



*RENEWABLE
ENERGY
PROGRAM*

CALIFORNIA ENERGY
COMMISSION

**EXISTING
RENEWABLE
FACILITIES
PROGRAM**

FOURTH EDITION

GUIDEBOOK

MARCH 2007
CEC-300-2007-005-CMF



Arnold Schwarzenegger, Governor

CALIFORNIA ENERGY COMMISSION

Jackalyne Pfannenstiel
Chairman

James D. Boyd
Vice Chair

Commissioners:
Arthur H. Rosenfeld
John L. Geesman
Jeffrey D. Byron

B. B. Blevins
Executive Director

Jason Orta
Principal Author

Mark Hutchison
Office Manager
RENEWABLE ENERGY OFFICE

Valerie Hall
Deputy Director
EFFICIENCY, RENEWABLES &
DEMAND ANALYSIS DIVISION

These guidelines were formally adopted by the California Energy Commission on February 19, 2003, pursuant to Public Utilities Code Section 383.5, subdivision (h) and subsequently revised Pursuant to Public Resources Code Section 25747, subdivision (a), on November 30, 2005, June 29, 2006, and March 14, 2007.

ABSTRACT

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

KEYWORDS

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

Table of Contents

I - Introduction	1
II - Purpose.....	1
III - Overview	2
A. Program Funding	2
B. Eligibility Requirements.....	3
C. Facility Specific Funding	5
D. Production Incentive Rate.....	6
E. Determination of Facility Funding, Target Prices, and Caps.....	6
F. Determination of Market Price	9
IV – Application Process	10
A. Required Forms	10
B. Processing Eligibility Forms	11
C. Updating Eligibility Forms	11
V - Incentive Payment Process	12
A. Monthly Invoices	12
B. Payments.....	13
C. Withholding Payments	14
VI – Annual Reporting Requirements for Biomass Facilities	16
VII – Prevailing Wage Requirements	16
VIII - Definitions	18

I - Introduction

The California Energy Commission (Energy Commission) has developed this *Guidebook* to implement and administer its Existing Renewable Facilities Program pursuant to Senate Bill 1038¹ and Senate Bill 1250.² These laws, along with the Reliable Electric Service Investments Act,³ extend the collection of a non-bypassable system benefit charge initiated in 1998 under Assembly Bill 1890⁴ and authorize the expenditure of funds collected to support existing, new, and emerging renewable resources. The goal of these laws is to establish a competitive, self-sustaining renewable energy supply for California while increasing the near-term quantity of renewable energy generated in-state.

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

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

To qualify for funding under the ERFP, applicants must satisfy the requirements contained in both the *Overall Program Guidebook* and this *Existing Renewable Facilities Program Guidebook*. This guidebook supersedes the previous guidebook, *Existing Renewable Facilities Program Guidebook*, Third Edition.

For more information about the Renewable Energy Program, please visit the Commission's website at <www.energy.ca.gov/renewables>.

II - Purpose

The purpose of the ERFP is to improve the competitiveness of existing in-state renewable generating facilities so these facilities may become self-sustaining without

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

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

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

⁴ Assembly Bill 1890; Chapter 854, Statutes of 1996.

further public funding, and to secure for California the environmental, economic, and reliability benefits these facilities provide by continuing to operate.

III - Overview

The ERFP provides funding in the form of production incentives to eligible renewable energy facilities for each kilowatt-hour of eligible electricity generated. To qualify for funding, applicants must ensure that the renewable facility and electricity generated meet a number of requirements. The facility must use an eligible renewable energy resource to generate electricity, and be located either within the state or near the state's border with its first point of interconnection to the transmission systems within the state. Eligible renewable energy resources include biomass, solar thermal electric, and wind. In addition, the facility must not be owned by an electrical corporation or local publicly owned electric utility and must be certified by the Energy Commission as eligible for California's Renewables Portfolio Standard (RPS). Lastly, the electricity generated must not be sold under a fixed price contract with an energy price above the applicable target price⁵ on a monthly average basis, be used on-site, or sold in a manner avoiding competitive transition charge payments.

Applicants for renewable facilities seeking funding from the ERFP must submit an Application for ERFP Funding Eligibility form (CEC-1250E-1) to the Energy Commission and be an RPS-certified facility. Qualifying generators will be issued a Funding Award Notice. Applicants for any facility that previously participated in the Existing Renewable Facilities Program are required to submit form CEC-1250E-1 and update their information to qualify for funding under the ERFP. Applicants that are eligible for funding must submit monthly invoices to document and receive funding for their eligible generation. The Energy Commission reviews these invoices and makes incentive payments based on the eligible generation and the applicable production incentive rate.

A. Program Funding

The ERFP is allocated 10 percent of the funds collected under SB 1250 for the Renewable Energy Program. Although existing wind facilities are technically eligible for funding, they currently, do not require assistance. Therefore, all ERFP funds are available for eligible existing solid-fuel biomass facilities and solar thermal electric facilities. However, the Energy Commission reserves the right to allocate funding for existing wind energy facilities in the future based on changes in market conditions.

