**INVITATION FOR BIDS**

**Increasing Compliance with the Building Energy Efficiency Standards**



IFB-17-403

www.energy.ca.gov/contracts/

State of California

California Energy Commission

March 2018

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| Attachments | |
| 1 | Contractor Status Form |
| 2 | Darfur Contracting Act Form |
| 3 | Disabled Veteran Business Enterprise Declarations (DVBE) Std. Form 843 |
| 4 | Bidder Declaration Form GSPD-05-105  (List of subcontractors, including DVBE/Small Business/Microbusiness/  Nonprofit Veteran Service Agency) |
| 5 | Contractor Certification Clauses |
| 6 | Sample Standard Agreement |
| 7 | Budget Forms |
| 8 | California Civil Rights Laws Certification |
| 9 | Team Member Minimum Qualifications List |

# I. Introduction

## Purpose of IFB

The purpose of this Invitation for Bids (IFB) is to select a consultant team of qualified staff and subcontractors to provide technical support to the Efficiency Division’s Existing Buildings and Compliance Office in developing a plan that will promote compliance with the *Building Energy Efficiency Standards* (Energy Standards) in the installation of central air-conditioning and heat pumps (AC/HP) in residential and small commercial buildings. [Senate Bill 1414 (Wolk, Chapter 768, Statutes of 2016)](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB1414) requires the Energy Commission, in consultation with the Contractors State License Board (CSLB), local governments and building officials, and stakeholders, to approve a plan by January 1, 2019 to improve the compliance of central air conditioners and heat pumps system installations, and authorizes it to adopt regulations designed to improve compliance with permit and inspection requirements, including sales and installations of central air conditioners and heat pump equipment in California.

The consultant team will identify and recommend solutions to overcome the major barriers to compliance with the Energy Standards in the installation of central air-conditioning and heat pumps (AC/HP) in residential and small commercial buildings. Barriers should include, but not be limited to, insufficient data, insufficient tools, lack of effective enforcement, insufficient stakeholder value proposition, and motivating behaviors. The consultant team shall investigate and consider the impacts to key actors and stakeholders including, but not limited to, manufacturers, distributors, contractors, homeowners, Home Energy Rating System (HERS) providers and raters, California Energy Commission, California Public Utilities Commission (CPUC), utilities, CSLB, building departments and other local governments, and the general public.

The Energy Commission is seeking a consultant team with the knowledge, experience, and capabilities to identify barriers to compliance with the Energy Standards and make recommendations to mitigate those barriers. The consultant team must be familiar with the Energy Standards, specifically those applicable to the installation of central AC/HP systems in residential and small commercial buildings, and possess a fundamental understanding of industry best practices and emerging approaches and technologies. Additionally, the team must have knowledge and experience conducting economic analyses and data collection and analytics. A detailed list of minimum qualifications may be found in Section IV. Bid Evaluation, subsection Stage Two: Minimum Qualifications.

## Key Activities and Dates

Key activities including dates and times for this IFB are presented below. An addendum will be released if the dates change for the asterisked (\*) activities.

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| **ACTIVITY** | **ACTION DATE** |
| IFB Release | March 5, 2018 |
| Written Question Submittal Deadline\* | March 19, 2018 |
| Distribute Questions/Answers and Addenda (if any) | March 26, 2018 |
| **Deadline to Submit Bid by 5:00 p.m.\*** | ~~April 2, 2018~~  **April 9, 2018** |
| Public Bid Opening | ~~April 3, 2018~~  **April 10, 2018** |
| Notice of Proposed Award | April 9, 2018 |
| Energy Commission Business Meeting | June 13, 2018 |
| Contract Start Date | June 29, 2018 |
| Contract Termination Date | June 29, 2019 |

## Available Funding

There is $250,000 available for the contract resulting from this IFB. This is an hourly rate plus cost reimbursement contract and the award will be made to the responsible Bidder providing the lowest cost, after any applicable preference or incentive (refer to section V. Business Participation Programs).

The Energy Commission reserves the right to reduce the contract amount to an amount deemed appropriate in the event the budgeted funds do not provide full funding of Energy Commission contracts. In this event, the Contractor and Energy Commission Agreement Manager (CAM) shall meet and reach agreement on a reduced scope of work commensurate with the level of available funding.

## Eligible Bidders

This is an open solicitation for public and private entities. Each agreement resulting from this solicitation includes terms and conditions that set forth the contractor’s rights and responsibilities. The University of California, California State University, or U.S. Department of Energy National Laboratories must use either the standard or the pre-negotiated terms and conditions at the following website: (<http://www.energy.ca.gov/contracts/pier.html#piergeneralinfo>). All other entities must agree to use the attached standard terms and conditions (Attachment 6). The Energy Commission will not award agreements to non-complying entities. The Energy Commission reserves the right to modify the terms and conditions prior to executing agreements.

All corporations, limited liability companies (LLCs), limited partnerships (LPs) and limited liability partnerships (LLPs) that conduct intrastate business in California are required to be registered and in good standing with the California Secretary of State prior to its project being recommended for approval at an Energy Commission Business Meeting. 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(s) (should the application be successful). For more information, contact the Secretary of State’s Office via its website at [www.sos.ca.gov](http://www.sos.ca.gov). Sole proprietors using a fictitious business name must be registered with the appropriate county and provide evidence of registration to the Energy Commission prior to their project being recommended for approval at an Energy Commission Business Meeting.

## Questions

During the IFB process, questions of clarification about this IFB must be directed to the Contracts Officer listed in the following section.

Potential Bidders shall carefully examine the qualifications and specifications of this IFB and may submit written questions via mail, electronic mail, and by FAX. All questions must be received by the date indicated in the Key Activities and Dates section. Therefore, all communication should be directed in writing to the Commission’s Agreement Officer listed below.

Any verbal communication with an Energy Commission employee concerning this IFB is not binding on the State and shall in no way alter a specification, term, or condition of the IFB.

## Contact Information

Rachel Grant Kiley, Commission Agreement Officer

California Energy Commission

1516 Ninth Street, MS-18

Sacramento, California 95814

Telephone: (916) 654-4379

FAX: (916) 654-4423

E-mail: [Rachel.Grant-Kiley@energy.ca.gov](mailto:Rachel.Grant-Kiley@energy.ca.gov)

## Responses to This IFB

Responses to this solicitation shall be in the form of an Administrative Response and a sealed/formal Cost Bid using Attachment 7, Budget Forms, according to the format described in this IFB. The Cost Bid shall detail the Bidder’s budget to perform the tasks outlined in the Scope of Work.

## Reference Documents

Bidders responding to this IFB may want to familiarize themselves with the following documents:

Existing Building Energy Efficiency Action Plan, Oct. 2015<http://docketpublic.energy.ca.gov/PublicDocuments/15-IEPR-05/TN206015_20150904T153548_Existing_Buildings_Energy_Efficiency_Action_Plan.pdf> - provides policy background for accomplishing California’s goal of doubling energy efficiency by 2030; discusses need for improvement of HVAC installation compliance with the [*Building Energy Efficiency Standards*](http://www.energy.ca.gov/title24/) – see pp. iii, 13, 25, 52, 60, and 75.

2016 Update to the Existing Building Energy Efficiency Action Plan, December 2016 <http://docketpublic.energy.ca.gov/PublicDocuments/16-EBP-01/TN214801_20161214T155117_Existing_Building_Energy_Efficency_Plan_Update_Deceber_2016_Thi.pdf> - summarizes actions taken to implement the Action Plan since it was adopted, including changes to the strategies and legislative expansion to policy goals – see pp. 1, 21, and 22.

