contract?

NO (This facility is receiving energy payments under "traditional" SRAC values)

YES (Provide information below)

Average Annual Value (cents/kWh) \_\_\_\_\_ Date Amendment Scheduled to end \_\_\_\_\_

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

<b>E</b>	<b>APPLICATION FOR FUNDING ELIGIBILITY EXISTING RENEWABLE FACILITIES PROGRAM</b>
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**SECTION 3 – ELIGIBILITY INFORMATION (CONT'D)**

Ø OTHER (Specify) _____ Ø Energy paid under a Variable Price Contract Ø Energy paid under a Fixed Price Contract. Specify date contract was originally signed - _____ Specify date the contract is scheduled to end - _____ Energy Price Ø Price _____ cents/ kWh <b>OR</b> Ø The price is provided with the supporting documentation.	
All-in Contracts.	
17. Energy Source (check all that apply)	
Ø Biomass _____ Ø Other (specify) _____	Ø Solar Thermal _____ Ø Wind _____ Ø _____
18. Capacity of Facility (in kW)	19. Operational Date

**FUNDING RECEIVED  
CALIFORNIA STATE SOURCES OTHER THAN THE ENERGY COMMISSION**

20. Total Funding (in \$) Received from other California State Government Sources Since January 1, 1998. Please itemize by program or state source in the rows below.	
21. Total Funding (in \$) Expected from the California Energy Commission's Existing Renewable Facilities Program For Generation Through December 31, 2011.	
22. Total Funding (in \$) Expected from other State Government Sources Through December 31, 2011. Please itemize by program or state source in the rows below.	

**STATE AND FEDERAL TAX CREDITS**

23. Total State Tax Credits Received by Facility (in \$) Since 1998. (Indicate if the facility qualifies for these credits but is unable to take advantage of them and the reason(s) why. Also, please provide supporting documentation listing type of tax credit and amount).	
24. Total Federal Tax Credits Received by Facility (in \$) Since 1998. (Indicate if the facility qualifies for these credits but is unable to take advantage of them and the reason(s) why. Also, please provide supporting documentation listing type of tax credit and amount).	

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



## **Instructions for ~~CEC-1250E-2~~~~CEC-1038E-3~~ Monthly Invoice Report**

All ~~suppliers~~ eligible renewable facilities wishing to receive funding from the California Energy Commission's Existing Renewable Facilities Program are required to submit a signed ~~CEC-1250E-2~~~~CEC-1038E-3~~ on a monthly basis. Failure to submit this form by the specified due dates (see the Existing Renewable Facilities Program Guidebook, Table 2, or the Energy Commission's ~~w~~Web page, [www.energy.ca.gov/renewables/](http://www.energy.ca.gov/renewables/)), ~~will~~ may result in forfeiture of payments for the specified month. Typically, invoices are due by the 10<sup>th</sup> of the second month following the month of generation (i.e. May ~~2007~~~~2003~~ generation is due July 10, ~~2007~~~~2003~~). All invoices must be accompanied by acceptable third-party verification (see guidebook for description of acceptable verification). If the third-party verification is **NOT** available by the invoice due date, you must still submit the invoice by the due date and select the "Estimated Generation" box in ~~s~~Section 6 of the invoice form. You must then follow up with the third-party verification as soon as it is available. Following are specific instructions for completing each section of ~~CEC-1250E-2~~~~CEC-1038E-3~~:

**ADJUSTMENT** – If you are submitting an adjustment to a previous month's generation submittal, check this box next to ~~s~~Section 1.

1. **RPS Certification #** – The ID number assigned to your facility by the California Energy Commission when it was certified for RPS eligibility. ~~CEC ID # – The Registered Renewable Supplier ID number assigned to the facility by the Energy Commission~~
2. **QFID #** – The ID number assigned by your utility. This is sometimes also called the log number.
3. **Facility Name/Owner** – Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name. This information must correspond with the information provided in the RPS Certification application (CEC-RPS-1A or CEC-RPS-2). ~~Registration Form, CEC-1038E-2.~~
4. **Statement Period** – The billing month and year.
5. **Please check one** – Check the appropriate box in this section. If the production in section 5 is substantiated by ~~an accompanying~~accompanying third party verification, select the first box; if you do not have appropriate third-party verification and are submitting an estimated generation amount, check the box labeled "Estimated Generation"; and provide an explanation of why an estimate is being submitted along with the invoice.
6. **Production- (in kWhs)** – Number of kWhs of generation eligible for funding in a given billing month; and based on the statement of an independent third party. Provide only total production if you have opted to receive payments based on average monthly energy prices.

