

ATTACHMENT 8

CERTIFICATION REGARDING CONFLICTS OF INTEREST California Energy Commission Delegated Chief Building Officials

Purpose of Certification

Firms that submit a Statement of Qualifications for and are selected as the Delegated Chief Building Official ("DCBO") for Energy Commission power plant projects must complete this certification regarding conflicts of interest.

This requirement applies to all personnel, employees, and subcontractors who are considered "consultants" as defined in the California Code of Regulations, tit. 2, § 18700.3. This does not apply to personnel, employees, and subcontractors who perform strictly administrative tasks. Examples of classifications that are considered strictly administrative include secretary, document control personnel, project assistant, etc. Examples of classifications that are considered "consultant" positions include engineers, plan reviewers, inspectors, monitors, project managers, etc.

The Firm is responsible for having assigned personnel, employees, and subcontractors who are considered "consultants" under this Agreement complete the certification and for reviewing each certification at multiple points: (1) within 30 business days from the date of the contract start date; and (2) every twelve months until the contract end date. This second phase of review will ensure that each employee and subcontractor of the Firm has considered his or her relationship with the project owner and project entities as such list is subject to change over the life of the project. The second review does not require the completion of a new form, but will require the DCBO to provide a written confirmation that a verbal verification was made for Section 3 of all employees and subcontractors who perform work under this Agreement, and will include a list of those individuals' names. Upon request, the Commission Agreement Manager (CAM) will provide the DCBO with the current list of project owners and project entities.

Whenever there is a change in project owners or project entities, the CAM will provide a new list to the Firm, at which time the Firm will follow the procedures for the third review as noted above.

Completed certifications must be returned to the CAM to be filed with the Construction Progress Reports. No work under the contract will be authorized until all persons assigned to the project by the Firm have signed this certification.

Please be advised that this certification is a tool to help the Energy Commission identify perceived conflicts of interest for a given power plant project in a timely manner.

The Firm may also find this certification helpful for continually reviewing for potential conflicts of interest.

If you are unable to complete this certification, or if you have any questions, please contact the CAM, who will work with an Energy Commission attorney to help you resolve any issues or concerns.

Please see Exhibit 8a, Conflict of Interest Provisions for additional conflict of interest requirements.

Section 1. Firm Employee/Subcontractor Information

Firm Employee/Subcontractor Name:	Date:	Daytime Phone Number:
Firm Name:	E-mail Address:	
Contract Number:		
Name of Power Plant Project:		

List known project owners and project entities associated with the project listed in Section 1, including the project owner(s) (if different from “applicant”), applicant, applicant’s contractors for the project, intervenors, and intervenor’s contractors for the project. [Note: The CAM will provide the Firm with a list of project owners and project entities associated with the project.]

For example:

Hidden Hills Solar project:

- Hidden Hills Solar Holdings, LLC
- Jon William Zellhoefer
- Center for Biological Diversity
- Etc...

1. Within the last 12 months, have you entered into an agreement or working relationship with anyone, or negotiated or made arrangements concerning employment with any person or entity listed in Section 2?

If your response is ‘Yes’, please identify the person(s) and/or entity(ies) and the project name:

- Yes
 No

2. Have you, your spouse, or a dependent member of your family received or been promised income aggregating \$500 or more in value from any person or entity listed in Section 2 in the last 12 months?

If your response is ‘Yes’, please identify the person(s) and/or entity(ies):

- Yes

No

3. Have you received or been promised one or more gifts (including food and beverages, event tickets, discounts, etc.) aggregating \$460 or more in value from any person or entity listed in Section 2 in the last 12 months?

If your response is 'Yes', please identify the person(s) and/or entity(ies):

Yes

No

4. Do you or your spouse have an investment worth \$2,000 or more in any person or entity listed in Section 2?

If your response is 'Yes', please identify the person(s) and/or entity(ies):

Yes

No

5. Whether compensated or uncompensated, do you or your spouse serve as director, officer, partner, trustee, elected official, employee, or member, or hold any other position of management in any entity listed in Section 2?

