

GRANT SOLICITATION AND APPLICATION PACKAGE

**American Recovery and Reinvestment Act of 2009
Cost Share for Selected Federal Funding
Opportunity Announcements**



**PON-09-002
Public Interest Energy Research (PIER)
Energy Research, Development and
Demonstration Program**

December 22, 2009

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GRANT SOLICITATION AND APPLICATION

Subject Area: American Recovery and Reinvestment Act of 2009- Cost Share for Selected Federal Funding Opportunity Announcements

1. Release Date: December 22, 2009

2. Purpose:

This is a competitive solicitation in response to energy research and development-related American Recovery and Reinvestment Act of 2009 (ARRA) funding opportunity announcements (FOAs). The California Energy Commission (Energy Commission) through the Public Interest Energy Research (PIER) Program will offer eligible applicants funds to be used as cost share for those obtaining an award from the U.S. Department of Energy (DOE) for the FOAs listed in Table 1. The Energy Commission plans to allocate up to \$35 million of PIER electricity funds for cost share for the research-related FOAs listed in Table 1.

This solicitation is open to those who have submitted an application to DOE for one or more of the FOAs listed in Table 1. Those that did not apply or were previously unsuccessful in the pre-application or final application phase of PON-08-011 can submit an application under this solicitation. Those that have already submitted a final application to PON-08-011 that met the minimum scoring requirements will not be considered for funding under this solicitation. Refer to Sections and 6 and 7 for additional information.

3. Background:

The Energy Commission administers the PIER Program, which supports and funds energy research, development, and demonstration (RD&D) projects that will help improve the quality of life in California by bringing environmentally safe, affordable, and reliable energy services and products to the marketplace. The PIER Program annually budgets up to \$62.5 million in electricity and \$24 million in natural gas funds to conduct the most promising public interest energy research by partnering with RD&D organizations including individuals, businesses, utilities, and public or private research institutions. The PIER Program funds pioneering RD&D in the following programmatic areas: energy efficiency and demand response, renewable resources, advanced electricity generation, transmission and distribution, advanced transportation technologies, energy-related environmental research and climate science.

President Obama signed ARRA into law on February 17, 2009. Since then, DOE has released several solicitations on a variety of energy RD&D topics. These solicitations span the entire range of topics funded by PIER. It is the Energy Commission's policy to encourage and support California entities applying for ARRA funding.

4. Applicable FOAs:

Table 1 lists the applicable FOAs covered by this PON and the due date for submitting applications to the Energy Commission. Refer also to Section 12.

The Energy Commission reserves the right to add or delete FOAs from this solicitation.

Table 1: Eligible FOAs and Energy Commission Application Due Date

Funding Opportunity Announcement (FOA)	FOA #	Applications due to Energy Commission by 4:00 p.m. (California time)	Federal Awards Made
Enhanced Geothermal Systems Component Research and Development/Analysis	DE-FOA 0000075	02/09/10	Yes
Enhanced Geothermal Systems Demonstration	DE-FOA-0000092	02/09/10	Yes
Geothermal Technologies Program	DE-FOA-0000109	02/09/10	Yes
High Penetration Solar Deployment	DE-FOA-0000085	02/09/10	Yes
Solid State Lighting Core, Round IV	DE-FOA-0000082	02/09/10	No
Training Program	DE-FOA-0000118	02/09/10	No
Solid State Lighting Product Development, Round VI	DE-FOA-0000055	02/09/10	No
Energy Efficient Information and Communication Technology	DE-FOA-0000107	02/09/10	No
Smart Grid Investment Grant Program	DE-FOA-0000058	02/09/10	Yes
Smart Grid Demonstrations	DE-FOA-0000036	02/09/10	Yes
Geologic Sequestration Training and Research	DE-FOA-0000032	02/09/10	Yes
Site Characterization of Promising Geologic Formations for CO2 Storage	DE-FOA-0000033	02/09/10	Yes
Carbon Capture and Sequestration from Industrial Sources and Innovative Concepts for Beneficial CO2 Use	DE-FOA-0000015	02/09/10	Yes
Advanced Energy Efficient Building Technologies	DE-FOA-0000115	02/09/10	No
Community Renewable Energy Deployment	DE-FOA-0000122	02/09/10	No
Hydroelectric Facility Modernization	DE-FOA-0000120	02/09/10	No
Solid State Lighting U.S. Manufacturing-Round 1	DE-FOA-0000057	02/09/10	No
Advanced Research Projects Agency – Energy (ARPA-E)	DE-FOA-0000065	02/09/10	Yes

5. Funding Information

The estimated funding available for this solicitation is up to \$35 million of PIER funds. The Energy Commission reserves the right to adjust the available funding for this solicitation.

Table 2 lists the maximum Energy Commission cost share for any one application responding to the listed FOA. **The Energy Commission reserves the right to adjust the cost share amount for any single project, especially those that receive multiple**

federal funding awards for the same project. The Applicant will be responsible for obtaining sufficient cost share to meet ARRA funding requirements if the Energy Commission is unable to successfully execute a funding agreement and/or if the amount provided by the Energy Commission is insufficient to meet the cost share requirement in the FOA.

Organizations can request cost-share funding to offset a percentage of the entire project cost or to offset the cost of a particular activity within the entire proposed project to DOE. Organizations may submit multiple applications. However, each application must be for a distinct, separate project and must be submitted separately adhering to all requirements contained in this solicitation.

Table 2: Funding Maximums by FOA

FOA	Maximum Energy Commission Cost Share for a Single Project
Enhanced Geothermal Systems Component Research and Development/Analysis, DE-FOA-0000075	\$380,000
Enhanced Geothermal Systems Demonstration, DE-FOA-0000092	\$250,000
Geothermal Technologies Program, DE-FOA-0000109	\$410,000
High Penetration Solar Deployment, DE-FOA-0000085	\$500,000
Solid State Lighting Round IV Core, DE-FOA-000082	\$200,000
Training Program, DE-FOA-0000118	\$120,000
Solid State Lighting Product Development Round VI, DE-FOA-0000055	\$200,000
Energy Efficient Information and Communication Technology, DE-FOA-0000107	\$250,000
Smart Grid Investment Grant Program, DE-FOA-0000058	Maximum \$1,000,000 or up to 10% of DOE award amount whichever is less
Smart Grid Demonstrations, DE-FOA-0000036	Maximum \$1,000,000 or up to 10% of DOE award amount whichever is less
Geologic Sequestration Training and Research, DE-FOA-0000032	Maximum \$30,000 or up to 20% of DOE award amount, whichever is less
Site Characterization of Promising Geologic Formations for CO2 Storage, DE-FOA-0000033	Maximum \$500,000 or up to 20% of DOE award amount, whichever is less
Carbon Capture and Sequestration from Industrial Sources and Innovative Concepts for Beneficial CO2 Use, DE-FOA-0000015	Maximum \$300,000 or up to 20% of DOE award amount, whichever is less
Advanced Energy Efficient Building Technologies, DE-FOA-0000115	\$400,000

FOA	Maximum Energy Commission Cost Share for a Single Project
Community Renewable Energy Deployment, DE-FOA-0000122	\$500,000
Hydroelectric Facility Modernization, DE-FOA-0000120	\$400,000
Solid State Lighting U.S. Manufacturing-Round 1, DE-FOA-0000057	\$500,000
Advanced Research Projects Agency-Energy (ARPA-E), DE-FOA-0000065	Maximum \$500,000 or up to 10% of DOE award amount whichever is less

6. Eligible Projects

To receive funding under this solicitation, the project must meet **all** of the following requirements:

- A. Be consistent with the goals of the PIER Program (Public Resources Code Section 25620 et seq.), including:
 - 1. Provide environmentally sound, safe, reliable and affordable energy services and products.
 - 2. Support RD&D not adequately provided by competitive or regulated energy markets.
 - 3. Advance energy science and technology to the benefit of California's ratepayers.
 - 4. Develop and help bring to market energy technologies that provide increased environmental benefits, greater system reliability and lower system costs, and that provide tangible benefits to electric utility customers in advanced transportation technologies, increased energy efficiency of buildings, appliances, lighting and other applications; and advanced electricity generation technologies.
- B. Seek and obtain an award through one of the ARRA funding opportunity announcements listed in Table 1. Information on DOE awards can be found at www.energy.gov/recovery/index.htm.
- C. Address application requirements and evaluation criteria contained in this solicitation AND obtain a minimum passing score.
- D. Submit applications that are consistent with the relevant federal FOAs¹.