Equipment Number Registration, Roy Eads, July 2013 <http://www.energy.ca.gov/ab758/documents/2013-06_workshops/comments/Roy_Eads_Report_regarding_Standards_Compliance_and_Enforcement_2013-07-08_TN-71535.pdf>- provides a detailed proposal for an equipment number registration system initiated by data submission by manufacturers; explains benefits of tracking equipment.

Tracking Sales and Permit Volume, Compliance Improvement Advisory Group, September 2013 <http://www.caciag.com/Documents/Tracking%20Sales%20and%20Permit%20Volume%20FINAL.pdf> – explores tracking HVAC equipment initiated by data submission by distributors; identifies key industry concerns and potential solutions to mitigate concerns.

Creating Incentives for Contractors to Comply with Energy Codes, Compliance Improvement Advisory Group, October 2012<http://www.caciag.com/Documents/Creating%20Incentives%20for%20Contractors%20to%20Comply%20with%20Energy%20Codes%20FINAL.pdf>– discusses results of an industry survey regarding why contractors will risk not obtaining permits; identifies solutions for motivating contractors to do so and comply with the performance standards, including tracking equipment compliance and using that system to provide both rewards and penalties.

Help Consumers Realize the Value of Compliance, Compliance Improvement Advisory Group, September 2013<http://www.caciag.com/Documents/Help%20Consumers%20Realize%20the%20Value%20of%20Compliance%20White%20Paper%20FINAL.pdf>– identifies reasons why consumers might knowingly or unknowingly not require contractors to obtain permits; identifies solutions for changing this consumer practice; including increased enforcement and consequences for not obtaining permits.

Enforcement of Regional Standards for Central Air Conditioners Final Rule, Section H. Records Retention and Requests, U.S. Department of Energy, Federal Register Vol. 81, No. 135, July 14, 2016,<http://www.ecfr.gov/cgi-bin/text-idx?SID=753d31511c0818567283208520740622&mc=true&node=sg10.3.429_1134.sg0&rgn=div7>– identifies in Section H records required by Department of Energy (DOE) for manufacturers, distributors and contractors to retain for all installations of specific residential air conditioners in the Southwest effective August 14, 2016.

Strategic Plan to Reduce the Energy Impact of Air Conditioners, California Energy Commission, June 2008,<http://www.energy.ca.gov/2008publications/CEC-400-2008-010/CEC-400-2008-010.PDF>– report that presents conclusions of industry experts regarding contractor practice of not obtaining permits and not using industry best practices for installing residential HVAC replacement equipment; including recommendation for a tracking database that ensures all systems that are sold to contractors can be linked to a permit pulled for each customer address and verify high quality installation practices; estimates in Appendix A of the energy and peak demand savings that would be accomplished through correction of these problems.

CF-2R Residential HVAC Alterations Compliance Document,<http://www.energy.ca.gov/2015publications/CEC-400-2015-032/appendices/forms/CF2R/2016-CF2R-MCH-01b-SpaceConditioningSystem-PrescriptiveAlterations.pdf>– Energy Commission installation data required to be submitted to HERS provider registries by contractors who obtain permits – dwelling address, city and zip code; heating unit manufacturer, model number, serial number; cooling system condenser or package unit manufacturer, model number, serial number, split system Indoor coil or fan coil unit manufacturer, model number, serial number; and heat pump condenser or package unit manufacturer, model number, serial number.

Low-Income Barriers Study, Part A: Overcoming Barriers to Energy Efficiency and Renewables for Low-Income Customers and Small Business Contracting Opportunities in Disadvantaged Communities,<http://docketpublic.energy.ca.gov/PublicDocuments/16-OIR-02/TN214830_20161215T184655_SB_350_LowIncome_Barriers_Study_Part_A__Commission_Final_Report.pdf> - explores the barriers to and opportunities for expanding low-income customers’ access to energy efficiency, weatherization, and renewable energy investments. It also examines barriers and opportunities related to contracting with small businesses located in disadvantaged communities. This study provides recommendations intended to have a transformative effect on access to clean energy investments for low-income customers and local small businesses in disadvantaged communities.

Understanding the Residential HVAC Compliance Shortfall: a Western HVAC Performance Alliance White Paper,<http://www.performancealliance.org/Portals/4/Work%20Product/Understanding%20the%20Residential%20HVAC%20Compliance%20Shortfall%2011-8-17.pdf> – provides the Compliance Committee’s perspective on why the majority of residential HVAC replacement work continues to remain unpermitted and provides recommendations on how to close the compliance gap.

Contractors Walk on the Wild Side: Why?<http://www.performancealliance.org/Portals/4/Documents/HVAC%20Research/Heinemeier%20Compliance%20ACEEE%202012%20Official.pdf> – discusses a survey conducted by the Western HVAC Performance Alliance (WHPA) to better understand what the thinking of contractors is related to non-compliance (not taking out a permit). The intent of the survey was to answer three questions: 1) What is the perceived probability of getting caught? 2) What are the perceived consequences of getting caught? and 3) Why would contractors take this risk?

Enforcement of T-24 Compliance Pertaining to Residential Alterations,<http://www.performancealliance.org/Portals/4/Documents/Mohasci%20Study%20on%20Residential%20Alterations%20T24%20Compliance%20Enforcement%20-%20Au....pdf> – analysis compares HERS rater verifications against building permits pulled, and concludes that only a small group of HVAC contractors within California make an effort to comply Energy Standards requirements based strictly on their business ethics and standards. The report argues that without an increase in education and oversight of local building departments, enforcement of Title 24, Part 6 alteration compliance requirement will continue to be dismal.

Energy Savings Potential from Addressing Residential Air Conditioner and Heat Pump Installation Problems, <http://www.dps.ny.gov/07M0548/workgroups/WGVII_ACEEE_Study.pdf> - discusses opportunities for reducing residential air conditioner and heat pump energy use through proper attention to equipment sizing, airflow over the coil, refrigerant charge, and minimum duct leakage. The report includes estimates of potential national and regional energy and peak demand savings from different types of programs designed to improve HVAC installation and maintenance practices**.**

Successful Strategies for Improving Compliance with Building Energy Codes,<https://aceee.org/files/proceedings/2012/data/papers/0193-000112.pdf>- addresses the following successful strategies that have proven effective in various states and local jurisdictions: 1) streamlining compliance processes; 2) third-party enforcement; and 3) advanced training.

Improved Code Enforcement: A Powerful Policy Tool – Lessons Learned from New York State, <https://bcapcodes.org/wp-content/uploads/2012/01/Harper_Improved-Code-Enforcement-NY-State.pdf> - examines the level of effort and amount of funding needed to achieve the 2017 goal and discusses efforts undertaken in other states in the context of the experience of the New York study, which uncovered significant structural problems that create barriers to the market transformation intended by the targeted code compliance initiatives.

Residential Mechanical Alterations: Recommendations for Building Departments to Improve Energy Code Compliance, <http://www.energy.ca.gov/2018publications/CEC-400-2018-003/CEC-400-2018-003.pdf> - evaluates how local building departments in Southern California process permits for residential mechanical system alterations and recommends best practices for facilitating permit completion and improving compliance with the Title 24, Part 6 Building Energy Efficiency Standards (Energy Standards).

Western HVAC Performance Alliance Compliance Committee Online Permitting Working Group,<http://www.performancealliance.org/Portals/4/Work%20Product/Feasibility%20of%20Online%20Permitting%2011-8-17.pdf> – provides an overall conclusion that an Online Permitting System is a viable approach to address the compliance gap.