The funds available to the ERFP annually are allocated monthly in equal amounts. Any funds not disbursed in a given month are rolled over into the following month for distribution.

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

B. Eligibility Requirements

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

1. Eligible Renewable Energy Resource

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

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

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

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

consistent with Section 292.204(b) of Title 18 of the Code of Federal Regulations, and expressed in millions of British Thermal Units (mmBTU).

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

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

2. In-State Location

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

3. Operational Date

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

4. Facility Ownership

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

5. Fixed Price Contract

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

6. Eligible Electrical Generation

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

- a. The energy must be generated after January 1, 2007.
- b. The energy must be sold to customers within the state of California.
- c. The energy must not receive monthly energy payments at a price equal to or greater than the applicable target price as determined by the Energy Commission.
- d. The energy must not be used on site for the facility's own electrical demand (also referred to as self-generation).
- e. The energy must not be sold to customers of local publicly owned electric utilities.
- f. The energy must not receive incentive payments or funding from any of the Renewable Energy Program elements or from the Energy Commission's New Renewable Resources Account under Senate Bill 90.⁷
- g. The energy must not be excluded from any applicable competitive transition charge payments (such as over-the-fence transactions⁸) or sold in a manner avoiding these payments.

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

C. Facility Specific Funding

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

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

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

⁸ See Public Utilities Code Section 372.

- An explanation of how the incentive payments from the ERFP will allow the facility to become cost-competitive by the end of the 2011.

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

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

D. Production Incentive Rate

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

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

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

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

- The cumulative amount of any funds the facility has previously received from the Energy Commission since January 1, 1998, itemized by Energy Commission program. The total funds received from the ERFP do not need to be provided since that information is available to ERFP staff. However, please provide the time frame the facility has been receiving funding from the ERFP.
- The cumulative amount of any funds the facility has previously received from other state government sources since January 1, 1998, itemized by program or state source. Also provide information on any corresponding costs or losses incurred in connection with such sources/programs, and an explanation of how and why these costs or losses were incurred.
- The amount of funds the facility will receive or is expected to receive from other state government sources through December 31, 2011, and any costs or losses expected to be incurred in connection with the receipt of such funds.
- The value of any past and current federal tax credits since 1998. (If the facility qualifies for these tax credits but is or has been unable to take advantage of them, explain the reason[s] why.)
- The value of any past and current state tax credits since 1998. (If the facility qualifies for these tax credits but is or has been unable to take advantage of them, explain the reason[s] why.)
- The facility's monthly average contract price for energy (in cents per kWh) and capacity (in dollars per kW-yr) under its current power purchase contract. If the monthly average energy price is not constant for all months of the year or is scheduled to change during the application year, please provide specific monthly data.
- The market value of the facility. A facility's market value may be based on the facility's assessed value for property tax purposes. If market value is based on the facility's assessed value for property tax purposes, please indicate whether the assessment is made by the county and/or another local or state government entity. Other calculations for market value may be the facility's net present value of their contract revenue stream, book value, or salvage value. When reporting the facility's market value, please state the basis for this determination.
- An estimate of the target price needed under the ERFP (in cents/kWh) to ensure the continued operation of the facility through the application year. Also include an explanation of why this target price level is needed, and how the incentive payments from the ERFP will allow the facility to become cost-competitive by December 31, 2011. (Explain how changes in contract prices and market conditions relative to previous ERFP incentive levels affect the estimated target price provided by applicant.)
- An estimate of the production incentive cap needed under the ERFP (in cents/kWh) and an explanation of why this cap level is needed given the facility's circumstances.
- An explanation of the public benefits provided by the operation of the facility.

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

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

The Energy Commission will consider applications to hold the above required information confidential under its regulations for confidential designation, California Code of Regulations, Title 20, Section 2501, et seq. Applicants seeking confidential designation should send their application for funding eligibility and supporting documentation, along with an application for confidentiality, to the Executive Director at the following:

Executive Director
California Energy Commission
1516 Ninth Street, MS-39
Sacramento, CA 95814

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

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

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

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

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

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

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

F. Determination of Market Price

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

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

1. For facilities with an investor owned utility (IOU) power purchase contract that provides variable monthly energy payments based on the short-run avoided cost (SRAC) prices for a majority of the generation, the value of the market price shall be the monthly -period weighted average SRAC price **specific to the IOU the facility is selling its generation to** (such as Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), or San Diego Gas & Electric Company (SDG&E)). .
2. For facilities receiving fixed monthly average energy prices for a majority of their generation, the value of the market price for all generation from the facilities will be the fixed monthly average energy price (as specified in the facility's contract) paid for a majority of their generation⁹ (for example with Department of Water Resources (DWR), the California Power Authority (CPA), an IOU, and so forth). Any California Power Exchange (PX) adjustments incorporated into the fixed-price contracts with the IOUs will be incorporated in determining the market price.