¹ Please refer to the federal eligibility requirements in the relevant FOA.

- E. Be located and demonstrated in California and provide a clear, direct and substantial benefit to California.
- F. Provide sufficient justification for why the organization needs cost share funding and the benefits to the California electric and gas utility customers.

7. Eligible Applicants

This is an open solicitation and all types of organizations, as identified in the relevant federal FOAs, are eligible to apply.

This solicitation is open to those who have submitted an application to DOE for one or more of the FOAs listed in Table 1. Those that did not apply or were previously unsuccessful in the pre-application or final application phase of PON-08-011 can submit an application under this solicitation. Those that have already submitted a final application to PON-08-011 that met the minimum scoring requirements will not be considered for funding under this solicitation.

California business entities as well as non-California business entities conducting intrastate business in California are required to register and be in good standing with the California Secretary of State to enter into an agreement with the Energy Commission. If not currently registered with the California Secretary of State, Applicants are encouraged to contact the Secretary of State's Office as soon as possible to avoid potential delays in beginning the proposed project (should the application be successful). For more information, contact the Secretary of State's Office via its website at www.sos.ca.gov.

8. Project Selection and Award Process:

The Evaluation Committee may consist of Energy Commission staff, staff of other agencies, private consultants, and/or other designated representatives of the State. The Evaluation Committee can utilize application reviewers to provide input on one or more applications. The Evaluation Committee and any application reviewers will keep the contents of the applications confidential until the posting of the Notices of Proposed Awards as discussed in Section 10.

A. Application Requirements

A brief description of all attachments is discussed in this section. All attachments are also discussed in detail later in this PON or can be downloaded at www.energy.ca.gov/contracts under PON-09-002.

Unless identified as optional or as informational, all attachments must be submitted with your application, or it will be deemed nonresponsive and rejected:

- **Attachment A – Application Cover Page:** This page provides information about your project, the relevant FOAs that you are requesting cost share,

funding amounts and identification and signatures for your organization's Principal Investigator/Project Manager and Authorized Representative.

- **Attachment B – Project Summary Requirements.** This summary provides information that will ensure that your project meets the requirements as indicated in Sections 6 (A, D, E and F) and 7 (pages 5 and 6 of this PON). This summary must address all items in this attachment or provide a statement of why the item is not applicable. Do not include any confidential information in this summary.
- **Attachment C – Scoring Criteria:** This attachment provides information that will help us to evaluate your proposal relative to the scoring criteria in this attachment. The Energy Commission will evaluate each proposed project using these scoring criteria. Applicants' responses to the scoring criteria must be based on the entire project as proposed to DOE in response to the FOAs in Table 1, and not limited to the portion of the project for which Energy Commission cost share funds are being requested. As explained in Attachment C, applicants may submit a copy of the application that was sent to DOE. However, confidential information must be removed as described in item 10.
- **Attachment D – Scope of Work Template:** This attachment will be used in conjunction with the Scoring Criteria (Attachment C) and be the basis for developing a grant agreement, if your organization receives an award under this solicitation. Completion of the template will provide us with information on the technical tasks, including identification of key personnel and subcontractors, the problem statement, goals and objectives of the agreement, and identification of products. The work scope should be based on your entire project as proposed to DOE. The product deliverables may be linked to DOE deliverables, if consistent with the PIER goals and objectives, or it could be for a particular activity within the entire proposed project to DOE. In either case, it is the desire of the Energy Commission to be informed/involved in your overall DOE project, as appropriate. If there is confidential material, please refer to section 10.
- **Attachment E – Instructions for the Scope of Work Template (information):** This attachment contains the framework and description of each section in the Scope of Work Template (Attachment D).
- **Attachment F – Budget Templates:** This attachment will be used in conjunction with the Scoring Criteria (Attachment C) and be the basis for developing a grant agreement, if your organization receives an award under this solicitation. All instructions for completing this template are contained in a Microsoft Excel document for this attachment. The budget could be based on either of the following approaches: a) Energy Commission cost share to offset a percentage of the entire project cost, or b) Energy Commission cost share for a specific activity within the entire proposed project to DOE. If the Energy Commission cost share will mainly be for a specific activity, please include some budget for progress and final reports that are required throughout the agreement

term. The Energy Commission reserves the right to modify the budget prior to issuing funding awards.

- **Attachment G – Schedule of Products and Due Dates:** This attachment will be used in conjunction with the Scoring Criteria (Attachment C) and be the basis for developing a grant agreement, if your organization receives an award under this solicitation. All instructions for completing this template are contained in a Microsoft Excel document for this attachment. The dates and schedule of the product deliverables can be the same as for your DOE deliverables.
- **Attachment H – Prevailing Wage Special Condition Template (information):** This attachment describes the recipient, general and flow down requirements for the funding of any “public works” project under this solicitation.
- **Attachment I – Prevailing Wage Compliance Certificate (information):** This attachment provides the certification that the recipient must provide to the Energy Commission prior to release of retained funds.
- **Attachment J – Information on Compliance with Prevailing Wage Requirements under California Law for Programs Funded by the American Recovery and Reinvestment Act of 2009 (ARRA) (information):** This attachment provides commonly asked questions and answers regarding prevailing wage requirements.
- **Attachment K – Preference Points for California-Based Entities (information):** Pursuant to Public Resources Code Section 25620.5 (h & i), the California Energy Commission’s PIER Program must give a priority to “California-based entities” (CBEs) when making awards. To implement this law, the Energy Commission will award preference points if the application meets the criteria for a CBE as described in this attachment.
- **Attachment L – California Based Entity (CBE) Preference Points Questionnaire (optional):** Applicants whose projects are eligible and who meet the criteria of a CBE may have preference points added to their final technical score, subject to certain restrictions, as discussed in Attachment K. Applicants must request and demonstrate eligibility by filling out and submitting as part of the application package the CBE questionnaire in Attachment L. Eligible applicants who do NOT submit Attachment L shall NOT be eligible for the CBE Preference Points.
- **Attachment M – Resolution (local jurisdictions only):** Applicants who are local jurisdictions (e.g., city or county governments, school districts, special districts, etc.) must provide a resolution from their governing body **or** state the time and date when the governing body will consider the resolution. This attachment contains three sample resolutions.

- **Attachment N – Grant Terms and Conditions (information):** This attachment identifies how to access the terms and conditions associated with any grant resulting from this solicitation. The Energy Commission reserves the right to modify these terms and conditions prior to issuing funding awards.
- **Short biographies** – Provide no more than 200 words per person (for the Project Manager/Principal Investigator and key project personnel (individuals in your organization or subcontractors)), emphasizing education, licensing, and experience related to the activities to be performed in the proposed project. Be specific. Do not submit complete resumes.

B. Application Evaluation and Scoring

Proposals that meet the eligibility requirements discussed in Sections 6 (A, D and E) and 7 (pages 5 and 6 of this PON) will be reviewed by an Evaluation Committee and scored as follows:

- The committee will score the applications using the criteria in Attachment C. Each proposal will be scored against other proposals competing under the same FOA.
- A minimum score of 70 percent is required for the application to pass and be considered for cost share funding. Rank orders will be established for eligible projects that meet the minimum scoring criteria. After considering California Based Entity Preference Points (Attachments K and L), eligible projects will be ranked starting with the highest ranked project.
- The Energy Commission may invite applicants to a clarification interview. Applicants may appear in person at the Energy Commission or discuss the application by telephone. The Energy Commission will provide no reimbursement to any applicant for the interview appearance.

C. Applicants Receiving Federal Funding

Proposals that receive ARRA funding awards and that meet the minimum score of 70 percent on the scoring criteria (Attachment C) will be considered as follows:

- The Energy Commission reserves the right to negotiate with the Applicant: the final project scope, any additional special terms and conditions, and the level of funding received pursuant to this solicitation.
- The results of the Energy Commission's decision of proposed funding level and rank order of each proposer will be released through a Notice of Proposed Awards (NOPA) for each FOA. A NOPA will be issued only if there are applicants who were successful in receiving a federal funding award for that FOA. There may be multiple awards for each of the FOAs in Table 1.