Municipal Fiscal Impacts of Building Energy Efficiency in California, <http://www.bayrencodes.org/wp-content/uploads/2017/04/CREC-fiscal-report-benefits-FINAL.pdf> - presents the first published estimate of the fiscal impact to local government of California’s natural gas-related Energy Standards

# II. Scope of Work and Deliverables

## About This Section

This section describes the contract scope of work, deliverables, and due dates under the direction of the Energy Commission Agreement Manager (CAM).

## Background

The California Energy Commission establishes quality performance standards that heating, ventilation and air-conditioning (HVAC) contractors are obligated to meet as part of Title 24, Part 6 *Building Energy Efficiency Standards* (Energy Standards). Building contractors are expected to follow manufacturers’ instructions and industry quality standards when installing materials and systems that affect a building’s compliance with the Energy Standards. Central forced-air space conditioning systems (which include heating and cooling equipment, air handler fans, and distribution ductwork) are among the most energy-intensive building systems. Systems with refrigerant-based air-conditioning are a particular concern because its energy performance is extremely susceptible to improper installation practices, and air-conditioning drives peak electrical demand, which increases greenhouse gas emissions from power plants.

In 2008, the Energy Commission sponsored an investigation through a task force of HVAC industry experts. The report, *Strategic Plan to Reduce the Energy Impact of Air Conditioners,*[[1]](#footnote-1) characterized pervasive problems with improper installation of residential and small commercial HVAC systems, identified that poor quality workmanship steals energy savings that consumers should rightly expect from energy efficiency measure installations, and recommended strategies to transform that market to one that prioritizes quality installation. The report also concluded that permits are obtained for residential HVAC replacements as little as 10 percent of the time, and high quality installation practices, required by the Energy Standards are voluntarily completed by contractors as little as 15 percent of the time. Furthermore, poor installation practices increase air-conditioning system energy use by 20 to 30 percent, regardless of the equipment’s rated efficiency. The report also estimated that contractors pull building permits for only 10 percent of residential air-conditioning system alterations, and that correcting these problems could decrease California’s peak energy demand by 130 megawatts per year.

By not obtaining permits, contractors are able to avoid the requirements for meeting the Energy Commission’s quality installation Energy Standards. Contractors who are willing to do work without a permit can perform faulty work and underbid competitors. As a result of not obtaining permits, contractors’ projects bypass the ability of local building departments to enforce the Energy Standards, and impede the ability of the CSLB to discipline contractors who violate their licenses. In addition, a contractor survey sponsored by the Western HVAC Performance Alliance (WHPA) indicated that the majority of contractors believe that they would not get caught if they did not take out a permit, and the consequences for not taking out a permit are insignificant.[[2]](#footnote-2)

Recent legislation recognizes the importance of increasing compliance with the Energy Standards. [SB 1414 (Wolk, Chapter 768, Statutes of 2016)](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB1414) requires the Energy Commission, in consultation with the CSLB, local governments and building officials, and stakeholders, to approve a plan by January 1, 2019, to improve the compliance of central air conditioners and heat pumps system installations, and authorizes it to adopt regulations designed to improve compliance with permit and inspection requirements, including sales and installations of central air conditioners and heat pump equipment in California.

The 2016 Existing Buildings Energy Efficiency (EBEE) Action Plan[[3]](#footnote-3) developed strategies to transform California’s existing building stock into high performing and energy efficiency buildings. The EBEE Action Plan recognized compliance with the Energy Standard’s as a significant contributor to the success of California’s energy efficiency efforts. The EBEE Action Plan also emphasizes data-driven decision making, concluding that consistent availability and access to the right kinds of information are foundational for both strong market functioning, and enabling government initiatives to be monitored and improved to increase effectiveness.

**Task 1 - Agreement Management**

The budget for this task shall not exceed 10 percent of the overall budget for the project/contract.

The goal of this task is to establish the lines of communication and procedures for implementing this Agreement.

**Task 1.1 Kick-off Meeting**

**The Contractor shall:**

* Attend a “kick-off” meeting with the CAM, and the Contracts Officer.The meeting will be held either via WebEx, teleconference. The Contractor shall include at least its Project Manager, Contracts Administrator, Accounting Officer, and others designated by the CAM in this meeting. The administrative and technical aspects of this Agreement will be discussed at the meeting.
* If necessary, prepare an updated Schedule of Deliverables based on the decisions made in the kick-off meeting.

**The CAM shall:**

* Arrange the meeting including scheduling the date and time.
* Provide an agenda to all potential meeting participants prior to the kick-off meeting.

**Deliverables:**

* Updated Schedule of Deliverables (if applicable)

**Task 1.2 Invoices**

**The Contractor shall:**

* Prepare invoices for all reimbursable expenses incurred performing work under this Agreement in compliance with the Exhibit B of the Terms and Conditions of the Agreement. Invoices shall be submitted with the same frequency as progress reports (Task 1.4). Invoices must be submitted to the Energy Commission’s Accounting Office.

**Deliverables:**

* Invoices

**Task 1.3 Manage Subcontractors**

The goal of this task is to ensure quality products, to enforce subcontractor Agreement provisions, and in the event of failure of the subcontractor to satisfactorily perform services, recommend solution(s) to resolve the problem.

**The Contractor shall:**

* Manage and coordinate subcontractor activities. The Contractor is responsible for the quality of all subcontractor work and the Energy Commission will assign all work to the Contractor. If the Contractor decides to add new subcontractors, they shall: 1) comply with the Terms and Conditions of the Agreement, and 2) notify the CAM, who will follow the Energy Commission’s process for adding or replacing subcontractors.

**Task 1.4 Progress Reports**

The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the objectives of this Agreement.

**The Contractor shall:**

* Prepare progress reports which summarize all Agreement activities conducted by the Contractor for the reporting period, including an assessment of the ability to complete the Agreement within the current budget and any anticipated cost overruns. Each progress report is due within 15 calendar days after the end of the reporting period. The CAM will provide the format for the progress reports.

**Deliverables**:

* Monthly Progress Reports

**Technical Tasks**

**Task 2: Stakeholder Input**

The goal of this task is to identify the major barriers to compliance with the Energy Standards in the installation of central air-conditioning and heat pumps (AC/HP) in residential and small commercial buildings. The consultant will conduct a workshop and several interviews with property owners, HVAC industry, including manufacturers, distributors, and contractors, local governments, building officials, and the CSLB. Barriers to be considered should include, but not be limited to, insufficient data, insufficient tools, lack of effective enforcement, and insufficient stakeholder value proposition.

**The Contractor shall:**

1. Hold one workshop in Sacramento open to the public to discuss with stakeholders the barriers to compliance of central air conditioners and heat pumps systems with the Energy Standards and recommendations to overcoming those barriers.

Contractor will create draft list of proposed workshop attendees, for review and approval by CAM. Contractor will draft agenda and workshop materials/handouts for review and approval by CAM. Contractor will revise the draft versions as necessary, to create a final version.

CAM is responsible for providing necessary copies of the agenda and workshop materials, including all supplies needed, as well as outreach and sending invitations.

Energy Commission will be responsible for all costs related to the workshop, such as room rental if necessary, copying, conference phone lines, audiovisual equipment, etc. Contractor will provide labor only for the workshops.

1. Conduct interviews with different stakeholder entities/persons (interviews may be conducted with separate stakeholders or as a group) via phone, WebEx, or other online meeting applications to identify the business needs and barriers faced by each stakeholder. At a minimum, the interview list will be made up of 2 manufacturers, 2 distributors, 20 contractors (10 owners and 10 installers), 15 building departments, 10 building owners, 10 homeowners, the CSLB, and the Energy Commission, for a total minimum of 61 stakeholders. Contractor will provide draft list of stakeholders to be interviewed, and CAM will review and approve prior to the interview; and
2. Prepare a draft *Stakeholder Report* and include summaries, attendee lists, and meeting minutes. After review and comment from CAM, prepare a final *Stakeholder Report*, incorporating CAM’s comments;

**Deliverables:**

* Workshop Invitation List; Agenda; Materials/Handouts (draft and final)
* Stakeholder Interview List (draft and final)
* Stakeholder Report (draft and final)

**Task 3: Identifying Existing Efforts and Tools**

The goal of this task is to identify existing resources that can be leveraged and built upon to increase compliance with the Energy Standards in the installation of central AC/HP.