For facilities that do not fall under the provisions of options (1) or (2) above, the energy price component will be determined by the Energy Commission based on the actual energy price received by the facility.

⁹ For facilities that signed fixed-price amendments to their IOU contracts and receive 75 percent of payments based on these fixed prices and 25 percent based on SRAC, the energy price component will be equal to the fixed-price value.

Determination of Market Price for Facilities Receiving “All-In” Prices

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

IV – Application Process

A. Required Forms

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

In addition, all applicants applying for funding must submit a completed State of California Vendor Data Record (STD-204). The State of California requires all parties entering into business transactions that may lead to payment(s) from the state to provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646, and Internal Revenue Code, Section 6109. This form must be on file with the Energy Commission before any payments can be made. If you have any questions about this form, please contact the California Franchise Tax Board at 1-800-852-5711. In addition, corporate and limited liability entities must be in good standing on the records of the California Secretary of State to receive payments. The Energy Commission will check an applicant’s standing with the Secretary of State when reviewing applications for funding eligibility and notify the applicant if there are any problems.

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

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

Website: www.energy.ca.gov/renewables/

Call Center E-mail: Renewable@energy.state.ca.us

Call Center Phone: (800) 555-7794

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

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

Applicants may submit their forms by fax to meet a submittal deadline, provided the original forms are subsequently submitted by mail. Forms should be faxed to (916)653-8251. See Section IX of this *Guidebook* for instructions on completing forms.

B. Processing Eligibility Forms

The Energy Commission expects to review and process applications for funding eligibility within 30 days of their receipt, unless questions or concerns arise regarding the applications. If questions arise, the applicant will be contacted and may be asked to submit additional information. Otherwise, the Energy Commission will notify applicants in writing once funding eligibility is determined.

Applicants that are eligible for funding will receive a Funding Award Notice for the current calendar year. In prior versions of this *Guidebook*, applicants were assigned a five-digit supplier number. Instead of using the five-digit supplier number, please use the RPS Certification # assigned to that facility for identification purposes. All funding eligibility certificates previously issued in accordance with prior versions of this *Guidebook* become null and void on the date this *Guidebook* is formally adopted by the Energy Commission.

C. Updating Eligibility Forms

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

When changes occur during a calendar year that may affect a facility's eligibility, the facility must submit new forms identifying changes to the information submitted on the original funding eligibility application, Vendor Data Record, or authorized signature form. Any revised forms submitted should be noted as amendments to the original forms.

V - Incentive Payment Process

A. Monthly Invoices

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

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

Facilities that do not use a utility statement as their third-party verification must include a signed letter from an independent third party verifying the facility's generation. This letter must be submitted to the Energy Commission by the facility, be on the third-party's letterhead, and include at a minimum: facility name, facility CEC ID number, generation month, and total generation for the month. If the independent third party's statement is **NOT received** in time to submit it with the facility's invoice, the facility is expected to submit its monthly invoice with other evidence of the amount of eligible power generated during the billing month. A letter explaining that the third party's statement could not be submitted and describing the evidence submitted in its place must also be submitted with the invoice.

The Energy Commission will evaluate monthly invoices submitted without third party verification on a case-by-case basis and notify the facility whether the amount claimed in the invoice, or any part of it, will be accepted and paid. The Energy Commission may elect to pay only that portion of the amount invoiced that appears to be reasonable, given the evidence submitted in support of the invoice, the prior months' generation, and other factors deemed pertinent at the time of evaluation. The third party statement **must** be subsequently furnished to the Energy Commission when available, so payment adjustments can be made for any differences in the estimated eligible generation and actual eligible generation. All monthly invoices and third party statements submitted to the Energy Commission become **public records** and are subject to public disclosure.

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

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

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

Fax: (916) 653-1435

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

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

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

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

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

B. Payments

The Energy Commission intends to make incentive payments within 60 days of the end of the billing month. Table 2, Invoicing Schedule, lists invoice due dates and anticipated payment mailing dates. It is anticipated that payment for January and February 2007 generation will be mailed on or about April 30, 2007. However, given the initial review that is required and the determination of facility specific target prices, this initial payment may be delayed. The Energy Commission will send a statement that explains how the payment was calculated for the billing month. The statement will also give the program-

to-date status both for the facility and for the entire ERFP. A sample statement for January 2007 is included at the end of this *Guidebook*.

C. Withholding Payments

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

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

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

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

**Table 2
Invoicing Schedule**

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

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

* Invoices are due approximately 40 days after the billing month. If the invoice due date falls on a weekend or State of California Holiday, invoices are due on the next business day.
** Payments may be withheld and/or delayed to address overpayments associated with a facility's excess fossil fuel usage.

VI – Annual Reporting Requirements for Biomass Facilities

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

VII – Prevailing Wage Requirements

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

Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Sections 25742 and 25743 of the Public Resources

Code, including work performed to qualify, receive, or maintain production incentives or supplemental energy payments is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

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

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

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

Work of this type is made subject to the state prevailing wage law by Public Utilities Code Section 399.14, subdivision (h), and the Department of Industrial Relations (DIR) Determination *Re: Salton Sea 6 Geothermal Power Plant Project, Public Work Case 2002-043 (April 10, 2003)*.

