



*RENEWABLE  
ENERGY  
PROGRAM*

**CALIFORNIA  
ENERGY  
COMMISSION**

# **NEW RENEWABLE FACILITIES PROGRAM**

# **GUIDEBOOK**

MAY 2004  
500-04-001F



Arnold Schwarzenegger, *Governor*

# **CALIFORNIA ENERGY COMMISSION**

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

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

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

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

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# Introduction

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

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

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

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

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

- Shall make payments for 10 years or for the length of the contract with the electrical corporation if it is of a lesser duration
- Shall reduce or terminate SEPs for projects that either fail to commence or maintain operations in accordance with contractual obligations or that fail to meet eligibility requirements
- Shall manage the funds in an equitable manner so that retail sellers may meet their RPS obligations
- May establish payment caps
- May require an applicant competing for funding to post a forfeitable bid bond or other financial guaranty of the applicant's good faith intent to move forward with the project expeditiously

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

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

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

## **Related Publications**

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

In addition, the Energy Commission is proposing guidelines governing the eligibility and certification of renewable energy facilities under the RPS. These guidelines are set forth in the *Renewables Portfolio Standard Eligibility Guidebook* (publication number 500-04-002F) describing the Energy Commission's proposed eligibility guidelines and certification process, and are available on-line at <[www.energy.state.ca.gov/portfolio](http://www.energy.state.ca.gov/portfolio)>.

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

## **Guidebook Organization**

This guidebook is organized as follows:

1. Introduction
2. Program Overview
3. Eligibility
4. Prevailing Wage Requirements
5. Multiple Awards
6. Award Determination

7. Eligible Generation
8. Payment Terms
9. Forms and Samples

## **Program Overview**

The NRFP is intended to foster the development of new in-state renewable facilities and secure for California the environmental, economic, and reliability benefits these facilities will provide.

The NRFP will provide grant funding in the form of production incentives, referred to as SEPs, to eligible renewable facilities for each kilowatt-hour of eligible electricity they generate. To qualify for funding, applicants must show that their proposed renewable facility meets a number of requirements as specified in Public Utilities Code section 383.5(d), as amended by Public Resources Code section 25743.

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

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

The contracts will be based in part on the energy price bid by the applicants in the solicitations, measured in cents per kilowatt-hour. If the energy price bid by a winning applicant is above a benchmark price, or market price referent, established by the CPUC after the bids are submitted to the utilities, an applicant that is deemed eligible may receive SEPs from the NRFP. SEPs are calculated based on the difference between the bid price and the benchmark price, up to any Energy Commission-established caps. SEPs are to be paid for the lesser of 10 years or the length of the utility contract, with a further restriction that no SEPs will be made for contracts with terms of less than three years.

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

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

## Eligibility

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

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

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

- Facility/facility owner has met all fuel-specific eligibility and/or reporting requirements described in the *Renewables Portfolio Standard Eligibility Guidebook*.

- Facility/facility owner has a power purchase contract with an IOU that has been approved by the CPUC and resulted from a CPUC-approved RPS solicitation.

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

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

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

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

- ✓ Commenced commercial operations and received SB 90 payments, or
- ✓ Not commenced commercial operations and not received SB 90 payments

Projects cannot receive both SEPs and SB 90 award payments. A project with a conditional funding award from the Energy Commission's New Renewable Resources Account under SB 90 can participate in an RPS solicitation to secure a power purchase contract, but must relinquish its SB 90 award if it wishes to receive SEPs.

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

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

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

## Multiple Awards

Facilities that divide their electricity generation among two or more separate power purchase contracts can be eligible for SEPs provided that all of the generation from each contract is reported to the Energy Commission's RPS tracking and verification system. Facilities, however, are only eligible for SEPs for the first 10 years of generation from their initial RPS contract(s).

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

cumulative number of years of SEP payments cannot exceed 10 years under any circumstances.

## **Eligible Generation**

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

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

## **Award Determination**

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

For each solicitation, the Energy Commission will compare the requested SEPs with the available PGC funds to determine if PGC funds are adequate to cover SEPs for all the selected winning bidders. The Energy Commission may impose a cap on SEP awards as discussed below under "Payment Terms." If funding is available to cover only a portion of the SEPs for which a bidder might otherwise be eligible, the bidder may choose to take a partial award or decline the award entirely.