- Applicants may request a debriefing to determine why their Energy Commission application was not selected. A request for debriefing must be received no later than 30 days after the release of a NOPA.
- Applicants proposed for an Energy Commission cost share award will be required to prepare a detailed set of documents, including, but not limited to:
 - Attachment D - Scope of Work
 - Attachment F – Budget Documents
 - Attachment G – Schedule of Products and Due Dates

These documents may need to be updated from the ones submitted in response to Section 8A, due to negotiations with the Energy Commission as explained in this section.

- Upon receiving the required documents, the Energy Commission will prepare a Grant Agreement, including applicable Terms and Conditions² and send it to the grant recipient for review, approval and signature.
- The Grant Agreement will be scheduled and considered for approval at an Energy Commission Business Meeting. If approved, the Energy Commission will fully execute the Grant Agreement. Recipients are approved to begin the project only after the date of the full and final execution of the Grant Agreement.
- If the Energy Commission is unsuccessful in executing a funding agreement with an Applicant, the Applicant will be responsible for obtaining sufficient cost share to meet ARRA funding requirements.

² Samples of the required detailed award documents and the Grant Terms and Conditions can be found at [<http://www.energy.ca.gov/contracts/>] as part of this solicitation package. However, please note that the Energy Commission reserves the right to modify the award documents and/or the Grant Terms and Conditions prior to executing Grant Agreements.

9. Schedule of Application and Award Process:

Event	Date
Release of Solicitation	December 22, 2009
Deadline to Submit Questions Regarding this PON	January 12, 2010
Post questions and answers at www.energy.ca.gov/contracts	January 21, 2010
Deadline to Submit Applications	February 9, 2010 by 4:00 p.m.
Release Notices of Proposed Awards	TBD
Approval of Awards at Energy Commission Business Meeting	TBD

Further information will be released in addendums as it becomes available.

10. Confidential Information:

Do not submit confidential information as part of the application. Applications containing such information will be returned without consideration. The Energy Commission project manager reserves the right to request a copy of the final DOE application submitted in response to a FOA at a later date. If this occurs, omit all confidential information contained in that document before submitting to the Energy Commission.

Applicants may *propose* to deliver confidential products during the course of the project if funded. If necessary, instructions on submitting confidential products will be provided by the Energy Commission prior to executing the Grant Agreement.

From the beginning of this PON process until the evaluation is complete and the NOPA is posted or the solicitation is canceled, the Energy Commission is required to hold all information received from Bidders (applicants) as confidential [Title 2 California Code of Regulations Section 2505(c)(2)(A)]. However, proposals and all submitted information will become public records after the Energy Commission completes the evaluation and/or scoring process and the NOPA is posted or the solicitation is canceled.

11. Administrative Information:

Federal

Projects selected by the federal government for funding must comply with federal administrative and national policy requirements. Applicants must review the requirements set forth by DOE in the relevant FOA and by the subsequent award documents. It is the applicant's responsibility to ensure compliance with the federal terms and conditions to avoid jeopardizing its grant award. The Energy Commission must be notified if there are any conflicts in federal and state requirements that would jeopardize both the federal and state awards.

State

- **Payment of Prevailing Wage:** Some projects under this solicitation might be considered public works pursuant to the California Labor Code. If the project is a public work, prevailing wage is required. The California Department of Industrial Relations (DIR) has jurisdiction to decide whether a particular project is or is not a public work. If the project involves construction, alteration, demolition, installation, repair or maintenance work, it probably would be considered by DIR to be a public work. Examples of the activities that would probably lead DIR to find that the project involves public works include: cement work, site preparation such as grading, surveying, electrical work such as wiring, and carpentry work. Certain workers are entitled to prevailing wage, such as operating engineers, surveyors, carpenters, laborers, etc. However, other trades are not entitled to prevailing wage, such as engineers and project superintendents.

Applicants are encouraged to determine if the proposed project involves public works as soon as possible. In order to determine if the proposed project involves public works, please contact DIR as directed in Attachment J. If the Applicant is unsure whether the proposed project involves public works and has not received a determination from DIR that the project is not a public work, the proposed budget must provide for the payment of prevailing wages. Indicate whether the proposed budget includes prevailing wage.

If the proposed project is a public work, DIR maintains a list of covered trades and the applicable prevailing wage. Any agreement resulting from this solicitation will include the requirements for a public works project, such as paying prevailing wage, keeping payroll records, complying with working hour requirements, and apprenticeship obligations. See the sample terms and conditions (Attachment N), the Prevailing Wage Special Condition (Attachment H), and the Prevailing Wage Compliance Certificate (Attachment I).

For detailed information about prevailing wage requirements and compliance under California law for programs funded by the American Recovery and Reinvestment Act of 2009, please refer to Attachment J.

- **California Environmental Quality Act:** Projects selected for funding may meet the definition of a “project” for purposes of the California Environmental Quality Act (CEQA). (See Public Resources Code section 21000 et seq.) If this occurs, the Energy Commission’s Legal staff will review the projects to determine whether an exemption applies that would prevent further actions under CEQA. If no exemption applies, certain CEQA requirements (such as, preparation of a negative declaration or environmental impact report) will have to be met prior to the Energy Commission approving the grant. The Applicant will have to pay the cost for these activities. Please refer to Title 20, California Code of Regulations, Chapter 6, Article 1, including section 2308.

12. Submission Requirements:

Five written copies and one CD with electronic files for all documents submitted in Microsoft Word or Excel files of the application must be **received by the Energy Commission's Grants and Loans Office by 4:00 p.m. (California time) on the due date listed in Table 1. Neither postmark dates of mailing nor electronic transmissions (i.e., facsimile (Fax) or e-mail) will be acceptable** in whole or in part under any circumstances. The Energy Commission will reject all applications not received by the Grants and Loans Office by the stated due date and time.

Grants Officer
Crystal Willis
California Energy Commission
Grants and Loans Office
Attn: PON-Share
1516 Ninth Street, MS-1
Sacramento, CA 95814
cpresley@energy.state.ca.us

Please allow enough time to deliver your proposal. The Energy Commission has no flexibility to allow late submissions, even if only a few minutes late. For this reason, we encourage people who deliver proposals in person to arrive at least by 3:30 p.m. to avoid any unexpected delays (e.g., traffic, parking, etc.). The Energy Commission will not accept any proposals delivered after 4:00 p.m. NO EXCEPTIONS. Please plan accordingly.

13. Availability of Solicitation Documents and Information:

This solicitation, all supporting documents and forms can be found at www.energy.ca.gov/contracts/index.html under "Current Solicitations." Interested parties may also sign on to the electronic mailing list on this webpage to be notified of any changes to this solicitation.

For those parties without Internet access, copies of this solicitation can be obtained by contacting:

California Energy Commission
Grants and Loans Office
1516 Ninth Street, MS-1
Sacramento, CA 95814
Telephone: 916-654-5067

Interested parties may also request to be added to the mailing notification list to receive changes made to this solicitation.

14. Amendment or Cancellation of this Solicitation:

The Energy Commission reserves the right to do any of the following:

- Cancel this solicitation;
- Amend or revise this solicitation, as needed; or
- Reject any or all applications received in response to this solicitation.

15. Questions:

During the PON process, questions about this PON must be directed to the Grants Officer listed below. Questions may be submitted in writing, via mail, electronic mail, FAX, and by phone. All questions must be submitted by the date indicated in Section 9. The Energy Commission will post questions and answers on its website at www.energy.ca.gov/contracts as part of this solicitation package as indicated in Section 9. The person and organization submitting questions will not be identified.

Crystal Presley-Willis
California Energy Commission
Grants and Loans Office
Attn: PON-Share
1516 Ninth Street, MS-1
Sacramento, CA 95814
or
Email: cpresley@energy.state.ca.us
(916) 654-5067

16. Attachments:

Number	Topic
A	Cover Page
B	Project Summary
C	Scoring Criteria
D	Scope of Work Template
E	Instructions for the Scope of Work Template
F	Budget Template and Instructions
G	Schedule of Products and Due Dates Template and Instructions
H	Prevailing Wage Special Condition Template
I	Prevailing Wage Compliance Certificate
J	Information on Compliance with Prevailing Wage Requirements under California Law for Programs Funded by the American Recovery and Reinvestment Act of 2009 (ARRA)

Number	Topic
K	Preference Points for California-Based Entities
L	CBE Preference Points Questionnaire
M	Resolution
N	Terms and Conditions

ATTACHMENT A

Instructions for Cover Page

Item a (Applicant):

The applicant is the entity that will be contractually responsible for the proposed project under this solicitation.