Under DIR Determination *Re: Maintenance, Renewable Energy Resources, Public Work Case 2002-043 (November 12, 2003)*, a facility owner is not subject to the state prevailing wage law with respect to maintenance work that is performed on the facility. Under this DIR Determination, maintenance work on a renewable energy facility does not fall within the scope of Public Utilities Code Section 399.14, Subdivision (h), and therefore is not required to pay prevailing wage.

A facility owner who contracts for work covered by the prevailing wage law is the agent awarding the contract for the public work, and therefore is the "awarding body" as defined in California Labor Code section 1722. This means that for purposes of compliance with the prevailing wage law, the facility owner shall comply with the provisions applicable to recipients of public funds AND the provisions applicable to an awarding body. As such, compliance with the state prevailing wage law includes without limitation the following:

1. Determining work activities and trades subject to the requirements to pay prevailing wage under the prevailing wage law.
2. Ascertaining applicable prevailing wage rate for each covered worker performing work activities subject to the prevailing wage law on the project.

3. Specifying in calls for bids, bid specifications, and construction contracts the applicable prevailing wage.
4. Ensuring all contracts for work activities on the project subject to prevailing wage include appropriate flow down provisions.
5. Posting the applicable prevailing wage information at each job site of the project.
6. Ensuring payment prevailing wage as applicable.
7. Overtime and working hour requirements.
8. Apprenticeship obligations.
9. Payroll recordkeeping requirements.
10. Withholding payments from contractors as necessary to satisfy wage and penalty assessments issued by the Labor Commissioner.
11. Other obligations as required by law.

The applicable provisions of the state prevailing wage law are set forth in Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and, California Code of Regulations, Title 8, Chapter 8, Subchapter 3, commencing with Section 16000.

Facility owners must comply with the state prevailing wage law as a condition of receiving ERFP funding and any production incentives under the ERFP. All ERFP Funding Award Notices will include appropriate provisions requiring the facility owner to comply with the state prevailing wage law as both the recipient of public funds and the awarding body and requiring the facility owner to include appropriate flow down provisions in all agreements with contractors and subcontractors for the performance of work on the facility that are subject to the prevailing wage law. In addition, upon completion of any work subject to the state prevailing wage law pursuant to Public Utilities Code section 399.14, subdivision (h), the facility owner and all involved contractors and subcontractors must submit a certification verifying compliance with the state prevailing wage law. The facility owner must submit this certification within 90 days of completing the work. Lastly, the facility owner must certify as part of any payment invoice submitted to the Energy Commission that it has continued to comply with the state prevailing wage law.

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

VIII - Definitions

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

IX - Forms, Instructions, and Samples

CEC-1250E -1 -- Application for Funding Eligibility

CEC-1250E -2 -- Monthly Invoice Form

CEC-1250E -3 – Authorized Signatures Form

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

STD-204 -- Vendor Data Record

Sample Funding Award Notice

Sample of Monthly Payment Statement

Instructions for CEC-1250E-1 Application for ERFP Funding Eligibility

If a facility meets the eligibility requirements described in the Guidebook for Existing Renewable Facilities Program, it may apply for funding using CEC-1250E-1. A vendor data record (STD-204) and authorized signatures form (CEC-1250E-3) must be submitted with the CEC-1250E-1 in order to receive funding. Following are specific instructions for completing each section of CEC-1250E-1:

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

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

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

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

1. **CEC ID Number** – The ID number assigned to the facility by the Energy Commission when the facility registered as a Renewable Supplier (1998 – 2006), or the ID number assigned by the Energy Commission if the facility first applied for funding from the ERFP after January 1, 2007. (first time applicants leave this blank; this number will be assigned by the Energy Commission if you application is approved).
2. **Name of Facility** – Current full name of the generating facility.
3. **QFID Number** – The ID number assigned by your utility. This is sometimes also called the log number.
4. **RPS Certification Number** – The ID number assigned to your facility by the California Energy Commission when it was certified for RPS eligibility.
5. **Contact Person** – Name, title, telephone/fax number, and email address of contact person for questions or concerns the Energy Commission may have.
6. **Facility Owner** – Name, address, and telephone and telefax numbers of the business or company that owns the facility.
7. **Payee Name** – Name and address to which payments are to be sent.
8. **Qualifying Facility Status** – Indicate whether the facility is certified as a Qualifying Facility under Section 292.207 of Title 18 of the Code of Federal Regulations.