The Energy Commission will notify the CPUC, IOU, and bidders of the availability of PGC funds within 30 days of receiving all data needed to conduct this evaluation. The Energy Commission will also notify the CPUC, IOU and winning bidders of the potential PGC award per winning bidder.

The Energy Commission will approve final PGC awards after winning bidders have met all of their environmental review requirements. At that time, the Energy Commission will sign SEP Award Agreements with the winning bidders. A sample SEP Award Agreement is shown in the Forms and Samples section of this guidebook. This agreement is provided as an example only and will be modified once the CPUC

approves standard terms and conditions for IOU contracts and IOU solicitations are held.

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

## **Payment Terms**

### **SEP Allocation**

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

### **Caps**

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

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

## **Generation Requirements**

The bidder’s estimated annual generation by the project over the term of the proposed funding period will be specified in the awardee’s funding award agreement. The estimated generation may vary from year to year. The Energy Commission will evaluate each facility’s actual generation over the first three years of the funding period. If the actual generation during those first three years averages less than 85 percent of the estimated generation for that three-year period, the Energy Commission will contact the facility for an explanation for the undergeneration.

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

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

## Invoicing Process

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

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

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

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

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

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

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

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

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

To receive funding, projects must also complete the State of California Vendor Record (STD-204) form shown in the "forms" section of this guidebook. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646, and Federal Internal Revenue Code, Section 6109. This form must be on file with the Energy Commission before any payments can be made. If you have any questions about this form, please contact the California Franchise Tax Board at 1-800-852-5711.

## **Basis for SEP Termination**

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

Examples of reasonable cause include but are not limited to:

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

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

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

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

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

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

# **Appendix A**

## **FORMS AND SAMPLES**

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Instructions for Completing CEC-SEP-1  
CEC-SEP -1  
STD-204  
Sample Supplemental Energy Payment Award Agreement

## Instructions for completing CEC-SEP-1, Monthly Invoice Report for New Renewable Facilities Program

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

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

# MONTHLY INVOICE FOR SUPPLEMENTAL ENERGY PAYMENTS NEW RENEWABLE FACILITIES PROGRAM

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



*RENEWABLE  
ENERGY  
PROGRAM*

CALIFORNIA ENERGY COMMISSION

**Please submit invoice to:**

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

**Instructions for completing this form are in the Guidebook for  
the New Renewable Facilities Program (pub. no. 500-04-001D).**

**Please print or type**

Company Name:											
Generation Period:							Date Submitted:				
CEC RPS ID #:											
Eligible Production (in kWhs)										Please check one:	
											<input type="checkbox"/> Estimated Generation (attach explanation letter)
			,				,				<input type="checkbox"/> Based upon attached third-party statement

## DECLARATION

I, (print name) \_\_\_\_\_, declare under penalty of perjury that the information provided in this invoice is true and correct to the best of my knowledge and that I, as an authorized agent of the above named company, have authority to submit this invoice on the company's behalf. I further declare under penalty of perjury that I have reviewed the electricity production data included in the attached statement(s) and that, to the best of my knowledge, it does not overstate the amount of electricity production supplied to the transmission grid or distribution system by the above named company.

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

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

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

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

1. **Purpose.** This SEP Award Agreement (“Agreement”) is entered into between \_\_\_\_\_ (“Awardee”) and the California Energy Commission (“Commission”) for the purpose of creating a funding award pursuant to the Commission’s New Renewable Facilities Program Guidelines (“Guidelines”) Awardee was selected as a winning bidder in solicitation \_\_\_\_\_ and must comply with the terms and conditions of the Guidelines, this Agreement, and contract \_\_\_\_\_ with \_\_\_\_\_ to be eligible for funding from the Renewable Resource Trust Fund.
2. **Incorporation by Reference.** The Commission’s Guidelines are not attached hereto, but are incorporated by reference and made a part of this Agreement.
3. **SEP award Amount.** The total amount of Awardee’s SEP award under this Agreement is \_\_\_\_\_, and is based on the difference between the Awardee’s bid of \_\_\_ cents/kWh and the applicable market price referent for solicitation # \_\_\_\_\_, subject to any Energy Commission imposed caps, and the following estimated annual levels of eligible electrical power generation, as in Awardee’s bid.