**The Contractor shall:**

1. Identify existing efforts such as efficient processes that could be used as examples, process improvement techniques, online and in-person training, and other resources that can be used to increase compliance with the Energy Standards;
2. Conduct a literature review of existing efforts in addition to the links provided in this document to identify gaps within existing efforts to increasing compliance with the Energy Standards in the installation of central AC/HP, including efforts in other states and countries. Identify lessons learned and best practices that may be applied to California;
3. Identify existing efforts, and explore new methods and techniques to make better use of existing data and information to establish baseline compliance rates and provide resources to jurisdictions with low compliance rates;
4. Develop a draft *Existing Resources Summary* summarizing the existing efforts and resources found in activities a, b, and c for increasing compliance with the Energy Standards in the installation of central AC/HP for CAM review and comment. Incorporate CAM’s comments into a final version; and
5. Develop a draft *Compliance Plan Outline* to increase compliance with the Energy Standards in the installation of central AC/HP, mapping and categorizing the major components and topics to be included in the Compliance Plan for CAM review and comment. Incorporate CAM’s comments into a final version.

**Deliverables:**

* Existing Resources Summary (draft and final)
* Compliance Plan Outline (draft and final)

**Task 4: Analysis of Recommendations**

The goal of this task is to identify recommendations, determine associated costs to implement recommendations, and assess the cost and impact on property owners, HVAC industry, including manufacturers, distributors, and contractors, local governments, building officials, and the CSLB.

**The Contractor shall:**

1. Identify recommendations to overcome barriers to increase compliance with the Energy Standards in the installation of central AC/HP in residential and small commercial buildings;
2. Determine associated costs to develop, implement, enhance, and maintain recommendations for increasing compliance with the Energy Standards, and the costs and cost avoidance to key actors and stakeholders;
3. Assess the cost and impact on building owners and HVAC industry participants, including manufacturers, distributors, and contractors, local governments, and CSLB;
4. Estimate the benefits that would accrue to multiple stakeholders as a result of increased compliance with the Energy Standards in the installation of central AC/HP;
5. Evaluate the best available technology and economic information to ensure that data collection and its use is feasible and achievable at a reasonable cost to government, industry, and homeowners; and
6. Develop a draft *Analysis of Recommendations Report* detailing the cost and impacts to implement recommendations to overcome barriers to increase compliance with the Energy Standards in the installation of central AC/HP for CAM review and comment. The report will encompass activities a, b, c,d, and e above. Create a final version incorporating CAM’s comments.

**Deliverables:**

* Analysis of Recommendations Report (draft and final)

**Task 5: Compliance Plan**

The goal of this task is to develop a Compliance Plan to promote compliance with the Energy Standards in the installation of central AC/HP in residential and small commercial buildings. The plan will include recommendations and strategies to overcome the barriers to compliance, and will consider the impacts on manufacturers, distributors, contractors, homeowners, Home Energy Rating System (HERS) providers and raters, California Energy Commission, California Public Utilities Commission (CPUC), utilities, Contractors State License Board (CSLB), building departments and other local governments, and the general public. The result will be a *Compliance Plan* taking into account feedback and direction from Energy Commission staff, as delivered to the contractor by the CAM.

**The Contractor shall:**

1. Develop strategies to overcome the barriers to compliance with the Energy Standards in the installation of central AC/HP.
2. Develop strategies to target marketing and outreach support, and identify opportunities to provide training and education to manufacturers, distributors, contractors, homeowners, Home Energy Rating System (HERS) providers and raters, building departments and other local governments, and the general public;
3. Develop a draft *Compliance Plan* to include recommendations for implementing strategies to overcoming barriers to compliance with the Energy Standards in the installation of central AC/HP in residential and small commercial buildings. Create a final version incorporating CAM’s comments.

**Deliverables:**

* Draft Compliance Plan Chapters
* Compliance Plan (draft and final)

**Task 6: Knowledge Transfer**

The goal of this task is to ensure that the knowledge gained, experimental results, lessons learned, and best practices are made available to Energy Commission staff.

**The Consultant shall:**

1. Conduct knowledge transfer activities throughout the term of the agreement to make knowledge and expertise gained available to Energy Commission staff;
2. Disseminate data and all experimental results and lessons learned, and conduct a presentation to Energy Commission staff no later than January 31, 2019;
3. Share methodology and data used to assess cost, impacts, and evaluation of the best available technology and economic information to ensure that data collection and its use is feasible; and
4. Prepare a draft *Knowledge Transfer Report* on knowledge transfer activities conducted during the project. Include in this report experimental results, lessons learned, best practices, presentation materials, and methodology and any other data used to assess costs and impacts of recommendations. Create a final version incorporating CAM’s comments.

**Deliverables:**

* Knowledge Transfer Report (draft and final)

**SCHEDULE OF DELIVERABLES AND DUE DATES**

|  |  |  |
| --- | --- | --- |
| **Task Number** | **Deliverable** | **Due Date** |
| **1** | **Agreement Management** |  |
| 1.1 | Updated Schedule of Deliverables (if necessary) | July 2018 |
| 1.2 | Invoices | Monthly |
| 1.4 | Monthly Progress Reports | Monthly |
| **2** | **Stakeholder Input** |  |
|  | Draft Workshop Invitation List; Agenda; Materials/Handouts | July 20, 2018 |
|  | Final Workshop Invitation List; Agenda; Materials/Handouts | July 31, 2018 |
|  | Draft Stakeholder Interview List | July 20, 2018 |
|  | Final Stakeholder Interview List | July 31, 2018 |
|  | Draft Stakeholder Report | September 7, 2018 |
|  | Final Stakeholder Report | September 14, 2018 |
| **3** | **Identifying Existing Efforts and Tools** |  |
|  | Draft Existing Resources Report | August 17, 2018 |
|  | Final Existing Resources Report | August 31, 0218 |
|  | Draft Compliance Plan Outline | September 21, 2018 |
|  | Final Compliance Plan Outline | October 5, 2018 |
| **4** | **Analysis of Recommendations** |  |
|  | Draft Analysis of Recommendations Report | October 19, 2018 |
|  | Final Analysis of Recommendations Report | October 31, 2018 |
| **5** | **Compliance Plan** |  |
|  | Draft Compliance Plan Chapters | October 19, 2018 |
|  | Draft Compliance Plan | October 31, 2018 |
|  | Final Compliance Plan | November 30, 2018 |
| **6** | **Knowledge Transfer** |  |
|  | Draft Knowledge Transfer Report | February 28, 2019 |
|  | Final Knowledge Transfer Report | March 29, 2019 |

# III. Bid Format, Required Documents, and Delivery

## About This Section

This section contains the format requirements and instructions on how to submit a Bid in response to this IFB. The format is prescribed to assist the Bidder in meeting State bidding requirements. Bidders must follow all Bid format instructions, answer all questions, and supply all requested data.

## Required Format for a Bid

The documents in the Administrative Response (Volume 1, see below) and the Cost Bid (Volume 2, see below) constitute your Bid. The Cost Bid must be submitted in a separately sealed and labeled envelope.