9. **Facility Ownership** – Indicate whether the facility is now, or has been in the past, owned by an investor-owned utility or a local publicly owned electric utility.
10. **Self-generation** – Indicate if **all** of energy generated at this facility is used exclusively on site (self-generation).
11. **CTC Exclusion** – Indicate if **all** of the energy generated at this facility is excluded from any applicable competitive transition charge (such as an over-the-fence transaction).
12. **Energy Sold to Out-of-State Customers** – Indicate if all of the energy generated at this facility is sold to customers located outside California.
13. **Energy Sold to Local Publicly-Owned Electric Utility Customers** -- Indicate if all of the energy generated at this facility is sold to customers of a local publicly-owned electric utility.
14. **First Month's Generation** -- Indicate the month and year for the first month's generation for which you intend to submit an invoice to the Energy Commission.
15. **Third-Party Billing Statement** – Include a copy of the most recent utility (or other independent third-party metering entity) billing statements (please include the entire statement).
16. **Type of Energy Contract** – Select whether you have a contract with an IOU, CA Department of Water Resources/California Power Authority, or other entity. Within each category please make the appropriate selections to further specify the type of contract the facility has.
17. **Energy Source** – Energy source used for generation at the facility.
18. **Capacity** – The sum capacity, in kilowatts, of all electrical generating equipment employed at the facility.
19. **Operational Date** – Date the facility began generating electricity.
20. Total funding (in \$) received from California state government sources other than the California Energy Commission since January 1, 1998. Please itemize by program or state source in the rows below.
21. Total funding (in \$) expected from the California Energy Commission's Existing Renewable Facilities Program for generation through December 31, 2011.
22. Total funding (in \$) expected from other state government sources through December 31, 2011. Please itemize by program or state source in the rows below.
23. Total state tax credits received by facility (in \$) since 1998.
24. Total federal tax credits received by facility (in \$) since 1998.

25. Facility's average monthly contract price for energy (in cents/kWh) under current power purchase contract.
26. Facility's average annual capacity price (in \$ per kW-year) under current power purchase contract.
27. Market value of the facility (in \$). (A facility's market value may be based on the facility's assessed value for property tax purposes. If market value is based on the facility's assessed value for property tax purposes, please indicate whether the assessment is made by the county and/or another local or state government entity. Other calculations for market value may be the facility's net present value of their contract revenue stream, book value, or salvage value. When reporting the facility's market value, please state the basis for this determination.)
28. Estimate of monthly target price needed under the ERFP (in cents/kwh) for the calendar year in which applicant is applying for funding. Please provide an explanation of why this target price level is needed, and how the incentive payments from the ERFP will allow the facility to become cost-competitive and self-sufficient by December 31, 2011. (Please address how changes in contract prices and market conditions relative to previous incentive levels affect the estimated target price provided by the applicant.)
29. An explanation of the public benefits provided by the operation of the facility.
30. For facilities that wish to receive payments based on something other than monthly average energy prices provide an explanation and justification on the need to provide incentives from the ERFP on a different basis.
31. 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.

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 California Code of Regulations Section 2505. Applicants seeking confidential designation should send their forms and supporting documentation, along with an application for confidentiality, to the Executive Director instead of to the RPS Program as follows:

*Executive Director
California Energy Commission
1516 Ninth Street, MS-39
Sacramento, CA 95814.*

E

APPLICATION FOR FUNDING ELIGIBILITY EXISTING RENEWABLE FACILITIES PROGRAM



*RENEWABLE
ENERGY
PROGRAM*

CALIFORNIA ENERGY COMMISSION

Please submit form to:

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

Please print or type.

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

*Applicants seeking confidential designation should send their forms and supporting documentation, along with an application for confidentiality, to the Executive Director instead of to the RPS Program as follows:
Executive Director, California Energy Commission, 1516 Ninth Street, MS-39, Sacramento, CA 95814.*

Please select one below

- Original Application (fill out all section of this form to be eligible for funding)
- Amendment (fill out the required section completely along with any other sections that require changes)

SECTION 1 – REQUIRED INFORMATION

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

SECTION 2 – FACILITY INFORMATION

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

Note: Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 California Code of Regulations Section 2505.

E

APPLICATION FOR FUNDING ELIGIBILITY EXISTING RENEWABLE FACILITIES PROGRAM

SECTION 3 – ELIGIBILITY INFORMATION

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

Yes No

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

Yes No

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

Yes No

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

Yes No

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

Yes No

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

Yes No

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

_____ Month _____ Year

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

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

Investor Owned Utility

Utility

PG&E SCE SDG&E Other (specify): _____

Contract Type

SO1 SO2 SO3 ISO4 Negotiated Other (specify): _____

Specify date contract was originally signed - _____

Specify date the contract is scheduled to end - _____

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

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

YES (Provide information below)

Average Annual Energy Value (cents/kWh) _____ Date Amendment Scheduled to end _____

Is this facility currently receiving payments under a contract that provides "All-In" pricing, and does **NOT** have a separable energy price component?

NO

YES (Provide information below)

Average Annual "All-In" contract price (cents/kWh) _____

Note: Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 California Code of Regulations Section 2505.