7. **Contact** – The name of the person to contact in the event there is a problem with the invoice submitted.
8. **Phone #** – Phone number of the contact person.
9. **Fax #** – Fax number of the contact person.
10. **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

Invoices shall be submitted to the Energy Commission by the due dates shown in Table 2, Invoicing Schedule.

The Energy Commission must receive invoices no later than 11:59 p.m. if by telefax or 5 p.m. PST if by mail, on the due date specified in the Invoicing Schedule.

**Eligible facility that fail to invoice the Energy Commission properly for a given billing month, as specified herein, shall not receive payment for that billing month.**

**E**

**MONTHLY INVOICE REPORT  
EXISTING RENEWABLE FACILITIES PROGRAM**



Please submit invoice to:

California Energy Commission  
Renewable Energy Program  
Attention: Accounting Office (MS-2)  
1516 Ninth Street, Sacramento, CA 95814-5512  
Telefax: (916) 653-1435

Instructions for completing this form are contained in the Guidebook for the Existing Renewable Facilities Program

Please print or type

1. RPS Certification #:	<input type="checkbox"/> ADJUSTMENT
2. QFID #:	3. Facility Name/Owner:

4. Statement Period:	5. Please check one: <input type="checkbox"/> Based upon attached third-party statement <input type="checkbox"/> Estimated Generation	
6. Production (in kWhs)	On-Peak	Mid-Peak/Partial-Peak
Total Generation	Off-Peak	Super Off-Peak

7. Contact:	8. Phone #:	9. Fax #:
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**10. DECLARATION**

I, (print name and title) \_\_\_\_\_, hereby 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 am an authorized officer of the above named company with authority to submit this invoice on the company's behalf and attest to the matters set forth herein. I further declare under penalty of perjury that I have reviewed the electricity production data included in the attached statement(s), and, to the best of my knowledge, that it does not overstate the amount of electricity production supplied to the transmission grid or distribution system by the above named facility, and that the following statements are true and correct to the best of my knowledge with respect to the energy identified in item 6 of this invoice: (a) the energy was not used for on-site for the facility's own electrical demand (self generation); (b) the energy does not receive monthly average energy payments at a price above the applicable target price for the facility as identified in the facility's Funding Award Notice; (d) the energy does not receive payments from the New Renewable Facilities Program; (e) the energy was not sold directly to a local publicly-owned electric utility customer; and (f) the energy was not sold directly to an out-of-state customer. I further declare under penalty of perjury that prevailing wages were paid for work activities on the facility that were subject to the prevailing wage law and covered by the period of this invoice and that above-named company and all contractors and subcontractors complied with all the prevailing wage law requirements as set forth in the ERFPP Guidebook and the Funding Award Notice for the facility.

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

Signature: \_\_\_\_\_

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

## **Instructions for CEC-1250E-3~~CEC-1038E-4~~ Authorized Signatures Form**

All facilities requesting funding from the Existing Renewable Facilities Program must submit the CEC-1250E-3~~CEC-1038E-4~~ form, Authorized Signature Form. Only monthly invoices signed by persons listed on this form shall be accepted. Any time an authorized signer needs to be added or removed, a revised CEC-1038E-4 needs to be submitted with the Amended Form box checked. Following are specific instructions for completing each section of CEC-1250E-3~~CEC-1038E-4~~:

1. **RPS Certification #** – The ID number assigned to your facility by the California Energy Commission when it was certified for RPS eligibility. ~~CEC ID Number – The Registered Renewable Supplier ID number assigned to the facility by the Energy Commission~~
- 4.2. **Facility Name/Owner** – Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name. This information must correspond with the information provided in the RPS Certification application (CEC-RPS-1A or CEC-RPS-2). ~~Registration Form, CEC-1038E-2.~~
- 5.3. **Contact** – The name of the person to contact in the event there is a problem with the invoice submitted.
- 6.4. **Phone Number** – Phone number of the contact person.
- 7.5. **Fax Number** – Fax number of the contact person.
6. **Authorized Signatures** – Print the names and provide signatures of all persons authorized to sign the Monthly Invoice Reports.
7. **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.