Item b (Project Title):

Provide a title for the project that is descriptive of the proposed work. The title must communicate the type of work being proposed. Avoid trademarked names and acronyms that are not well understood by the general public. The title shall not exceed 10 words.

Item c (ARRA Funding Opportunity Announcement (FOA) and Topic Area):

List the American Recovery and Reinvestment Act of 2009 funding opportunity announcement name, topic area (if applicable), FOA number and/or other identifier related to your application.

Item d (ARRA Funding Requested):

Provide the amount of ARRA funds you are requesting from the federal government.

Item e (Energy Commission Funds Requested):

Specify the amount of cost share funds you are requesting from the Energy Commission, and the minimum funding (total from ARRA and Energy Commission and other sources) required that will allow the project to proceed.

Item f (Proposed Project Duration):

Specify how many months you need to complete the project. Project duration cannot exceed 48 months.

Item f (Project Category):

Check the box that corresponds to the overall category of the project.

Item h (Principal Investigator/Project Manager):

In most cases the Principal Investigator also serves as the Project Manager. If this is not the case then list the Project Manager in item f.

Item i (PI/PM Certification):

Include the signature of the Principal Investigator/Project Manager. Include a date after the signature.

Item j (Signature of Authorized Representative):

Include the signature and date of the Authorized Representative of the applicant's organization. This is the person that is legally authorized and empowered to execute the application and all future documents related to this award.

ATTACHMENT A

American Recovery and Reinvestment Act of 2009 Cost Share Application Cover Page

a. Applicant Name: _____

b. Project Title: _____

(not to exceed 10 words)

c. ARRA Funding Opportunity Announcement (FOA) Name: _____

FOA Solicitation Number: _____

FOA Topic Area/ other identifier (if applicable): _____

d. ARRA Funding Requested: \$ _____

e. Energy Commission Funding Requested: \$ _____

Minimum amount of Energy Commission funding required for the project to go forward:
\$ _____

f. Proposed Project Duration: _____ (Must not exceed 4 years.)

g. Project Category (**Please check the appropriate box**):

- Solar Geothermal Smart Grid Energy Storage
 Energy Efficiency Carbon Sequestration Other

h. Principal Investigator/Project Manager (PI/PM): (serves as single point of contact for all communications)

Name:

Address:

Phone:

Fax:

Email:

Organization:

Position/Title:

i. PI/PM: To the best of my knowledge, I certify that the information contained in this grant application package is true, and discloses all requested information. Proposal does not contain proprietary information, unrestricted distribution authorized.

PI/PM Signature: _____ Date: _____

j. Authorized Representative: To the best of my knowledge all information in the application is correct and complete.

Authorized Signature: _____ Date: _____

ATTACHMENT A

APPLICATION COVER PAGE TEMPLATE AND INSTRUCTIONS

[The application cover page template for this solicitation is a separate Microsoft Word document. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.]

ATTACHMENT B

Project Summary Requirements

1. **Describe the proposed project, including the following at a minimum:**
 - a. Provide a description of the project, the process/technology to be advanced, objectives, goals, and barriers to be overcome, and desired resolution.
 - b. Discuss how this project advances the PIER Program goals as listed in Section 6 (pages 5-6 of this PON) and specify the ones applicable to your project.
 - c. Describe the location of the project and how the project will support California's economic recovery in the near term and create or sustain jobs and local income or tax revenue. Describe how the project would provide direct and substantial benefit(s) to California. Quantify your answers to the extent possible, and include time frames.
 - d. Describe the potential impact of the project on California industry and markets. Explain projected cost reduction impact (e.g., annual energy and cost savings and demand savings) and/or other benefits resulting from the project.
 - e. Discuss project duration and schedule.
2. **Describe the products to be delivered, including the following at a minimum:**
 - a. Summarize the overall tasks and explain whether these tasks are identical to those proposed in your DOE proposal. If not, explain the reasons for the difference and whether the Energy Commission staff will have access to overall project data.
 - b. Discuss the products resulting from your overall DOE proposal.
 - c. Discuss the products unique to the Energy Commission's cost share.
 - d. Discuss anticipated performance improvements (technical and operational) of the proposed development versus current practices, and broad applicability and adaptability for other similar applications in California.
3. **Discuss the project budget, including the following at a minimum:**
 - a. State the total project budget.
 - b. The amount needed from the Energy Commission and how the Energy Commission cost share will be spent, such as, will it be for a specific task or activity or will it be a percentage of the total project.
 - c. Identify other match funding partners and team members and their cost share and contribution to the project.
 - d. Identify key industrial partners.
4. **Describe how your proposal will help meet the policy goals** of the California Solar Initiative and/or California's Renewable Portfolio Standard and/or California's Global Warming Solutions Act (AB 32). Quantify results and benefits.

5. **DOE Notification of Receipt of Application:** Submit a copy of the letter or email from DOE confirming receipt of your final application for one or more of the FOAs listed in Table 1. This notification will help us confirm that you have already submitted an application to DOE. Applications without DOE confirmation of application acceptance will be rejected from further consideration for co-funding by the Energy Commission.

6. **Discuss past participation in PON-08-011:** Indicate whether you previously submitted an application (pre-application and/or final application) in response to PON-08-011 and the reason why you are responding to this solicitation.

7. **Discuss why you need funding from the Energy Commission,** including:
 - a. Identify your sources and amounts of cost share funding for your project. If you have already received a federal award, please indicate why the sources identified in your federal application were not sufficient.
 - b. The reasons why you are applying for cost share funding from the Energy Commission.
 - c. The impact on your project if there is no Energy Commission funding.
 - d. The benefits to California electric and gas utilities customers for providing you with funding.

ATTACHMENT C

Scoring Criteria

The Energy Commission will evaluate each proposed project using the scoring criteria stated below. Applicants' responses to the scoring criteria must be based on the entire project as proposed to the Federal government in response to the FOAs in Table 1 (page 3 of this PON), and may not be limited to the portion of the project for which Energy Commission cost share funds are being requested.

Applicants can respond to this attachment, by using either of the following options:

- **Option A:** Provide no more than a 20 page response to the scoring criteria listed in this attachment. The response can include all qualitative and quantitative supporting documents, such as DOE application, as attachments. These attachments will not be counted as part of the 20 pages. However, Energy Commission staff will only review parts of each attachment that are designated in the 20 page response. It is the applicant's responsibility to clearly and concisely identify those sections in each attachment that pertain to the scoring criteria. Energy Commission staff will not review entire documents to determine whether they pertain to the scoring criteria. Any confidential information must be removed, as described in section 10, page 11.
- **Option B:** Provide a copy of the DOE application submitted in response to the FOA's listed in Table 1 and a clear identification of the specific sections of the federal application that pertain to the scoring criteria. The Energy Commission staff will only review those sections in the DOE application that the applicant has identified as pertaining to the scoring criteria. It is the applicant's responsibility to clearly and concisely identify those sections that pertain to the scoring criteria. Energy Commission staff will not review the entire DOE application to determine which portions pertain to the scoring criteria. Any confidential information must be removed, as described in section 10, page 11.

1. Technical Merit **Maximum Possible Points: 20**

- Research project addresses a significant energy issue. The project thoroughly describes the technical barriers, knowledge gaps and deficiencies that impede market penetration within the industry.
- The current status of the proposed technology as it has been developed by the research and industrial community at large.
- How the proposed project will address current barriers or knowledge gaps to advance the state-of-the-art and market acceptance.
- Previous and current work in the subject technology performed by the project team and others, including successes and failures.

2. Description of Proposed RD&D **Maximum Possible Points: 30**

- The project description is clear, including identification of the process/technology to be advanced.
- The technical tasks are clearly and logically presented, with appropriate objectives, logical and discrete tasks, sequence of activities, products produced, deliverables, schedule, and budget.
- The application clearly describes the work tasks and deliverables associated with the PIER funding request.
- The application describes the scientific and technical principles underlying the proposed work, and the manner in which the scientific and engineering principles will be applied.
- The distinctive and innovative features of the approach are discussed.
- The likelihood of success based upon a sound research plan.

3. Identified Targets, Goals, and Market Application **Maximum Possible Points: 25**

- The extent to which the project addresses significant key issues and barriers to development and market acceptance.
- Quantitative or measurable technical and economic performance goals and the methodology used to determine if the goals have been achieved.
- How the project will fulfill market needs. A reasonable path is described for commercialization of the technology if the project is successful.
- The impact(s) that this project will have in the local California economy (jobs created, tax revenue, etc.) is stated clearly and attainable.
- The impact(s) that this proposed project will have on the goals of the California Solar Initiative and/or California's Renewable Portfolio Standard and/or California's Global Warming Solutions Act (AB 32) is stated clearly and attainable.