E	APPLICATION FOR FUNDING ELIGIBILITY EXISTING RENEWABLE FACILITIES PROGRAM
---	------------------------------------------------------------------------------

SECTION 3 – ELIGIBILITY INFORMATION (CONT'D)

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

FUNDING RECEIVED
CALIFORNIA STATE SOURCES OTHER THAN THE ENERGY COMMISSION

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

STATE AND FEDERAL TAX CREDITS

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

Note: Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 California Code of Regulations Section 2505.

Instructions for CEC-1250E-2 Monthly Invoice Report

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

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

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

8. **Phone #** – Phone number of the contact person.
9. **Fax #** – Fax number of the contact person.
10. **Declaration** –The declaration must be completed by an officer of the company such as the Chief Executive Officer, Chief Financial Officer, or a similar officer with authority to bind the company

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

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

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

E**MONTHLY INVOICE REPORT
EXISTING RENEWABLE FACILITIES PROGRAM***RENEWABLE
ENERGY
PROGRAM*

CALIFORNIA ENERGY COMMISSION

Please submit invoice to:

California Energy Commission
Renewable Energy Program
Attention: Accounting Office (MS-2)
1516 Ninth Street, Sacramento, CA 95814-5512
Telefax: (916) 653-1435Instructions for completing this form are contained in the Guidebook
for the Existing Renewable Facilities Program

Please print or type

1. RPS Certification #:	<input type="checkbox"/> ADJUSTMENT	
2. QFID #:	3. Facility Name/Owner:	
4. Statement Period:	5. Please check one: <input type="checkbox"/> Based upon attached third-party statement <input type="checkbox"/> Estimated Generation	
6. Total Production (Generation in kWhs)	On-Peak	Mid-Peak/Partial-Peak
	Off-Peak	Super Off-Peak
7. Contact:	8. Phone #:	9. Fax #:

10. DECLARATION

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

Dated this _____ day of _____, 20____, at _____.
(day) (month) (year) (place of execution)

Signature: _____


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

Instructions for CEC-1250E-3 Authorized Signatures Form

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

1. **RPS Certification #**– The ID number assigned to your facility by the California Energy Commission when it was certified for RPS eligibility.
2. **Facility Name/Owner** – Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name. This information must correspond with the information provided in the RPS Certification application (CEC-RPS-1A or CEC-RPS-2).
3. **Contact** – The name of the person to contact in the event there is a problem with the invoice submitted.
4. **Phone Number** – Phone number of the contact person.
5. **Fax Number** – Fax number of the contact person.
6. **Authorized Signatures** – Print the names and provide signatures of all persons authorized to sign the Monthly Invoice Reports.
7. **Declaration** – The declaration must be completed by an officer of the company such as the Chief Executive Officer, Chief Financial Officer, or a similar officer with authority to bind the company.

E	AUTHORIZED SIGNATURES FORM EXISTING RENEWABLE FACILITIES PROGRAM
---	---------------------------------------------------------------------

 <p style="margin: 0;"><i>RENEWABLE ENERGY PROGRAM</i></p> <p style="margin: 0; font-size: 0.8em;">CALIFORNIA ENERGY COMMISSION</p>	<p>Please submit form to:</p> <p>California Energy Commission Renewable Energy Program 1516 Ninth Street (MS-45) Sacramento, CA 95814-5512</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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

Please print or type

AMENDED FORM

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

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

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

Print Name	Signatures
<input type="checkbox"/> ADD _____	_____
<input type="checkbox"/> ADD _____	_____
<input type="checkbox"/> ADD _____	_____
<input type="checkbox"/> ADD _____	_____

7. DECLARATION

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

Dated this _____ day of _____, 20____, at _____.

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

Signature:

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

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

Biomass facilities applying for funding from the ERF are required to complete the section entitled Fossil Fuel Usage and to sign the Declaration by January 31st of each year in order to be evaluated for funding for that calendar year. If this report does not provide enough space, please use a separate sheet and include that sheet with the report.

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

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

*RENEWABLE
ENERGY
PROGRAM*

CALIFORNIA ENERGY COMMISSION

Please submit form to:

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

1. RPS Certification #:

2. Facility Name/Owner:

3. Contact:

4. Phone #:

5. Fax #

6. Calendar Year Covered by this Report:

FOSSIL FUEL USAGE

7. Types of Fossil Fuel Used

8. Quantity of Fossil Fuel Used

9. Total Energy Input of Fuel (mmBTU)

10. Percentage of fossil fuel used by the facility on a total energy input basis during the previous calendar year.

11. Do you expect the facility to have fossil fuels comprise less than 5-percent of fuel use on a total energy input basis in the upcoming calendar year?