## Number of Copies

Bidders must submit the original and one copy of Volume 1, and Volume 2

Bidders must also submit electronic files of all volumes of the Bid on a **USB memory stick** along with the paper submittal. Only one USB memory stick is needed. Electronic files must be in Microsoft Word XP (.doc format) and Excel Office Suite formats. Completed Budget Forms, Attachment 7, must be in Excel format. Electronic files submitted via e-mail will not be accepted.

## Packaging and Labeling

The original and copies of each volume must be labeled "Invitation for Bids (IFB-17-403)," and include the title of the Bid and the appropriate volume number:

Volume 1 – Administrative Response

Volume 2 – Cost Bid Forms

Include the following label information and deliver your Bid, in a sealed package:

|  |  |
| --- | --- |
| Person’s Name, Phone #  Bidder’s Name  Street Address  City, State, Zip Code  FAX # |  |
|  | IFB-17-403  Contracts Office, MS-18  California Energy Commission  1516 Ninth Street, 1st Floor  Sacramento, California 95814 |

## Preferred Method for Delivery

A Bidder may deliver a Bid by:

* U. S. Mail, Fed Ex, UPS (or similar mail service)
* In person
* Messenger

Bids must be delivered no later than 5:00 p.m., to the Energy Commission’s Contracts, Grants, and Loans Office during normal business hours and prior to the deadline specified in this IFB (Section I). In accordance with Public Contract Code 10341, Bids received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, E-mail and facsimile (FAX) transmissions are not acceptable in whole or in part, under any circumstances.

## Organize Your Bid As Follows:

### VOLUME 1, Administrative Response

|  |  |
| --- | --- |
| Contractor Status Form | Attachment 1 |
| Darfur Contracting Act Form | Attachment 2 |
| Small Business Certification | If applicable |
| DVBE Declarations Form Std 843 | Attachment 3 |
| Bidder Declaration Form GSPD-05-105 | Attachment 4 |
| Contractor Certification Clauses | Attachment 5 |
| TACPA Forms | If applicable |
| CA Civil Rights Laws Certification | Attachment 8 |
| Team Member Minimum Qualifications List and Resumes | Attachment 9 |

### Attachment 9 includes a spreadsheet listing the minimum qualifications required for this bid. Bidders must list in the spreadsheet the team members that meet each corresponding minimum qualification, and provide a copy of their resume.

### VOLUME 2, Cost Bid (Sealed Separately from Volume 1)

### Budget Forms – Attachment 7

A separate set of complete budget forms, including the full set of worksheets listed below, is required for the Contractor and for each subcontract ~~containing: 1) $100,000 or more of Energy Commission funds; or 2) 25% or more of the total Energy Commission funds requested~~.

|  |
| --- |
| Category Summary |
| Task Summary |
| Direct Labor Rates |
| Fringe Benefits |
| Travel |
| Subcontracts |
| Indirect Costs and Profit |

Bidder must submit information on **all** of the attached budget forms and this will be deemed the equivalent of a formal Bid submission.

Detailed instructions for completing these forms are included at the beginning of Attachment 7.

Rates and personnel shown must reflect rates and personnel you would charge if you were chosen as the Contractor for this IFB. Bidder must include all people anticipated who will provide service on the Agreement. The Energy Commission may consider adding a person that the Bidder did not include in the Bid. However, because the additional person might affect the minimum qualifications or take additional time that the Energy Commission does not have or does not want to spend, the Energy Commission reserves the right to do any of the following, along with any other existing rights:

* Analyze whether the minimum qualifications are still met with addition of the new person
* Refuse to add the new person
* Add the new person.

Bidders are cautioned that they should include all team members in their Bid.  The Energy Commission does not want to be in the position of assessing additional persons after the Notice of Proposed Award.

The salaries, rates, and other costs entered on these forms become a part of the final Agreement. The entire term of the Agreement and projected rate increases must be considered when preparing the budget. The rates bid are considered capped and shall not change during the term of the Agreement. The Contractor shall only be reimbursed for their **actual** rates up to these rate caps. The hourly or monthly rates shall be unloaded (before fringe benefits, indirect costs or profit).

Task 2 requires one workshop in Sacramento. Bidders must include all travel and per diem costs in its bid. Travel will only be reimbursed at state rates in accordance with the terms and conditions. Bidders may bid $0 for travel and per diem.

The award shall be made to the Bidder with the lowest total dollar amount on Attachment 7, Category Summary, after any applicable preferences or incentives. All other budget forms are required because they will be used for the Agreement prepared with the winning Bidder.

**NOTE:** The information provided in these forms will **not** be kept confidential.

# IV. Evaluation Process and Criteria

## About This Section

This section explains how the Bids will be evaluated. It describes the evaluation stages and opening of all Bids.

## Bid Evaluation

The Contract will be awarded to the Bidder who meets the minimum qualifications and has the lowest responsible Cost Bid after any applicable preference or incentive.

The Bids will be analyzed in three stages:

**Stage One**: Administrative and Completeness Screening

**Stage Two**: Minimum Qualifications

**Stage Three**: Cost Bid

### Stage One: Administrative and Completeness Screening Criteria (Mandatory)

Each Bid will be screened for compliance with the Administrative Screening Criteria below. The Energy Commission will evaluate each Bid to determine its responsiveness to these requirements. Bids that fail or do not fully comply with any of the Administrative and Completeness Screening Criteria shall be disqualified and eliminated from further evaluation.

* Bid must be received by the exact time and date set for receipt of Bids pursuant to Public Contract Code, Section 10341.
* Bid must be responsive to the California Disabled Veteran Business Enterprise participation requirements.
* Bid must include a properly executed Contractor Certification Clauses.
* Bid must include a properly executed Darfur Contracting Act Form.
* It is lacking a properly executed California Civil Rights Law Certification.
* Bid must not contain false or intentionally misleading statements or references that do not support an attribute or condition contended by the Bidder.
* Bid must not be intended to erroneously and fallaciously mislead the State in its evaluation of the Bid and the attribute, condition, or capability is a requirement of this IFB.
* Bid must not have a conflict of interest as contained in Public Contract Code Sections 10410-10411 and/or 10365.5.
* Bid must not contain confidential information or contain any portion marked confidential.
* Bidder must agree to the terms and conditions as attached to the solicitation. Bidder must sign the Contractor Status Form indicating acceptance with the terms and conditions. Bidder must not state anywhere in the Bid that acceptance is based on modifications to those terms and conditions or separate terms and conditions.

### Grounds to Reject an Application

In addition to the Administrative Screening Criteria identified above, the Energy Commission reserves the right to reject a Bid if:

* The Bid is unsigned.
* The Bid is not prepared in the format described.
* The charges are computed incorrectly.
* The budget forms are not filled out completely.
* The firm or individual has submitted multiple Bids.
* The Bid does not literally comply or contains caveats that conflict with the IFB and the variation or deviation is not material, or it is otherwise non-responsive.
* The Bidder has previously completed a PIER agreement, received the PIER Royalty Review letter, which the Energy Commission annually sends out to remind past recipients of their obligations to pay royalties, and has not responded to the letter or is otherwise not in compliance with repaying royalties.

### Stage Two: Minimum Qualifications

By signing the Bidder Certification, on Attachment 1, Bidder will certify all of the qualifications below. Bids that do not fully meet all of the minimum qualifications shall be disqualified and eliminated from further evaluation.