4. Qualifications of Project Manager and Project Team

Maximum Possible Points: 25

- The Project Manager and team members have the technical capabilities, specific experience and financial capability to successfully complete the project.
- The Project Manager can successfully manage the project, control cost, and maintain the schedule, and report results and accomplishments in an effective manner.
- The application clearly and adequately presents capabilities and experience of the team members to perform the proposed work for different tasks.
- The Project team has past success in taking research, development, and technology demonstration products to market and the experience, skills and market connections to commercialize the products and transfer the project products and results to the marketplace.
- The project budget is consistent with the work to be performed and is justified.
- The PIER funding request and need for PIER funding and the funding amount is appropriate and consistent with the expected level of public benefits if the project is successful.

ATTACHMENT D

SCOPE OF WORK TEMPLATE

[The scope of work template for this solicitation is a separate Microsoft Word document. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.]

ATTACHMENT E

INSTRUCTIONS FOR THE SCOPE OF WORK TEMPLATE

The Scope of Work Template contains the framework to use to complete the Scope of Work. The template has instructions in blue type within < > that are to be deleted as it is filled out. The following are additional instructions for the items in the Scope of Work. At the end of these instructions, there are examples of Technical Tasks to provide guidance in drafting your own.

I. Technical Task List

Insert the Task numbers and Task names for the project. Put an "X" in the CPR column next to the Tasks that contain a Critical Project Review. Add additional rows as necessary.

II. Key Name List

List key parties within the agreement as described below. See Terms and Conditions for more information regarding key parties within the agreement.

Key Personnel are employees or consultants who are critical to the outcome of the project and are being paid with PIER funds. Key Personnel have expertise in the project field or experience that is not available from another source. Replacing these individuals may be difficult due to their expertise and may affect the outcome of the project. Since key personnel can come from various organizations working on the agreement, they should be written as follows to avoid confusion: "John Smith – Acme Company"

Key Subcontractors are contractors, subcontractors, or vendors who are critical to the outcome of the project and are being paid with PIER funds. Key Subcontractors have expertise in the project field or experience that is not available from another source. Replacing these individuals may be difficult due to their expertise and may affect the outcome of the project.

Key Partners are participants in the Project who are not receiving PIER funds and are not providing Match Funds but are integral to the outcome of the Project. Key Partners may be providing space, testing facilities, demonstration sites or may be a manufacturer or other implementer of the Project results. Individual key employees from the Key Partner organizations are listed under "Key Personnel." "Key Partners" are company names.

III. Glossary

Spell out each acronym used in the Scope of Work. Also include definitions of odd or unusual terms. Think about the document from the perspective of someone who does not work in the particular industry or discipline.

IV. Problem Statement

Describe the problem that this research will address in one to two paragraphs maximum.

Describe the scientific and technological baseline that is the current state-of-the-art or the developmental status of the subject technology to be advanced.

Identify entities engaged in development of the subject technology. Identify whether or not the proposed project duplicates or overlaps with other ongoing RD&D. Emphasize past advances that you have made in areas relevant to the proposed work.

Describe the deficiencies that exist for the subject technology. The deficiencies should illuminate the question of *why* the proposed project should be done.

Identify and discuss the principal barriers, key unresolved issues, and knowledge gaps that hinder the development and widespread use of the resource or the products of the proposed research in California. Barriers may be grouped under the following categories, or other categories that the Applicant deems appropriate:

- Scientific and technological – such as insufficient scientific understanding of relevant phenomena and processes, inadequate data acquisition technologies, low reliability, low power density, low energy density, lack of detailed engineering designs and design trade-off analyses, inadequate component development, high cost of fabrication techniques, insufficient field testing, or insufficient field demonstrations.
- Market – such as inadequate consumer knowledge or limited system supply and maintenance infrastructure.
- Institutional – such as regulatory hurdles (e.g., atmospheric emission limitations) or lack of adopted standards.
- Environmental – such as H₂S emissions, excessive noise, or ground water contamination.

Explain why these barriers have not been addressed by the marketplace or by other institutions.

Explain why the barriers should be addressed at this time. For example, place the proposed work into the context of the spectrum of barriers to widespread deployment and adoption.

V. Goal of the Agreement

At the beginning of this section, complete the following sentence. Please be succinct.

The goal of this project is to ... *<Complete the sentence with a brief description of the goal(s) and how the goal(s) will be met. Goals can be technical, economic or social. Please be brief, two to three sentences maximum.>*

VI. Objectives of the Agreement

The objectives of this project are to ... *<Complete the sentence with a list of the objectives that will be measurable or knowable at the end of **this** project.>*

If the improvements that your project will make are not amenable to measurement, surrogate performance metrics that can be measured must be given. Describe the methodology or procedure that will be used at the completion of the project to determine if the performance metrics have been achieved.

List and describe technical or economic objectives, or desired conditions outside the project itself that will result from the success of the project.

VII. Task 1.0 Administration

The administrative tasks must be included in every agreement and the language does not change except for the following:

- Applicants can propose to change Task 1.4 from monthly to quarterly progress reports.

(VL comment-there is no Task 1.8 or 1.9 in the work scope template)
Otherwise, do NOT change anything in the administrative tasks.

VIII. Technical Tasks (Tasks 2 through n)

This is the area in the Scope of Work where the technical work to be performed under this Agreement is set forth. The work effort should be divided into a series of logical, discrete and sequential tasks. Each task has the following components:

- Task Name
- The goal of this task is to ...
- The Recipient shall:
- Products

A. The Goal

The goal of this task is to ... *<Complete the sentence with a brief description of the goal(s). Please be brief, two to three sentences maximum.>*

B. The Recipient shall ...

List each individual **activity** with a separate bullet if there are more than two individual activities and begin each bullet with a verb to complete the sentence beginning with "The Recipient shall." Organize activities in the order in which they will occur. Use this section to describe the essential elements of the process you will use to complete the project. The contents of each product shall also be described in this section.

For Example:

The Recipient shall:

- Prepare the X Test Plan. This plan shall include, but is not limited to ...
- Conduct research in accordance with the X Test Plan.
- Prepare the X Test Results Report. This report shall include, but is not limited to, the following ...

Please note that if a project is for demonstration, or if a project involves testing, one of the tasks should be Test Plan preparation. The Test Plan should include considerations such as the number of hours of operation, the type of monitoring to be performed, and the manner in which data will be validated, analyzed, and reported.

C. Products:

Product(s):

- *<Insert 1st product (name only)>*
- *<Insert 2nd product (name only)>*

Only the names of each product shall appear in the "Products" section. Use exactly the same name to identify a product (report, data set, project plan, etc.) in the activity and in the list of products.

Products incorporate the knowledge and understanding gained by performing the activities, and are submitted to the Energy Commission for review, comment and approval. Products include, but are not limited to, written reports that describe methods, test plans, results of testing, analysis of data, conclusions, and recommendations for future study, workshop agendas and summaries, description and photographs of equipment/product developed, summaries of advisory group meetings, computer software with written instructions for data input and use of the software, if intended for public or Energy Commission use, and production prototypes. The summaries of the Products should be sufficiently detailed to be of use to stakeholders and other researchers. The level of detail should be sufficient for an observer to assess whether the project objectives and goals have been successfully met.

D. Task n-1 Technology Transfer Activities

Change the language as appropriate for your project.

E. Task n Production Readiness Plan

Change the language as appropriate for your project

IX. Examples of Different Types of Technical Products (*These are examples, which you may modify for use in your project. You may create other products as needed, but please adhere to the patterns shown.*)

1. Written Notification

- Provide a Written Notification regarding _____, to the Commission Project Manager. (*Give it a unique name based on the content and the project.*) The letter shall include but is not limited to written documentation that the _____ is ready for (*testing, viewing, submission for certification, etc.*) and the date such (*testing, viewing, submission for certification, etc.*) shall begin, and shall include photographs.