- Yes
 No

BIOMASS FUEL USAGE

12. Type of Biomass Fuel Used

13. Quantity of Biomass Fuels Used
(Tons)

14. Total Energy Input of Fuel
(mmBTU)

a. Agricultural Crops, Waste, Residue

b. Solid Waste Materials

c. Wood/Wood Waste from State Forests

15. DECLARATION

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

Dated this _____ day of _____, 20____, at _____.
(day) (month) (year) (place of execution)

Signature:

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

Instructions for STD-204 Vendor Data Record

The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646, and Internal Revenue Code, Section 6109. This form must be on file with the Energy Commission in order for any payments to be made. If you have any questions about this form, please contact the California Franchise Tax Board at 1-800-852-5711. Following are instructions on filling out STD-204:

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

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE)

1	<p><u>Requirement to Complete Payee Data Record, STD. 204</u></p> <p>A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies.</p> <p>Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.</p>								
2	<p>Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.</p>								
3	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. 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). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).</p>								
4	<p><u>Are you a California resident or nonresident?</u></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:</p> <table border="0"> <tr> <td>Withholding Services and Compliance Section:</td> <td>1-888-792-4900</td> <td>E-mail address:</td> <td>wscs.gen@ftb.ca.gov</td> </tr> <tr> <td>For hearing impaired with TDD, call:</td> <td>1-800-822-6268</td> <td>Website:</td> <td>www.ftb.ca.gov</td> </tr> </table>	Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov	For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov
Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov						
For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov						
5	<p>Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p>								
6	<p>This section must be completed by the State agency requesting the STD. 204.</p>								
	<p><u>Privacy Statement</u></p> <p>Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.</p> <p>All questions should be referred to the requesting State agency listed on the bottom front of this form.</p>								

DRAFT SAMPLE FUNDING AWARD NOTICE

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

1. **Purpose.** This Funding Award Notice ("Agreement") is entered into between _____ ("Grantee") and the California Energy Commission ("Energy Commission") for the purpose of creating a funding award to provide funding pursuant to the Energy Commission's *Existing Renewable Facilities Program Guidebook, Renewables Portfolio Standard Eligibility Guidebook, and Overall Program Guidebook*, (collectively referred to as "Guidelines"). Grantee has applied to the Energy Commission for Existing Renewable Facilities Program (ERFP) funding for its _____ Facility, as described in the Application for ERFP Funding Eligibility (CEC-1250E-1) and referenced as Exhibit A, and the Energy Commission has determined that Grantee and its facility are eligible for funding as specified in the Guidelines. This Agreement commits funding to pay production incentives to Grantee's Facility subject to the Guidelines and the terms and conditions specified herein. Grantee must comply with the terms and conditions of the Guidelines and this Agreement to remain eligible to receive funding under this Agreement.
2. **Incorporation by Reference.** Neither the Energy Commission's Guidelines nor Grantee's application for ERFP eligibility and funding, dated _____, are attached hereto, but are incorporated by reference and made a part of this Agreement.
3. **Funding Award Amount.** The total amount of funding available to Grantee under this Agreement is limited by the funds allocated to the Existing Renewable Facilities Program of the Energy Commission's Energy Program during the 2007 calendar year, the level of ERFP participation during this period, and the Target Price and Production Incentive Caps specified in paragraph 4.
4. **Target Price and Production Incentive Caps**

The target price and production incentive caps for Grantee facility during the 2007 calendar years shall be as follows:

Target Price: _____

Production Incentive Cap: _____
5. **Contingent Funding.** Funding for this Agreement is contingent on the availability of adequate funding from the Energy Commission's Renewable Resource Trust Fund.
6. **Term.** The term of this Agreement shall be from January 1, 2007, to December 31, 2007, unless terminated earlier by the Energy Commission pursuant to the Guidelines. Notwithstanding the term of this Agreement, Grantee may submit final invoices for payment of eligible electrical power generated during the term of this Agreement for a period of three months after the term ends.
7. **Non-Transferability of award.** The funding award created by this Agreement is

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

8. **Assignment.** Grantee shall not assign its rights nor delegate its duties under this Agreement without the Energy Commission's advance written approval.
9. **Indemnification.** Grantee agrees to indemnify, defend, and save harmless the Energy Commission, its officers, agents, and employees from any and all claims and losses accruing and resulting to any and all contractors, subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with Grantee's Facility or this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Grantee or Grantee's officers, agents, employees, contractors, subcontractors, material men, laborer, or any other person, firm, or corporation in connection with the performance of work to develop, construct, or operate Grantee's Facility or receive funding under this Agreement.
10. **Review and Disclaimer.** Review by the Energy Commission of the design, operation, or maintenance of Grantee's Facility or related interconnection or generation facilities shall not constitute any representation as to the economic or technical feasibility, operational capacity, or reliability of such facilities. Grantee shall not in any way represent to any third party that the Energy Commission's review of Grantee's Facility is a representation by the Energy Commission as to the Facility's economic or technical feasibility, operational capability, or reliability. Grantee is solely responsible for its Facility's economic and technical feasibility, operational capability, and reliability.
11. **Certification.** Grantee has provided evidence of facility certification as an RPS eligible renewable resource and must maintain that certification as outlined in the Energy Commission's *Renewables Portfolio Standard Eligibility Guidebook*. Failure to do so may result in this Agreement being terminated as specified in the Guidelines.
12. **Funding Termination.** Grantee acknowledges that this Agreement and payments under this Agreement may be terminated for reasonable cause pursuant to the Guidelines by providing 30-day written notice to the Grantee contact specified in paragraph 16. Consistent with the Guidelines, reasonable cause includes the following:
 - Grantee's failure to maintain certification as an RPS eligible renewable resource or knowingly providing false or misleading information about itself or the facility, as determined by the Energy Commission, in facility's application for certification.
 - The power purchase contract referenced in paragraph 1 of this Agreement is modified or renegotiated such that the total energy price and/or the capacity price payments under the power purchase contract are modified.