E	<b>AUTHORIZED SIGNATURES FORM EXISTING RENEWABLE FACILITIES PROGRAM</b>
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 <p style="text-align: center;"><i>RENEWABLE ENERGY PROGRAM</i></p> <p style="text-align: center; font-size: 0.8em;">CALIFORNIA ENERGY COMMISSION</p>	<p><b>Please submit form to:</b></p> <p><b>California Energy Commission Renewable Energy Program 1516 Ninth Street (MS-45) Sacramento, CA 95814-5512</b></p>
--	--

Instructions for completing this form are contained in the Guidebook for the Existing Renewable Facilities Program

Please print or type

**AMENDED FORM**

1. RPS Certification #:	2. Facility Name/Owner:
-------------------------	-------------------------

3. Contact:	4. Phone #:	5. Fax #:
-------------	-------------	-----------

**6. Please print the names and provide signatures of all persons authorized to sign the Monthly Invoice Reports. Provide primary signer on the first line.**

Print Name	Signatures
θ ADD _____	_____

<b>7. DECLARATION</b>
-----------------------

I, (print name and title) \_\_\_\_\_, as an officer of the above named facility owner hereby authorize the above named individual to submit monthly invoices on the facility owner's behalf.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_.

(day) (month) (year) (place of execution)

**Signature:**

\_\_\_\_\_

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

**Instructions for CEC-1250E-4**  
**Biomass Fuels and Fossil Fuels Usage Report for Biomass Facilities**

Biomass facilities applying for funding from the ERF are required to complete the section entitled Fossil Fuel Usage and to sign the Declaration by January 30<sup>th</sup> of each year in order to be evaluated for funding for that calendar year. If this report does not provide enough space, please use a separate sheet and include that sheet with the report.

1. **RPS Certification #**– The ID number assigned to your facility by the California Energy Commission when it was certified for RPS eligibility.
2. **Facility Name/Owner** – Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name. This information must correspond with the information provided in the RPS Certification application (CEC-RPS-1A or CEC-RPS-2).Registration Form, CEC-1038E-2.
3. **Contact** – The name of the person to contact in the event there is a problem with the invoice submitted.
4. **Phone Number** – Phone number of the contact person.
5. **Fax Number** – Fax number of the contact person.
6. **Period Covered in this Report**- The time period covering the information submitted in this report.
7. **Type of Fossil Fuel Used**- Please report the type of fossil fuel used by this facility.
8. **Quantity of Fossil Fuel Used**- Please report the volume of fossil fuel used by this facility.
9. **Total Energy Input of Fuel (mmBTU)**- Please report the facility's total fossil fuel usage in (mmBTUs).
10. **Percentage of fossil fuel used by the facility on a total energy input basis during the previous calendar year**- Please report the percent of fossil fuels used.
11. **Do you expect the facility to have fossil fuels comprise less than 5-percent of fuel use on a total energy input basis in the upcoming calendar year?**- Please check "yes" or "no."
12. **Types of Biomass Fuel Used**- Please report the quantity and supplier of the following types of biomass fuel used by this facility during the period covered by this form: a) Agricultural Crops, Waste, Residue, b) Solid Waste Materials, and c) Wood/Wood Waste from State Forests
13. **Quantity of Biomass Fuels Used (in Tons)**- Please report the tonnage of the biomass fuels used.
14. **Total Energy Input of Fuel (mmBTU)**- Please report the facility's biomass fuel usage in (mmBTUs)..
15. **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.

**E****BIOMASS FUEL AND FOSSIL FUEL USAGE REPORT FOR  
BIOMASS FACILITIES**

*RENEWABLE  
ENERGY  
PROGRAM*

CALIFORNIA ENERGY COMMISSION

Please submit form to:

California Energy Commission  
Renewable Energy Program  
1516 Ninth Street (MS-45)  
Sacramento, CA 95814-5512

1. RPS Certification #:

2. Facility Name/Owner:

3. Contact:

4. Phone #:

5. Fax #

6. Calendar Year Covered by this Report:

**FOSSIL FUEL USAGE**

7. Types of Fossil Fuel Used	8. Quantity of Fossil Fuel Used	9. Total Energy Input of Fuel (mmBTU)
10. Percentage of fossil fuel used by the facility on a total energy input basis during the previous calendar year.		
11. Do you expect the facility to have fossil fuels comprise less than 5-percent of fuel use on a total energy input basis in the upcoming calendar year?		<input type="checkbox"/> Yes <input type="checkbox"/> No

**BIOMASS FUEL USAGE**

12. Type of Biomass Fuel Used	13. Quantity of Biomass Fuels Used (Tons)	14. Total Energy Input of Fuel (mmBTU)
a. Agricultural Crops, Waste, Residue		
b. Solid Waste Materials		
c. Wood/Wood Waste from State Forests		

**15. DECLARATION**

I, (print name and title) \_\_\_\_\_,  
hereby declare under penalty of perjury that the information provided in this report is true and correct to the best of my knowledge and that I am an authorized officer of the above named company with authority to submit this report on the company's behalf and attest to the matters set forth herein.