Product: Written Notification regarding _____

2. Test Plans

- Prepare the _____ Test Plan. (*Give it a unique name, such as the Site A Test Plan. Test plans and testing procedures should be described in detail including factors such as instrumentation, data collection, data analysis, statistical analyses, and performance curves. Test results shall include relationships among performance, efficiency, emissions, temperature, pressure and all other parameters that qualify and quantify the subject technology.*) The Test Plan shall include, but is not limited to:
 - a description of the process to be tested;
 - the rationale for why the tests are required;
 - predicted performance based on calculations or other analyses;
 - test objectives and technical approach;
 - a test matrix showing the number of test conditions and replicated runs;
 - a description of the facilities, equipment, instrumentation required to conduct the tests;
 - a description of test procedures, including parameters to be controlled and how they will be controlled; parameters to be measured and instrumentation to measure them; calibration

- procedures to be used; recommended calibration interval; and maintenance of the test log;
- a description of the data analysis procedures;
- a description of quality assurance procedures;
- contingency measures to be considered if the test objectives are not met;
- *<add additional bullets specific to the project as needed>*.

Product(s):

- Draft _____ Test Plan
- Final _____ Test Plan

3. Interim Reports (*This applies to all product reports. Examples include task and subtask reports, test reports, data sets, databases and computer model development or application. Monthly reports and the final report are treated separately as shown in the Scope of Work.*)

- Prepare the _____ Report (*Give it a unique name, such as the ABC Test Report or 123 Database. If an interim report is based on earlier work in this project, then the titles should relate to each other. After the title insert a description of the product.*) This report shall include, but is not limited to, the following: (*List the elements of the report in separate bullets.*)

For example, if the Interim Report is a Test Report, use the following description:

The Test Report shall include, but is not limited to, the following:

- the Test Plan;
- test results;
- analysis;
- conclusions;
- recommendations;
- photographs as appropriate;
- *<add additional bullets specific to the project as needed>*.

For example, if the Interim Report is a Task or Subtask Report, use the following description:

The Task or Subtask Report shall include, but is not limited to, the following:

- the goal of the task or subtask;
- the description of the approach used;
- list of activities performed;
- description of the results and to what degree the goal was achieved;

- significant issues encountered and how they were addressed;
- a discussion of the implications regarding the success or failure of the results, and the effect on the budget and the overall objectives of the project;
- photographs as appropriate;
- *<add additional bullets specific to the project as needed>*.

Product(s):

- Draft _____ Test (Task, Database, etc.) Report
- Final _____ Test (Task, Database, etc.) Report

4. Bills of Materials or Equipment Lists

- Prepare a Bill of Materials (or Equipment List) for _____ . *(Give it a unique name.)*. This document shall include but is not limited to:
 - a description of each item;
 - test protocols and codes applicable to each item;
 - cost estimates or bids for each item.

Product: Bill of Materials (or Equipment List) for _____

5. Site Selection (optionally, this can be incorporated into a Test Plan)

- Determine Site Selection Details for the field test site, including but not limited to the following, and obtain Commission Project Manager approval:
- Type of site, i.e., <Sites for Wind Energy Storage Projects>
 - Residential
 - Specify type of dwelling: single family, multiple family including number of units, apartment, townhouse, etc.
 - Specify age of dwelling: new home construction, model home, existing home (indicate approximate age)
 - Commercial (specify warehouse, retail, office, etc.) <Sites for Wind Energy Storage Projects>
- Number of sites
- Location, i.e., climate zone, area, or city
- Timing of testing (i.e., season or month), length and frequency of testing
- Agreement with site owner, to address issues such as:
 - Details of test, including dates, length of test
 - Site owner input and feedback on test conditions
 - Access to site
 - Insurance and indemnity

- Contingency if damages are caused by test
- Equipment installation and removal

Once the site is selected, Recipient shall enter into an agreement with the site owner and make a copy of the agreement available to the Commission Project Manager upon request.

Product: Written Notification of Site Selection

ATTACHMENT F

Budget Template and Instructions

[The budget template and instructions for this solicitation is a separate Microsoft Excel document. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.]

ATTACHMENT G

SCHEDULE OF PRODUCTS AND DUE DATES TEMPLATE AND INSTRUCTIONS

[The schedule of products and due dates template and instructions for this solicitation is a separate Microsoft Excel document. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.]

ATTACHMENT H

PREVAILING WAGE SPECIAL CONDITION TEMPLATE

PUBLIC WORKS AND PAYMENT OF PREVAILING WAGE

A. Recipient/General Requirements

1. The recipient 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” (as that term is defined in the statutes) performed on the Project funded by this Agreement. For purpose of compliance with prevailing wage law, the Recipient shall comply with provisions applicable to an awarding body. Compliance with state prevailing wage law includes without limitation: payment of at least prevailing wage as applicable; overtime and working hour requirements; apprenticeship obligations; payroll recordkeeping requirements; and other obligations as required by law.
2. The recipient shall certify to the Energy Commission on each Payment Request Form, that prevailing wages were paid to eligible workers who provided labor for work covered by the payment request and that the Recipient and all contractors complied with prevailing wage laws.
3. Prior to the release of any retained funds under this Agreement, the Recipient shall submit to the Energy Commission a certificate signed by the Recipient and all contractors performing public works activities stating that prevailing wages were paid as required by law. The required certificate follows these special conditions.

B. Flowdown Requirements

The recipient shall ensure that all agreements with its contractors to perform work related to this Project contain the following provisions:

1. The 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, repair or maintenance work over \$1,000 performed under the contract. The Contractor’s obligations under prevailing wage laws include without limitation: pay at least the applicable prevailing wage for public works activities performed on the Project; comply with overtime and working hour requirements; comply with apprenticeship obligations; comply with payroll recordkeeping requirements; and comply with other obligations as required by law.
2. The Contractor shall ensure that the above requirements are included in all its contracts and any layer of subcontracts for activities for the Project.

ATTACHMENT I

PREVAILING WAGE COMPLIANCE CERTIFICATE

After the public works¹ activities funded by this Agreement are complete, the Recipient must fill out and sign this certificate and obtain the signatures from all of its contractors and any layer of subcontractors involved in public works funded by this Agreement.

This certificate must be completed and submitted to the Energy Commission Project Manager prior to the release of the retained funds under this Agreement.

Recipient:

Energy Commission Agreement Number:

Date Public Works Completed:

The recipient hereby certifies as follows:

1. 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, has been complied with for the “public works” (as that term is defined in the statutes) funded by this Agreement, including payment of at least prevailing wage as applicable; overtime and working hour requirements; apprenticeship obligations; payroll recordkeeping requirements; and other obligations as required by law.
2. All contracts and every layer of subcontracts involving public works funded by the above-referenced Agreement contained requirements that the contractor or subcontractor comply with prevailing wage law and pay prevailing wages in accordance with the requirements of the Labor Code.
3. The contractors and subcontractors have maintained labor records as required by the Labor Code and such records shall be made available upon request.
4. The undersigned Recipient acknowledges that disbursement of the retention by the California Energy Commission is expressly made in reliance upon the representations made in this certification.

¹ Public works is defined in Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720.

Recipient:

Signature of Authorized Representative:_____

Printed/Typed Name:

Title:

Date:

Each contractor and subcontractor performing public works (e.g., construction, alteration, demolition, installation, repair or maintenance work) for the Project must sign below. Include additional pages if necessary.

Contractors and subcontractors hereby certify as follows:

1. The contract with the Recipient or the Recipient's contractor to perform work funded by the above-referenced Agreement contained requirements that the 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. Contractor and all its subcontractors have maintained labor records as required by the Labor Code and such records shall be made available upon request.
4. The undersigned acknowledges that disbursement of the retention by the California Energy Commission to the Recipient is expressly made in reliance upon the representations made in this certification.

Construction Contractor #1

Company Name:

Signature of Authorized Representative:_____

Printed/Typed Name:

Title:

Date:

Construction Contractor #2

Company Name:

Signature of Authorized Representative:_____

Printed/Typed Name:

Title:

Date:

Construction Contractor #3

Company Name:

Signature of Authorized Representative:_____

Printed/Typed Name:

Title:

Date:

Construction Contractor #4

Company Name:

Signature of Authorized Representative:_____

Printed/Typed Name:

Title:

Date:

Construction Contractor #5

Company Name:

Signature of Authorized Representative:_____

Printed/Typed Name:

Title:

Date:

Construction Contractor #6

Company Name:

Signature of Authorized Representative:_____

Printed/Typed Name:

Title:

Date:

ATTACHMENT J

Information on Compliance with Prevailing Wage Requirements under California Law for Programs Funded by the American Recovery and Reinvestment Act of 2009 (ARRA)

Basic Provisions

- **What are prevailing wage requirements under California law?**

California law requires payment of locally prevailing wages (including employer payments for employee benefits) to workers, laborers, and mechanics on state government contracts in excess of \$1,000 for public works projects.² California prevailing wage requirements may also apply where a construction contract between private persons involves public works.³

Contractors and subcontractors on covered projects must also comply with additional requirements, such as providing workers' compensation coverage, maintaining certified payroll records and making such records available for inspection, and complying with apprenticeship obligations.⁴ For an example of contractual language that includes these requirements refer to the sample terms and conditions, Special Condition regarding Prevailing Wage, attached as Attachment N hereto.