Minimum Qualifications

1. Team has at least one person with extensive knowledge and 5+ years of experience working with the Building Energy Efficiency Standards, specifically related to AC/HP in residential and small commercial buildings
2. Team has extensive knowledge and 10+ years of combined team experience – minimum of 3 years of experience per team member – in the requirements of, and process for, demonstrating compliance with the Energy Standards in the installation of central AC/HP in residential and small commercial buildings
3. Team has at least one person with knowledge and 5+ years of experience in identifying issues and barriers to compliance with the Energy Standards in the installation of central AC/HP in residential and small commercial buildings
4. Team has at least one person with knowledge and 5+ years of experience in identifying, analyzing, and recommending emerging approaches, technologies, and solutions aimed at increasing compliance with the Energy Standards in the installation of central AC/HP, and improving upon existing processes
5. Team has extensive knowledge and 10+ years of combined team experience – minimum of 3 years of experience per team member – in identifying and documenting the functional requirements of new systems and processes, including roles and responsibilities of key actors, and providing recommendations
6. Team has at least one person with post graduate degree in economics and 10+ years of experience conducting economic analyses on data collection and development, implementation, and maintenance of new data systems and business processes, and estimating the costs and cost avoidance to key actors and stakeholders
7. Team has at least one person with extensive knowledge of key industry stakeholders, best practices, and:
   1. 7+ years of experience working with manufacturers, distributors, contractors, and industry associations in the residential and small commercial AC/HP industry;
   2. 5+ years of experience working with local building departments;
   3. 5+ years of experience working with Home Energy Rating System (HERS) providers;
   4. 5+ years of experience working with the CSLB, and state and local government agencies involved in tracking and/or enforcing contractor compliance with legal requirements
8. Team has extensive knowledge and 15+ years of combined team experience – minimum of 5 years of experience per team member – in effective technical writing and oral communication skills, who can compile and summarize data collected into a cohesive plan
9. Team has at least one person with 5+ years of experience in public meetings and workshop organization, who can facilitate public meetings, take in multiple stakeholder points of views, and summarize information for the plan
10. Team has assisted in at least 3 government agency workshops and public outreach within the past 5 years
11. Team has produced a minimum of 3 analyses/reports in the area of central AC/HP systems using industry accepted research methodologies, and can compile a plan based on data collected
12. Team has at least one person with 7+ years of experience in the design, sales, and installation of central AC/HP systems
13. Team shall not include a HERS Provider, HERS Rater, HERS Rating Company, Acceptance Test Technician Certification Provider (ATTCP), ATTCP Employer or Acceptance Test Technician.
14. Team shall not include persons who work for a Third Party Quality Control Program (TPQCP).

### Stage Three: Cost Bid

Those Bids that are responsive to the criteria in Stage One will have their Cost Bid opened. All preferences/incentives will be applied.

The contract will be awarded to the responsible Bidder with a responsive offer that is timely received, meeting the requirements outlined in Stage One and Stage Two, who provides the lowest cost, after any applicable preference or incentive. In the case of a tie in the Cost Bid amount, award will be made via a coin toss.

## Notice of Proposed Award

Subsequent to the Bid evaluations, the Energy Commission will post a Notice of Proposed Award (NOPA) at the Energy Commission’s headquarters in Sacramento, on the Energy Commission’s Web Site, and will mail the NOPA to all parties that submitted a Bid.

# V. Business Participation Programs (Preferences/Incentives)

A Bidder may qualify for preferences/incentives as described below. Each Bidder passing Stage One screening will receive the applicable preference/incentive.

This section describes the following business participation programs:

### Disabled Veteran Business Enterprise Participation Compliance Requirements

### Disabled Veteran Business Enterprise Incentive

### Small Business / Microbusiness Preference

### Non-Small Business Preference

### Target Area Contract Act Preference

## Disabled Veteran Business Enterprise (DVBE)

## Participation Compliance Requirements

***DVBE Participation Required***

This IFB is subject to a mandatory certified DVBE participation of at least three percent (3%).

***Two Methods to Meet DVBE Participation Requirement***

* If Bidder is a DVBE, then Bidder has satisfied the participation requirements if it commits to performing at least 3% of the contract with the Bidder’s firm, or in combination with other DVBE(s).
* If Bidder is not a DVBE, Bidder can satisfy the requirement by committing to use certified DVBE subcontractors for at least 3% of the contract.

***Required Forms***

Bidders must complete Attachments 1, 3 and 4 to document DVBE participation. If Bidder does not include these forms, the Bid is considered non-responsive and shall be rejected.

* Contractor Status Form (Attachment 1).

Under the paragraph entitled: “Disabled Veteran Business Enterprise Participation Acknowledgement”, make sure to check the “yes” “DVBE Participation” box.

* DVBE Declarations Std. Form 843 (Attachment 3)
* Bidder Declaration Form GSPD-05-105 (Attachment 4)

***DVBE Definition***

For DVBE certification purposes, a "disabled veteran" is:

• A veteran of the U.S. military, naval, or air service;

• The veteran must have a service-connected disability of at least 10% or more; and

• The veteran must be domiciled in California.

***DVBE Certification and Eligibility***

* To be certified as a DVBE, your firm must meet the following requirements:

• Your business must be at least 51% owned by one or more disabled veterans;

• Your daily business operations must be managed and controlled by one or more disabled veterans

* The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business; and

• Your home office must be located in the U.S. (the home office cannot be a branch or subsidiary of a foreign corporation, foreign firm, or other foreign based business).

• DVBE limited liability companies must be wholly owned by one or more disabled veterans.

* Each DVBE firm listed on the DVBE Declarations Std. form 843 (Attachment 3) and on the Bidder Declaration form GSPD-05-105 (Attachment 4) must be formally certified as a DVBE by the Office of Small Business and DVBE Services (OSDS). The DVBE program is not a self-certification program. Bidder must have submitted application to OSDS for DVBE certification by the Bid due date to be counted in meeting participation requirements.

***Printing / Copying Services Not Eligible***

DVBE subcontractors cannot provide printing/copying services.  For more information, see section VI Administration, which states that printing services are not allowed in proposals.

***To Find Certified DVBEs***

Access the list of all certified DVBEs by using the Department of General Services, Procurement Division (DGS-PD), online certified firm database at: https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx. Search by “Keywords” or “United Nations Standard Products and Services Codes” (UNSPSC) that apply to the elements of work you want to subcontract to a DVBE. Check for subcontractor ads that may be placed on the California State Contracts Register (CSCR) for this solicitation prior to the closing date. You may access the CSCR at: https://caleprocure.ca.gov/pages/LPASearch/lpa-search.aspx. For questions regarding the online certified firm database and the CSCR, please call the OSDS at (916) 375-4940 or send an email to: OSDCHelp@dgs.ca.gov.

***Commercially Useful Function***

DVBEs must perform a commercially useful function relevant to this solicitation, in order to satisfy the DVBE program requirements. California Code of Regulations, Title 2, Section 1896.62(l) provides:

“Commercially Useful Function (CUF) means a DVBE contractor or subcontractor that contributes to the fulfillment of contract requirements as determined by awarding departments in § 1896.71, and does all of, but is not limited to, the following:

(1) Is responsible for the execution of a distinct element of work for the contract;

(2) Carries out contractual obligations by actually performing, managing, or supervising the work involved;

(3) Performs work that is normal for its business services and functions;

(4) Is not further subcontracting a portion of the work that is greater than expected to be subcontracted by normal industry practices;

(5) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and,

(6) Its role is not an extra participant in the transaction, contract or project through which funds are passed in order to obtain the appearance of DVBE participation.”

***Information Verified***

Information submitted by the Bidder to comply with this solicitation’s DVBE requirements will be verified. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of PCC Section 10115, et seq., and Military & Veterans Code Section 999 et seq., and follow the investigatory procedures required by California Code of Regulations Title 2, Section 1896.90 et. seq. Contractors found to be in violation of certain provisions may be subject to loss of certification, sanctions and/or contract termination.