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

Signature:

\_\_\_\_\_

## ***Instructions for STD-204 Vendor Data Record***

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 Internal Revenue Code, Section 6109. This form must be on file with the Energy Commission in order for any payments to be made. If you have any questions about this form, please contact the California Franchise Tax Board at 1-800-852-5711. Following are instructions on filling out STD-204:

1.     **Return Form To** -- Already completed by the Energy Commission.
2.     **Vendor information** -- Please enter your business name and address; if you are a sole proprietor, enter the owner's full name.
3.     **Vendor Entity Type** -- Please check the appropriate box.
4.     **Vendor's Taxpayer ID Number** -- Please enter your federal ID number. If you are an individual/sole proprietor, please enter your social security number.
5.     **Vendor Residency Status** -- Please check the appropriate box corresponding to your residency status.
6.     **Registering Signature** -- The registration must be signed by an authorized representative or officer such as the Chief Executive Officer or Chief Financial Officer of the corporation, or a similar officer with authority to bind the company.

## DRAFT SAMPLE FUNDING AWARD NOTICE

**This funding notice is provided as an example only and will be modified.**

1. **Purpose.** This Funding Award Notice (“Agreement”) is entered into between \_\_\_\_\_ (“Grantee”) and the California Energy Commission (“Energy Commission”) for the purpose of creating a funding award to provide funding pursuant to the Energy Commission’s *Existing Renewable Facilities Program Guidebook, Renewables Portfolio Standard Eligibility Guidebook, and Overall Program Guidebook*, (collectively referred to as “Guidelines”). Grantee has applied to the Energy Commission for Existing Renewable Facilities Program (ERFP) funding for its \_\_\_\_\_ Facility, as described in the Application for ERFP Funding Eligibility (CEC-1250E-1) and referenced as Exhibit A, and the Energy Commission has determined that Grantee and its facility are eligible for funding as specified in the Guidelines. This Agreement commits funding to pay production incentives to Grantee’s Facility subject to the Guidelines and the terms and conditions specified herein. Grantee must comply with the terms and conditions of the Guidelines and this Agreement to remain eligible to receive funding under this Agreement.
2. **Incorporation by Reference.** Neither the Energy Commission’s Guidelines nor Grantee’s application for ERFP eligibility and funding, dated \_\_\_\_\_, are attached hereto, but are incorporated by reference and made a part of this Agreement.
3. **Funding Award Amount.** The total amount of funding available to Grantee under this Agreement is limited by the funds allocated to the Existing Renewable Facilities Program of the Energy Commission’s Energy Program during the 2007 calendar year, the level of ERFP participation during this period, and the Target Price and Production Incentive Caps specified in paragraph 4.
4. **Target Price and Production Incentive Caps**  
  
The target price and production incentive caps for Grantee facility during the 2007 calendar years shall be as follows:  
  
Target Price: \_\_\_\_\_  
  
Production Incentive Cap: \_\_\_\_\_
5. **Contingent Funding.** Funding for this Agreement is contingent on the availability of adequate funding from the Energy Commission’s Renewable Resource Trust Fund.
6. **Term.** The term of this Agreement shall be from January 1, 2007, to December 31, 2007, unless terminated earlier by the Energy Commission pursuant to the Guidelines. Notwithstanding the term of this Agreement, Grantee may submit final invoices for payment of eligible electrical power generated during the term of this Agreement for a period of three months after the term ends.
7. **Non-Transferability of award.** The funding award created by this Agreement is

specific to Grantee and the Facility. This award is not transferable or assignable to another facility and may not be assigned to another entity without the Energy Commission's prior written permission.

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

**9. Indemnification.** Grantee 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 Agreement, 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 the performance of work to develop, construct, or operate Grantee's Facility or receive funding under this Agreement.