If your response is 'Yes', please identify the person(s) and/or entity(ies):

Yes

No

6. Do you or your spouse have any business affiliation with any person or entity listed above?

If your response is 'Yes', answer the following questions.

If your response is 'No', skip the following questions and please sign and date the form.

Yes

No

- a. Do you or your spouse serve on a board that has a contract with any person or entity listed in Section 2?

Yes

No

- b. Is any person or entity listed in Section 2 a member of a board on which you or your spouse also serve?

Yes

No

- c. Is your spouse a contractor for any person or entity listed above?

Yes

No

Please describe any other affiliation you or your spouse may have with each person or entity listed above:

Section 4. Certification

I declare, under penalty of perjury, that the information and statements in this form are true, correct, and complete to the best of my knowledge.

Firm Employee/Subcontractor Signature

Date

I certify that I have reviewed this form, and that the information and statements in this form are true, correct, and complete to the best of my knowledge.

Signature of Authorized Representative for Firm

Date

Attachment 8a
Conflict of Interest Provisions

1. NOTICE OF POTENTIAL CONFLICTS

The Contractor represents that it is familiar with California conflict of interest laws, and agrees to comply with those laws in performing this Contract (e.g., Gov. Code § 81000 et seq., and Gov. Code § 1090 et seq.). The Contractor certifies that, as of the effective date of this Agreement, it was unaware of any facts constituting a conflict of interest. The Contractor shall avoid all conflicts of interest in performing this Contract.

Contractor agrees to continuously review new and upcoming projects in which members of the Contractor team may be involved for potential conflicts of interest. Contractor shall inform the CAM as soon as a question arises about whether a potential conflict may exist. The CAM and the Commission's Chief Counsel's Office shall determine what constitutes a potential conflict of interest. Without limiting any of its other available rights, remedies, or actions, the Energy Commission reserves the right to redirect work and funding if the Commission's Chief Counsel's Office determines that there is a potential conflict of interest.

2. APPEARANCES OF CONFLICTS OF INTEREST

Contractor acknowledges that in governmental contracting even the appearance of a conflict of interest can be harmful to the interest of the State. Thus, Contractor agrees to refrain from any practices, activities, or relationships that appear to conflict with Contractor's obligations under this Contract, unless Contractor receives prior written approval of the Commission. In the event Contractor is uncertain whether the appearance of a conflict of interest may exist, Contractor shall submit to the CAM a written description of the relevant details.

3. RULES REGARDING CURRENT AND FORMER ENERGY COMMISSION EMPLOYEES

Please see the CONFLICT OF INTEREST provision in the Contractor Certification Clauses (CCC 307) incorporated by reference into these terms and conditions from the Department of General Services' required terms (GTC 04/2017), which are also incorporated by reference.

4. CERTIFICATION REGARDING CONFLICTS OF INTEREST

The Contractor shall submit the Certification Regarding Conflicts of Interest (Attachment F-1) for each employee considered to be a "consultant" (see below) at multiple points: (1) when the Firm submits a Statement of Qualifications to the Energy Commission; (2) within 30 business days from the date of the contract start date; and (3) every twelve months until the contract end date. Please also see Attachment F-1 for additional instructions.

5. FILING STATEMENT OF ECONOMIC INTEREST (FORM 700)

The California Political Reform Act requires individuals holding positions designated within an agency's conflict of interest code to file a Statement of Economic Interests (Form 700) at certain times. The Energy Commission's conflict of interest code designates "consultants" among the positions that must file a Form 700 (see Title 20 California Code of Regulations Sections 2401 and 2402).