<b>Year 1 Generation</b>	_____	<b>kWhs</b>
<b>Year 2 Generation</b>	_____	<b>kWhs</b>
<b>Year 3 Generation</b>	_____	<b>kWhs</b>
<b>Year 4 Generation</b>	_____	<b>kWhs</b>
<b>Year 5 Generation</b>	_____	<b>kWhs</b>
<b>Year 6 Generation</b>	_____	<b>kWhs</b>
<b>Year 7 Generation</b>	_____	<b>kWhs</b>
<b>Year 8 Generation</b>	_____	<b>kWhs</b>
<b>Year 9 Generation</b>	_____	<b>kWhs</b>
<b>Year 10 Generation</b>	_____	<b>kWhs</b>
<b>Total</b>	_____	<b>kWhs</b>

4. **Term.** The term of this Agreement shall be from the date of execution by both Awardee and the Commission to \_\_\_\_\_ years after the project’s on-line date unless terminated earlier by the Commission pursuant to the Guidelines.
5. **Non-Transferability of SEP award.** The SEP award created by this Agreement is specific to Awardee and the \_\_\_\_\_ project. This SEP award is not transferable or assignable to another project, and may not be assigned to another entity without the Commission’s prior written permission.

6. **Assignment.** Awardee shall not assign its rights nor delegate its duties under this Agreement without the Commission's advance written approval.
7. **Indemnification.** Awardee agrees to indemnify, defend and save harmless the Commission, its officers, agents and employees from any and all claims and losses accruing and resulting to any and all contractors, subcontractors, materialmen, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with this funding agreement award, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Awardee in the performance of work under this award.
8. **Review and Disclaimer.** Review by the Commission of the design, operation, or maintenance of Awardee's project 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. Awardee shall in no way represent to any third party that the Commission's review of Awardee's project is a representation by the Commission as to the project's economic or technical feasibility, operational capability, or reliability. Awardee is solely responsible for its project's economic and technical feasibility, operational capability, and reliability.
9. **Certification.** Awardee has provided evidence of project certification as an eligible renewable resource and must maintain that certification as outlined in the Commission's *Renewables Portfolio Standard Eligibility Guidebook* (publication number 500-04-002D). Failure to do so may result in Awardee's SEP award being canceled as specified in the guidelines.
10. **SEP Award Cancellation.** Awardee acknowledges that its SEP award or SEP award payments may be canceled for cause pursuant to the Guidelines.
11. **Supplemental Energy Payments.** Awardee acknowledges that its eligibility to receive SEPs under this Agreement shall be contingent upon its satisfaction of all terms and conditions set forth in the Guidelines and this Agreement.
12. **Invoicing.** Awardee shall invoice for payments under this Agreement in accordance with the procedures specified in the applicable Guidelines.
13. **Records Retention.** Unless stated otherwise in the applicable Renewable Guidelines, Awardee shall:
  - keep all records relating to and verifying the accuracy of information stated in an invoice for payment submitted pursuant to this Agreement for a period not less than three years after the end of the calendar year in which payment for the invoice is made;
  - keep all records relating to and verifying the accuracy of information stated in a report submitted to the Commission pursuant to the Guidelines for a period not

less than three years after the end of the calendar year in which the report is submitted; and

- keep all records relating to and verifying the overall usage, on a total energy input basis, of all fossil fuels and non-fossil fuels used to generate electricity in a given calendar year for a period not less than four years after the end of that calendar year.

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

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

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

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

16. **CEQA Review.** *The Commission has reviewed the \_\_\_\_\_ project and finds that:*

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

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

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

\_\_\_\_\_  
Signature of Project Representative  
Title

\_\_\_\_\_  
Signature of CEC Representative  
Title

# Appendix B

## ACRONYMS

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