**10. Review and Disclaimer.** Review by the Energy Commission of the design, operation, or maintenance of Grantee'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 shall not in any way represent to any third party that the Energy Commission's review of Grantee's Facility is a representation by the Energy Commission as to the Facility's economic or technical feasibility, operational capability, or reliability. Grantee is solely responsible for its Facility's economic and technical feasibility, operational capability, and reliability.

**11. Certification.** Grantee has provided evidence of facility certification as an RPS eligible renewable resource and must maintain that certification as outlined in the Energy Commission's *Renewables Portfolio Standard Eligibility Guidebook*. Failure to do so may result in this Agreement being terminated as specified in the Guidelines.

**12. Funding Termination.** Grantee acknowledges that this Agreement and payments under this Agreement may be terminated for reasonable cause pursuant to the Guidelines by providing 30-day written notice to the Grantee contact specified in paragraph 16. Consistent with the Guidelines, reasonable cause includes the following:

- Grantee's failure to maintain certification as an RPS 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.
- The power purchase contract referenced in paragraph 1 of this Agreement is modified or renegotiated such that the total energy price and/or the capacity price payments under the power purchase contract are modified.

- Insufficient funds in the Energy Commission's Renewable Resource Trust Fund to adequately fund this Agreement.

**13. Funding Eligibility.** Grantee acknowledges that its eligibility to receive ERF funding under this Agreement shall be contingent upon its satisfaction of all terms and conditions set forth in the Guidelines and this Agreement.

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

**15. Records Retention.** Unless stated otherwise in the applicable Guidelines, Grantee 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.

**16. Grantee Contact.** Grantee's contact under this Agreement shall be \_\_\_\_\_ . Any notice to Grantee under this Agreement shall be forwarded to the Grantee contact at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**17. 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: \_\_\_\_\_

18. CEQA Review. The Energy Commission has reviewed the \_\_\_\_\_ Facility and finds that:

- The Facility has complied with California Environmental Quality Act (“CEQA”) and/or National Environmental Policy Act (“NEPA”), or
- The Facility is exempt from CEQA and/or NEPA under

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

A. Grantee/General Requirements

a) Pursuant to California Public Utilities Code section 399.12 (h) and applicable law, 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 is the “awarding body” as defined in California Labor Code section 1722 and shall comply with the provisions applicable to recipients of public funds AND the provisions applicable to an awarding body. As such, Grantee agrees to ensure compliance with the state prevailing wage law, including without limitation:

- 1) Determining work activities and trades subject to the requirement to pay prevailing wage under 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 flow down provisions;
- 5) Posting the applicable prevailing wage information at each job site of the Facility;
- 6) Ensuring payment of 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 any construction, alteration, demolition, installation, or repair work subject to the state prevailing wage law pursuant to Public Utilities Code section 399.14, subdivision (h), a certification signed by Grantee and all involved contractors performing work activities on the Facility certifying that prevailing wages were paid as required by law. The certification shall be as provided in Exhibit 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 involved contractors complied with the prevailing wage law.

B. Flow Down Requirements

Grantee shall ensure that all agreements with contractors for public works activities on 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.

**20. Understanding of Guidelines.** Grantee warrants that it has read and understands the Energy Commission's Guidelines and acknowledges that these Guidelines govern the payment of any funds under this Agreement and authorize the Energy Commission to terminate the Agreement or any payments under the Agreement for reasonable cause, to conduct random audits of Grantee's invoices for ERFP payments, to conduct inspections of Grantee's Facility and books as part of these audits, to initiate enforcement actions to recover any funding payments the Grantee was not otherwise entitled to receive, to initiate investigations of Grantee to verify fraud or misrepresentation in connection with Grantee's application for or receipt of this Agreement or any payments of ERFP funding, or to take action as authorized by the Guidelines to properly administer the ERFP. Grantee further understands that the Energy Commission Guidelines are subject to change pursuant to Public Resources Code Section 25747 and that any changes made to the Guidelines shall apply to Grantee and the payment of funding under this Agreement.

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

Signature of Facility Representative

Signature of California Energy  
Commission Representative

Title

Title

**DRAFT SAMPLE FUNDING AWARD NOTICE**

**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 any construction, alteration, demolition, installation, or repair work subject to the state prevailing wage law pursuant to Public Utilities Code section 399.14, subdivision (h).

Grantee: \_\_\_\_\_

Energy Commission Funding Award Agreement Notice 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 production incentives 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 production incentives 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: \_\_\_\_\_