***DVBE Report***

Upon completion of the contract for which a commitment to achieve DVBE participation was made, the contractor that entered into a subcontract with a DVBE must certify in a report to the Energy Commission: 1) the total amount the prime contractor received under the contract; 2) the name and address of the DVBE(s) that participated in the performance of the contract; 3) the amount each DVBE received from the prime contractor; 4) that all payments under the contract have been made to the DVBE(s); and 5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Military & Veterans Code Section 999.5(d).

***The Office of Small Business and DVBE Services (OSDS)***

OSDS offers program information and may be reached at:

Department of General Services

Office of Small Business and DVBE Services

707 3rd Street, 1st Floor, Room 400

West Sacramento, CA 95605

<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

Phone: (916) 375-4940

Fax: (916) 375-4950

E-mail: [OSDSHelp@dgs.ca.gov](mailto:OSDSHelp@dgs.ca.gov)

***DVBE Law***

* Public Contract Code Section 10115 et seq.
* Military & Veterans Code Section 999 et. seq.
* California Code of Regulations Title 2, Section 1896.60 et. seq.

## DVBE Incentive

The information below explains how the incentive is applied and how much of an incentive will be given.

***Incentive Application***

Award Based on Low Price: The Incentive is applied by reducing the Bid price for Bidders that include more than the minimum required 3.00% DVBE participation. In other words, if a Bidder includes 3.01% DVBE participation or greater, it will receive the DVBE incentive. If you include 3% DVBE participation, you will not receive the incentive. You will only receive the incentive, if you include 3.01% or greater DVBE participation. The Bid price is reduced by the percentage of incentive as computed from the lowest responsive and responsible Bid price. The computation is for evaluation purposes only and does not change your Bid amount. Application of the incentive cannot displace an award to a small business with a non-small business. Also, application of the incentive cannot change the amount of the Bid for the contract budget.

***Incentive amount***

For awards based on low price, the incentive will vary in conjunction with the percentage of DVBE participation. The DVBE Incentive Program may be used in conjunction with the Small Business preference which gives a 5% preference to small business Bidders or 5% to non-small business Bidders committed to subcontracting 25% of the overall Bid with small businesses.

|  |  |
| --- | --- |
| Proposed DVBE Participation Level | DVBE Incentive % Price Preference |
| 3.01% - 3.99% | 1% |
| 4.00% - 4.99% | 2% |
| 5.00% - 5.99% | 3% |
| 6.00% - 6.99% | 4% |
| 7.00% or over | 5% |

***Required Forms***:

* Contractor Status Form (Attachment 1).

Under the paragraph entitled: “Disabled Veteran Business Enterprise Participation Acknowledgement”, make sure to check the “yes” “DVBE Incentive Participation” box.

* DVBE Declarations Std. Form 843 (Attachment 3)
* Bidder Declaration Form GSPD-05-105 (Attachment 4)

### *DVBE Incentive Law*

* Military & Veterans Code Section 999.5(a)
* California Code of Regulations Title 2, Section 1896.99.100 et.seq.

## Small Business / Microbusiness / Non-Small Business

**Small Business / Microbusiness**

### *Preference*

Bidders who qualify as a State of California certified small/microbusiness will receive a cost preference of five percent (5%) of the lowest cost or price offered by the lowest responsible Bidder who is not a certified small/microbusiness, by deducting this five percent from the small/microbusiness Bidder’s cost, for the purpose of comparing costs for all Bidders.

***Required Forms***

* Submit a copy of your Small Business Certification
* Contractor Status Form (Attachment 1)

Complete the “Small Business Preference Claim” section

* Bidder Declaration Form GSPD-05-105 (Attachment 4)

### *Certification*

A business must be formally certified by the Department of General Services, Office of Small Business and DVBE Services (OSDS), in order to receive the small/microbusiness preference.

***Non Profit Veteran Service Agency***

Bidders that qualify as a Non Profit Veteran Service Agency can be certified as a small business and are entitled to the same benefits as a small business.

***Definitions***

* *Small business* means a business certified by the Office of Small Business Disabled Veteran Services (OSDS) in which:

(1) It is independently owned and operated; and

(2) The principal office is located in California; and

(3) The officers of the business in the case of a corporation; officers and/or managers, or in the absence of officers and/or managers, all members in the case of a limited liability company; or the owner(s) in all other cases, are domiciled in California; and

(4) It is not dominant in its field of operation(s), and

(5) It is either:

(A) A business that, together with all affiliates, has 100 or fewer employees, and annual gross receipts of fourteen million dollars ($14,000,000) or less as averaged for the previous three tax years, as adjusted by the Department pursuant to Government Code § 14837(d)(3); or

(B) A manufacturer as defined herein that, together with all affiliates, has 100 or fewer employees.

* *Microbusiness* means a small business certified by OSDS, which meets all of the qualifying criteria as a small business, and is:

(1) A business that, together with all affiliates, has annual gross receipts of three million, five hundred thousand dollars ($3,500,000) or less as averaged for the previous three tax years, as adjusted by the Department pursuant to Government Code §14837(d)(3); or

(2) A manufacturer as defined herein that, together with all affiliates, has 25 or fewer employees.

* *Non Profit Veteran Service Agency* means an entity that:

1. Is a community-based organization,
2. Is a nonprofit corporation (under Section 501(c)(3) of the [Internal Revenue Code](http://www.irs.gov/charities/charitable/article/0,,id=96099,00.html)), and
3. Provides housing, substance abuse, case management, and employment training services (as its principal purpose) for:
   * low income veterans,
   * disabled veterans, or
   * homeless veterans
   * and their families

***Commercially Useful Function***

A certified small business or microbusiness shall provide goods or services that contribute to the fulfillment of the contract requirements by performing a “commercially useful function” defined as follows:

(1) The contractor or subcontractor is responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions;

(2) The contractor or subcontractor is not further subcontracting a greater portion of the work than would be expected by normal industry practices;

(3) The contractor or subcontractor is responsible, with respect to materials and supplies provided on the subcontract, for negotiating price, determining quality and quantity, ordering the material, installing (when applicable), and paying for the material itself;

(4) A contractor or subcontractor will not be considered as performing a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to achieve the appearance of small business participation.

***Late Payment of Invoices***

Certified small/microbusinesses are entitled to greater interest penalties paid by the state for late payment of invoices than for non-certified small business/microbusiness.

***Small Business / Microbusiness Law***

* Government Code section 14835 et. seq.
* California Code of Regulations, Title 2 Section 1896 et. seq.

### Non-Small Business

***Preference***

The preference to a non-small business Bidder that commits to small business or microbusiness subcontractor participation of twenty-five percent (25%) of its net Bid price shall be five percent (5%) of the lowest, responsive, responsible Bidder’s price. A non-small business that qualifies for this preference may not take an award away from a certified small business.

***Required Forms***

* Submit a copy of the subcontractor’s Small Business Certification
* Contractor Status Form (Attachment 1)

Complete the “Small Business/Non-Small Business Preference Claim” section

* Bidder Declaration Form GSPD-05-105 (Attachment 4)

### *Certification*

A subcontractor business must be formally certified by the Department of General Services, Office of Small Business and DVBE Services (OSDS), in order to receive the Non-Small Business Preference.

***Non-Small Business Law***

* Government Code section 14838 (b)
* California Code of Regulations, Title 2 Section 1896 et. seq.

## Target Area Contract Preference Act

The following preference will be granted for this solicitation. Bidders wishing to take advantage of this preference will need to review the website stated below and submit the appropriate response with their Bid.

**Target Area Contract Preference Act (TACPA)**

The TACPA program was established to stimulate economic growth and employment opportunities in designated Areas throughout the state of California. (GC4530)

The Department of General Services (DGS), Procurement Division (PD), Dispute Resolution Unit (DRU) oversees the TACPA program and evaluates all TACPA applications.