The Energy Commission considers all of the Contractor's and subcontractors' employees working on (providing labor) on Tasks 2-7 to be "consultants" subject to the requirements and restrictions of the Political Reform Act and requires them to file an original form 700 with the Energy Commission. (See Government Code Sections 82019 and 87302). Employees working on strictly administrative tasks, such as Task 1 do not have to fill out Form 700 unless directed to do so by the Energy Commission. The Energy Commission reserves the right to have anyone working under this Contract to fill out a Form 700. Each employee and subcontractor determined to be a consultant under the Political Reform Act shall be subject to the same disclosure category or categories applicable to the Commission staff who perform the same nature and scope of work as the consultant. The Energy Commission will determine the appropriate disclosure category for each consultant through the Agency Report of Consultants (Form 805) (see section below for additional information). The disclosure categories can be found at 20 California Code of Regulations Section 2402.

Each of the Contractor's and subcontractors' employees performing work (providing labor) under the Agreement on Tasks 2-7, or as directed by the Energy Commission, must file a Form 700 within the times required under the Political Reform Act, which include the following:

- Assuming Office Statement. Must be filed within 30 days of beginning work under the Contract. Beginning work means when the employee actually performs work under the Contract; it does not mean the start date of the Contract unless the employee starts work on the start date.
- Annual Statement. Must be filed annually, no later than April 1.
- Leaving Office Statement. Must be filed within 30 days of ceasing to perform work under the Contract (e.g., removed as a subcontractor, completion of assigned tasks) or within 30 days after the Agreement ends.

Additionally, consultants are subject to training requirements pursuant to Government Code Section 11146 et. seq. The training, developed by the Attorney General of California and the Fair Political Practices Commission, is offered online and is mandatory for all consultants.

Every individual that qualifies as a "consultant" under the Political Reform Act has an ongoing duty to avoid conflicts of interest and is personally liable for penalties. Please note that not filing the Form 700 or not meeting the training requirements when required can result in automatic daily fines and other consequences.

File all original Form 700's in person at, or by mail to, the following address (e-mails and faxes are not acceptable):

Energy Commission Filing Officer – Form 700 Filing
Selection, Training, & Equal Employment Opportunity
Office
1516 9th St., MS 52
Sacramento, CA 95814

6. AGENCY REPORT OF CONSULTANTS (FORM 805)

Within 30 days of the Contract start date, Contractor must provide the CAM with a Fair Political Practices Commission Form 805, Agency Report of Consultant. Form 805 is available at [FPPC Documents](#). The Contractor shall complete Section 2, Firm Information. Under Section 3, Consultant Information, the Contractor shall complete the Consultant Name section for every individual (including names of subcontractors' employees) performing working under Tasks 2-7, along with the Assuming/Start Date for each individual. A supplemental Form 805 is required within 30 days whenever a new consultant begins work under the contract. If a consultant listed on a Form 805 ceases to perform work under the Contract (e.g., completion of assigned tasks), the Contractor shall notify the CAM of the change within 30 days.

7. SEPARATION OF DUTIES

For the duration of this Contract, Contractor and all subcontractors shall not enter into an agreement or working relationship with anyone, and shall not negotiate or make arrangements concerning employment with anyone, who has a pending Application with the Energy Commission, is planning to file an Application, or is otherwise working on an Application that has been filed or is expected to be filed at the Energy Commission, other than as directed by the Energy Commission for DCBO services.

All employees (including employees of both Contractor and subcontractors) identified as consultants are subject to restrictions of the Political Reform Act on post-governmental activity. Contractor shall ensure that all employees are aware of these restrictions. Guidance published by the Fair Political Practices Commission on these restrictions can be found at: [http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Public Officials and Employees/Leaving State Employment.pdf](http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Public%20Officials%20and%20Employees/Leaving%20State%20Employment.pdf).

8. ENFORCEMENT

Contractor shall make its employees aware of these provisions and shall enforce them. Contractor shall ensure that these provisions are included in all subcontracts, and shall enforce them.

9. NOTIFICATION OF POTENTIAL PROBLEMS

Contractor shall immediately inform the CAM of any potential problems in compliance with these provisions.