- **Are activities funded under the American Recovery and Reinvestment Act of 2009 (ARRA) subject to prevailing wage requirements under California law?**

In California, courts have held that because legislation providing for the payment of prevailing wages comes under the historic police powers of the state, absent a contrary intention expressed in a federal statute, the presumption is that such legislation is not superseded.⁵ Therefore, absent such an express statement preempting state prevailing wage requirements, whenever federally funded or assisted projects are controlled or carried out by California awarding bodies of any sort, California prevailing wage rates, when higher, must be applied.⁶ Although section 1606 of ARRA provides that federal prevailing wage

² Cal. Labor Code §§ 1723 (defining the statutory term "worker" to include "laborer, worker, or mechanic"), 1771 (stating general prevailing wage requirements applicable to workers on qualifying public works projects). 8 C.C.R. § 16000 (defining general prevailing rate of per diem wages to include the prevailing rate of employer payments for employee benefits). Labor Code Sections may be found online at <http://www.leginfo.ca.gov/calaw.html>.

³ Cal. Labor Code § 1720.2 (stating that "public works" is defined to include construction work done under a private contract where prescribed conditions exist). See *a/so* Cal. Labor Code § 1720(c).

⁴ See 8 C.C.R. § 16100(c) (enumerating obligations for contractors and subcontractors under California prevailing wage law).

⁵ *Reyes v. Van Elk, Ltd.* (Cal.App. 2 Dist. 2007) 148 Cal.App.4th 604, 616.

⁶ 8 C.C.R. § 16001(b).

requirements under the Davis-Bacon Act (DBA) broadly apply to construction projects funded with ARRA appropriations,⁷ neither ARRA nor DBA expressly preempt state prevailing wage requirements.

- **What constitutes a prevailing rate under California law?**

Under California law, a “Prevailing Rate” is comprised of three components: (1) the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area (if a majority of such workers are paid at a single rate);⁸ (2) the rate for holiday or overtime work, as specified in an applicable collective bargaining agreement, or otherwise included with the prevailing basic hourly rate; and, (3) the prevailing rate of employer payments for any or all programs or benefits for employees, their families and dependents, and retirees, as enumerated in prevailing wage regulations issued by the California Department of Industrial Relations (DIR).⁹

- **What types of work are covered by California prevailing wage requirements?**

The California Labor Code beginning at section 1720 deals with this issue. Labor Code sections 1720 and 1771 define public works as:¹⁰

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

Below are some examples (this list is not exhaustive) of the types of activities that typically lead to finding that a project is a public work:

- Cement work such as pouring a cement pad.
- Site preparation such as grading.
- Surveying.
- Electrical work such as wiring.
- Carpentry work.

⁷ Sec. 1606, Division A, Pub. L. No. 111-5, 123 Stat. 303.

⁸ 8 C.C.R. § 16000 (explaining alternative methods of calculating the basic hourly rate if there is no single rate being paid to a majority in a particular locality). See also Frequently Asked Questions – Prevailing Wage, Department of Industrial Relations, available at http://www.dir.ca.gov/dlsr/faq_prevailingwage.html.

⁹ 8 C.C.R. § 16000. The full text of DIR’s prevailing wage regulations can be found at: <http://ccr.oal.ca.gov> (Title 8, Division 1, Chapter 8, Subchapter 3).

¹⁰ See also 8 C.C.R. § 16001.

- Limited inspection activities.

Specific Job Categories

- **What kind of trades or workers must be paid prevailing wages under California law?**

The California Department of Industrial Relations (DIR) Division of Labor Statistics and Research (DLSR) makes the final determination on which trades and/or workers are covered by prevailing wage laws. DLSR maintains a list of the covered trades/workers that are entitled to prevailing wage for public works commercial construction projects.¹¹

Generally, workers such as the following would be covered trades:

- Operating engineer (heavy equipment operator)
- Surveyor
- Carpenter
- Cement Mason
- Electrician
- Laborer

The following types of workers usually would NOT be covered trades entitled to payment of prevailing wages:

- Engineer
- Project superintendent / construction manager / project manager
- Architect
- Planner
- Computer programmer

The above examples are for general information only. If you have questions about whether a worker is in a covered trade requiring payment of prevailing wages, you should check directly with DIR.

- **Are apprentices covered by prevailing wage requirements under California law?**

An apprentice is permitted to work on a project subject to California prevailing wage requirements at less than the prevailing rate prescribed for the trade she performs. However, persons may only be employed at the apprentice wage rate on projects involving public works in limited circumstances. More specifically, in order to be eligible the employment and training of each apprentice must be in accordance with either the apprenticeship standards and apprentice agreements

¹¹ See www.dir.ca.gov/dlsr/statistics_research.html or call the DLSR Prevailing Wage Hotline (415) 703-4774 for more information about these trades.

under which she is training, or the rules and regulations of the California Apprenticeship Council.¹²

- **Are helpers covered by prevailing wage requirements under California law?**

Under DIR prevailing wage regulations, a helper is defined as any subjourneyman classification traditionally used to assist a journeyman.¹³

In the absence of a determination that the use of such a subclassification prevails in a particular area, the helper classification may not be used as a substitute for a journeyman or apprentice.¹⁴

Miscellaneous Issues

- **Do California prevailing wage requirements apply to a public agency that performs project work with its own employees?**

No. California prevailing wage requirements do not apply to work carried out by a public agency with its own employees.¹⁵

- **If my project is a public work, how do I know what prevailing wages are required in order to prepare a budget?**

If your project is a public work, please submit your budget with the applicable prevailing wage for each trade entitled to prevailing wages as determined by DLSR. For prevailing wage rate information for commercial projects, see www.dir.ca.gov/dlsr/statistics_research.html or call the Prevailing Wage Hotline at (415) 703-4774. If your project involves residential construction, the rates are not listed on DIR's website, and you must call the DLSR Prevailing Wage Hotline.

- **How should I budget if I am unsure whether my project involves public works and requires the payment of prevailing wages?**

You are encouraged to determine if your project involves public works as soon as possible. In order to determine if your project is a public work, you will need to contact DIR. They can be reached at (415) 703-4774. If you do not know whether your project is a public work and you have not obtained a determination from DIR that the project is not a public work, you must budget with the assumption that the project is a public work and comply with the prevailing wage laws, including but not limited to the payment of prevailing wages.

¹² Additional requirements that must be satisfied in order for persons employed in these classifications to be paid an apprentice wage rate on projects involving public works are found in California Labor Code Section 1775.5.

¹³ 8 C.C.R. § 16000.

¹⁴ 8 C.C.R. § 16200(a)(3)(H).

¹⁵ Cal. Labor Code § 1771.

On the budget, please indicate whether your budget includes amounts for the payment of prevailing wage. You must indicate “yes” unless you have received a determination from DIR that the project is not a public work.

If you do not budget for prevailing wage, and it is later determined that the project involves public works and prevailing wage must be paid, you may be liable for damages and penalties.¹⁶ You also cannot later increase your grant award if it is determined that prevailing wages apply and increase project costs higher than budgeted. The amount requested in your proposal is the maximum that will be paid. Any increased costs for payment of prevailing wage must be paid with match funds. The Energy Commission’s grant award amount does not change or increase if the applicant’s costs increase for any reason.