This solicitation contains (TACPA) preference request forms. Please carefully review the forms and requirements. Bidders are not required to apply for these preferences. Denial of the TACPA preference request is not a basis for rejection of the bid.

The State as part of its evaluation process reserves the right to verify, validate, and clarify all information contained in the bid. This may include, but is not limited to, information from bidders, subcontractors and any other sources available at the time of the bid evaluation. Bidder refusal to agree to and/or comply with these terms, or failure to provide additional supporting information at the State's request may result in denial of preference requested.

Contracts awarded with applied preferences will be monitored throughout the life of the contract for compliance with statutory, regulatory, and contractual requirements. The State will take appropriate corrective action and apply sanctions as necessary to enforce preference programs.

Any questions regarding the TACPA preference should be directed to the Department of General Services, Procurement Division at (916) 375-4609.

TACPA Preference Request (STD 830):

<http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std830.pdf>

Bidder’s Summary of Contract Activities and Labor Hours: <http://www.documents.dgs.ca.gov/pd/edip/bidsum526.pdf>

# VI. Administration

## IFB Defined

The competitive method used for this procurement of services is an Invitation for Bids (IFB). A Bid submitted in response to this IFB will be opened and read publicly. The Energy Commission will contract with the Bidder who provides the lowest responsible Bid, after any applicable preference or incentive, and satisfies the minimum requirements.

## Definition of Key Words

Important definitions for this IFB are presented below:

|  |  |
| --- | --- |
| **Word/Term** | **Definition** |
| State | State of California |
| DGS | Department of General Services |
| Energy Commission | California Energy Commission |
| IFB | Invitation for Bid, this entire document |
| Bid | The Administrative Response and Cost Bid together |
| Bidder | Respondent to this IFB |
| CAM | Energy Commission Agreement Manager |
| DVBE | Disabled Veteran Business Enterprise |

## Cost of Developing Bid

The Bidder is responsible for the cost of developing a Bid, and this cost cannot be charged to the State.

## Software Application Development

If this scope of work includes any software application development, including but not limited to databases, websites, models, or modeling tools, contractor shall utilize the following standard Application Architecture components in compatible versions:

* Microsoft ASP.NET framework (version 3.5 and up) Recommend 4.0
* Microsoft Internet Information Services (IIS), (version 6 and up) Recommend 7.5
* Visual Studio.NET (version 2008 and up) Recommend 2010
* C# Programming Language with Presentation (UI), Business Object and Data Layers
* SQL (Structured Query Language)
* Microsoft SQL Server 2008, Stored Procedures Recommend 2008 R2
* Microsoft SQL Reporting Services Recommend 2008 R2
* XML (external interfaces)

Any exceptions to the Electronic File Format requirements above must be approved in writing by the Energy Commission Information Technology Services Branch.

## Printing Services

Per Management Memo 07-06, State Agencies must procure printing services through the Office of State Publishing (OSP). Bidders shall not include printing services in their Bids.

## Confidential Information

The Energy Commission will not accept or retain any Bids that contain confidential information or have any portion marked confidential.

## Darfur Contracting Act of 2008

Effective January 1, 2009, all solicitations must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et* *seq*.; Stats. 2008, Ch. 272.) The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with “scrutinized” companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a).)

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a Bid or proposal to a State agency. (See # 1 on Attachment 2)

A scrutinized company may still, however, submit a Bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on Attachment 2)

## California Civil Rights Laws

Prior to bidding on, submitting a proposal or executing a contract or renewal for a State of California contract for goods or services of $100,000 or more, a bidder or proposer must certify that it is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code). Additionally, if a vendor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor must certify that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

See Attachment 8.

## IFB Cancellation and Amendments

If it is in the State’s best interest, the Energy Commission reserves the right to do any of the following:

* Cancel this IFB;
* Amend this IFB as needed; or
* Reject any or all Bids received in response to this IFB

If the IFB is amended, the Energy Commission will send an addendum to all parties who received the IFB and will also post it on the Energy Commission’s Web Site [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts) and Department of General Services’ Web Site <https://caleprocure.ca.gov/pages/LPASearch/lpa-search.aspx>.

## Errors

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the IFB, the Bidder shall immediately notify the Energy Commission of such error in writing and request modification or clarification of the document. Modifications or clarifications will be given by written notice of all parties who received the IFB, without divulging the source of the request for clarification. The Energy Commission shall not be responsible for failure to correct errors.

## Modifying or Withdrawal of Bid

A Bidder may, by letter to the Contact Person at the Energy Commission, withdraw or modify a submitted Bid before the deadline to submit Bids. Bids cannot be changed after that date and time, but a Bid may still be withdrawn. A Bid cannot be “timed” to expire on a specific date. For example, a statement such as the following is non-responsive to the IFB: “This cost estimate is valid for 60 days.”

## Immaterial Defect

The Energy Commission may waive any immaterial defect or deviation contained in a Bid. The Energy Commission’s waiver shall in no way modify the Bid or excuse the successful Bidder from full compliance.

## Disposition of Bidder’s Documents

### On the submission date, all Bids and related material submitted in response to this IFB become the property of the State. After the Notice of Proposed Award is posted, all Bids and related materials become public records. In addition, all evaluation sheets become public records after the Notice of Proposed Award is posted.

## Bidders’ Admonishment

This IFB contains the instructions governing the requirements for a firm quotation to be submitted by interested Bidders, the format in which the information is to be submitted, the material to be included, the requirements that must be met to be eligible for consideration, and Bidder responsibilities. Bidders must take the responsibility to carefully read the entire IFB, ask appropriate questions in a timely manner, submit all required responses in a complete manner by the required date and time, make sure that all procedures and requirements of the IFB are followed and appropriately addressed, and carefully reread the entire IFB before submitting a Bid.

## Protest Procedures

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Energy Commission cancels the IFB, or the Department of General Services decides the matter.

Please note the following:

* Protests are limited to the grounds contained in the California Public Contract Code Section 10345.
* During the five **working** days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the DGS Legal Office and the Energy Commission Contracts Office.
* Within five **calendar** days after filing the protest, the protesting Bidder must file with the DGS and the Energy Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
* If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Energy Commission for the DGS hearing officer consideration.

## Agreement Requirements

The content of this IFB shall be incorporated by reference into the final contract. See the Agreement terms and conditions included in this IFB.

### No Contract Until Signed & Approved

No agreement between the Energy Commission and the successful Bidder is in effect until the contract is signed by the Contractor, approved at an Energy Commission Business Meeting, and approved by the Department of General Services, if required.

### Contract Amendment

The contract executed as a result of this IFB will be able to be amended by mutual consent of the Energy Commission and the Contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding.

1. Messenger, Michael. 2008. *Strategic Plan to Reduce the Energy impact of Air Conditioners*. California Energy Commission. <http://www.energy.ca.gov/2008publications/CEC-400-2008-010/CEC-400-2008-010.PDF> [↑](#footnote-ref-1)
2. WHPA. 2010. *Contractor "Assessment of Risk" Survey Results*. <http://www.performancealliance.org/Portals/4/Documents/Committees/CSC/WCEC__Poster_BehaviorCon_2010_3.pdf> [↑](#footnote-ref-2)
3. California Energy Commission. 2016. *Existing Building Energy Efficiency Plan Update December 2016.* <http://docketpublic.energy.ca.gov/PublicDocuments/16-EBP-01/TN214801_20161214T155117_Existing_Building_Energy_Efficency_Plan_Update_Deceber_2016_Thi.pdf> [↑](#footnote-ref-3)