- **How do I get assistance in determining whether the project involves public works?**

First, call the DLSR Prevailing Wage Hotline, (415) 703-4774. The Prevailing Wage Hotline can frequently give advice quickly on routine questions. If the Prevailing Wage Hotline is unable to answer your question, you will need to write to the Director of DIR for a coverage determination on whether your project involves public works. You would include all the relevant facts and documents related to the project. DIR regulations, Title 8 California Code of Regulations, section 16001(a)(1), provides that any interested party may file a request with the Director of DIR to determine coverage under the prevailing wage laws. The request can be either for a specific project or type of work to be performed that the interested party believes may be subject to or excluded from coverage as public works under the Labor Code. Send requests for a coverage determination to:

Department of Industrial Relations
Office of the Director
455 Golden Gate Avenue
San Francisco CA 94102

- **How long will it take to get an answer?**

Generally the question can be asked and answered informally and quickly through the Prevailing Wage Hotline. However, if you need to submit a request to the Director of DIR, it will take longer to get a coverage determination.

- **What happens if I make a request to DIR but do not have a decision or am still unsure whether prevailing wages must be paid by the time the Energy**

¹⁶ Cal. Labor Code § 1775.

Commission makes an award at a business meeting, or by the time I execute the grant agreement?

In this case, the Energy Commission would execute a grant agreement with a budget that assumes prevailing wage is required. If the Recipient, prior to performing the activities in question, then receives a determination from DIR that the project is not a public work, then the Energy Commission can execute an amendment with the Recipient to decrease the budget accordingly. The prevailing wage terms and conditions can also be removed.

- **What if I submit a proposal to the Energy Commission with a project that I say is not a public work, and the Energy Commission believes that it might be a public work?**

The Energy Commission would request that you first call the Prevailing Wage Hotline. If you do not receive an answer, the Commission would request that you write a letter to DIR and ask DIR to make the decision. If DIR says the project is a public work, then you will need to pay prevailing wages. If you do not obtain a DIR determination that the project is not a public work requiring the payment of prevailing wages, then you must assume that the project is a public work and comply with the prevailing wage laws, including paying prevailing wages.

- **What do I do if workers will be used who do not fit neatly into one of the categories on the DIR website?**

Contact DLSR and describe the type of trade you anticipate will be required in your project and ask whether there is an existing prevailing wage already set by DLSR.

Additional Information on State Prevailing Wage

- Department of Industrial Relations (DIR) Public Works Manual, May 2009, available at <http://www.dir.ca.gov/dlse/PWManualCombined.pdf>.
- Public Works Determination No. 2003-029, available at <http://www.dir.ca.gov/dlsr/coverage/year2005/2003-029.pdf>.

ATTACHMENT K

PREFERENCE POINTS FOR CALIFORNIA-BASED ENTITIES

Pursuant to Public Resources Code Section 25620.5 (h & i), the California Energy Commission's Public Interest Energy Research (PIER) Program must give a priority to "California-based entities" (CBEs) when making awards. To implement this law, the Energy Commission will award preference points if the application meets the criteria for a CBE as described below.

An Applicant must meet all of the following to receive CBE preference points:

1. The application must include a CBE as either the recipient or a subcontractor. A CBE is a corporation or other business form organized for the transaction of business that:
 - Either has its headquarters or an office in California AND
 - Substantially manufactures the product or substantially performs the research within California that is the subject of the award.
2. The budget must show that the CBE(s) will receive 50% or more of the PIER funds awarded.
 - If the CBE is the prime recipient, then this means that no more than 50% of the awarded PIER funds can be subcontracted to non-CBEs.
 - The 50% applies to the PIER funds and does not include the match funding. For example, if a application has a PIER budget of \$100,000, then regardless of how much match funding is pledged, the budget must show \$50,000 or more in PIER funds going to CBEs.
 - The 50% requirement can be made up of multiple CBEs. For example, a application in which a prime recipient CBE will receive 25% of PIER funds and a subcontractor CBE will receive 25% of PIER funds, meets this 50% requirement.
3. The application must receive a passing score prior to any preference points being added.

The preference points will be awarded as follows:

<i>Technical Score (prior to preference points being added)</i>	<i>Additional Points</i>
70-75	1
76-81	2
82-87	3
88-93	4
94-100	5

The total possible points, not counting any preference points, for this solicitation is 100. The minimum passing score is 70 points. Each application that has a score of 70 points or more and qualifies for this preference will receive additional points based on the table above.

Applicants wanting to qualify for these preference points must fill out the attached form. Otherwise eligible Applicants who do NOT submit the attached form with the application shall NOT be eligible for the CBE preference points.

ATTACHMENT L

CBE PREFERENCE POINTS QUESTIONNAIRE

[The CBE preference points' questionnaire is a separate Microsoft Word document that can be accessed at www.energy.ca.gov/contracts as part of this solicitation package. Eligible Applicants must request these preference points by completing and submitting this questionnaire for each CBE contained in the application.]

ATTACHMENT M
RESOLUTION

This attachment only applies to local jurisdictions, such as city or county governments, school districts, special districts. Please refer to Section 8 for additional information. This attachment contains three example resolutions. Use the one most appropriate for your situation.

Example 1: Resolution by a Local Governmental Jurisdiction Applying for its Own Project

RESOLUTION

WHEREAS, the **(name of local governmental jurisdiction here)** recognizes that it is in the interest of the regional, state, and national economy to develop alternative energy resources to reduce our dependence on foreign oil; and,

WHEREAS, geothermal energy is indigenous to **(name local geographic area)**, and its careful development may provide benefits to the local community in the form of jobs and reduced fuel costs; and,

WHEREAS, GRDA funds are available through the California Energy Commission for grants and loans to local governments for geothermal-related activities;

NOW, therefore, be it resolved that the **(name governing body of the local governmental jurisdiction)** authorizes the submittal of the application to the California Energy Commission for funds to execute the **(name project)**.

BE IT ALSO RESOLVED, if recommended for funding by the Commission, the State Legislature, and the Department of Finance, the **(name of governing body of the local governmental jurisdiction)** authorizes **(name of local governmental jurisdiction)** to accept a loan or grant award up to the amount of this application for \$ **(name requested amount)**, and, that **(name job title of designated project manager)** acting for the **(name local governmental jurisdiction)** is hereby authorized and empowered to execute in the name of **(name local governmental jurisdiction)**, all necessary contracts and agreements, and amendments hereto, to implement and carry out the purposes specified in the application.

The foregoing resolution was passed by the **(name governing body of the local governmental jurisdiction)** this _____ day of _____, _____.

Effective _____, _____

ATTEST:

Signed: _____ Date: _____

Title: _____

Example 2: Resolution by a Local Governmental Jurisdiction Approving a Project Initiated by a Private Entity in the Local Jurisdiction

RESOLUTION

NOTE: If the local jurisdiction has issued a permit(s) for your project (e.g. land use, building permits etc.), such permit(s) may substitute for the following formal resolution by the local jurisdiction to meet Energy Commission requirements. If there is no permit(s), the following formal resolution is required:

WHEREAS, the **(name local governmental jurisdiction here)** recognizes that it is in the interest of the regional, state, and national economy to develop alternative energy resources to reduce our dependence on foreign oil; and,

WHEREAS, geothermal energy resources are found in **(name local geographic area)**, and its careful development may provide benefits to the local community in the form of jobs and reduced fuel costs; and,

WHEREAS, **(name private party developing project)** has proposed a project with potential significance to both the local community and the geothermal industry; and,

WHEREAS, the **(name governing body of the local governmental jurisdiction)** has authority to approve geothermal-related projects in its jurisdiction; and,

WHEREAS, **(name private party developing project)** has requested approval for **(name project)** from **(name governing body of the local governmental jurisdiction)**;
Now, therefore, be it resolved that the **(name governing body of the local governmental jurisdiction)** hereby approves **(name project)**.

The foregoing resolution was passed by the **(name governing body of the local governmental jurisdiction)** this _____ day of _____, _____.
Effective: _____, _____

ATTEST:

Signed: _____ Date: _____
Title: _____

Example 3: If neither of the above examples applies, use the following, if a Resolution is required:

RESOLUTION

At a minimum, the following in the authorizing *Resolution* must contain the following:

- Brief description of the project.
- Acceptance of award up to \$ (specific dollar amount).
- Authorization of a person, by title, or authorized designee, empowered to execute agreement and all future documents related to this award.
- Resolution approved by your Governing Authority with a signature.

ATTACHMENT N

TERMS AND CONDITIONS

[The sample grant terms and conditions for this solicitation is a separate portable document file (.pdf). The terms and conditions are being revised at this time. As soon as the terms and conditions are final, the document can be accessed at www.energy.ca.gov/contracts as part of this solicitation package. Please note that the California Energy Commission reserves the right to modify these terms and conditions prior to issuing funding awards.]