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

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

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

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

- Keep all records relating to and verifying the accuracy of information stated in an invoice for payment submitted pursuant to this Agreement for a period not less than three years after the end of the calendar year in which payment for the invoice is made;
- Keep all records relating to and verifying the accuracy of information stated in a report submitted to the Energy Commission pursuant to the Guidelines for a period not less than three years after the end of the calendar year in which the report is submitted; and
- Keep all records relating to and verifying the overall usage, on a total energy input basis, of all fossil fuels and non-fossil fuels used to generate electricity in a given calendar year for a period not less than four years after the end of that calendar year.

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

17. **Energy Commission Contact.** The Energy Commission's contact under this Agreement shall be _____. Any notice to the Energy Commission under this Agreement shall be forwarded to the Energy Commission contact at the following address:

California Energy Commission
1516 Ninth Street, MS-____
Sacramento, California 95814
Attn: _____

18. **CEQA Review.** The Energy Commission has reviewed the _____ Facility and finds that:

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

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

A. Grantee/General Requirements

a) Pursuant to California Public Utilities Code section 399.12 (h) and applicable law, Grantee shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for any public works activities performed on the Facility funded by this Agreement. For purposes of compliance with the prevailing wage law, Grantee is the “awarding body” as defined in California Labor Code section 1722 and shall comply with the provisions applicable to recipients of public funds AND the provisions applicable to an awarding body. As such, Grantee agrees to ensure compliance with the state prevailing wage law, including without limitation:

- 1) Determining work activities and trades subject to the requirement to pay prevailing wage under the prevailing wage law;
- 2) Ascertaining applicable prevailing wage rate for each covered worker performing work activities subject to the prevailing wage law on the Facility;
- 3) Specifying in calls for bids, bid specifications, and construction contracts the applicable prevailing wage;
- 4) Ensuring all contracts for public works activities for the Facility include appropriate flow down provisions;
- 5) Posting the applicable prevailing wage information at each job site of the Facility;
- 6) Ensuring payment of prevailing wage, as applicable;
- 7) Complying with overtime and working hour requirements;
- 8) Complying with apprenticeship obligations;
- 9) Complying with payroll recordkeeping requirements;
- 10) Withholding payments from contractors as necessary to satisfy wage and penalty assessments issued by the Labor Commissioner; and
- 11) Complying with other obligations as required by law.

b) Grantee shall submit to the Energy Commission within 90 days of completing any construction, alteration, demolition, installation, or repair work subject to the state prevailing wage law pursuant to Public Utilities Code section 399.14, subdivision (h), a certification signed by Grantee and all involved contractors performing work activities on the Facility certifying that prevailing wages were paid as required by law. The certification shall be as provided in Exhibit B.

c) Grantee shall submit to the Energy Commission, as part of any payment request or invoice, a certification stating i) that prevailing wages were paid for public works activities performed for the Facility during the period covered by the invoice, and ii) that Grantee and all involved contractors complied with the prevailing wage law.

B. Flow Down Requirements

Grantee shall ensure that all agreements with contractors for public works activities on the Facility contain the following provisions:

a) Contractor shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for all construction, alteration, demolition, installation, or repair work over \$1,000 performed under the contract. Contractor's obligations under prevailing wage laws include without limitation:

- 1) Payment of not less than the applicable prevailing wage for public works activities performed for the Facility;
- 2) Compliance with overtime and working hour requirements;
- 3) Compliance with apprenticeship obligations;
- 4) Compliance with payroll recordkeeping requirements; and
- 5) Compliance with other obligations as required by law.

b) Contractor shall ensure that the above requirements are included in all subcontracts for public works activities for the Facility.

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

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

Signature of Facility Representative

Title

Signature of California Energy
Commission Representative

Title

DRAFT SAMPLE FUNDING AWARD NOTICE

**EXHIBIT B
PREVAILING WAGE COMPLIANCE CERTIFICATION**

This certificate is to be completed by Grantee, signed by Grantee and all construction contractors and subcontractors, and submitted to Energy Commission within 90 days of completing any construction, alteration, demolition, installation, or repair work subject to the state prevailing wage law pursuant to Public Utilities Code section 399.14, subdivision (h).

Grantee: _____

Energy Commission Funding Award Notice Number:

Facility: _____

Date Facility Construction Completed: _____

Grantee hereby certifies as follows:

1. All construction contracts and subcontracts to perform work activities subject to the state prevailing wage law for the above referenced Facility contained requirements that the construction contractors and subcontractors comply with prevailing wage law and pay prevailing wages in accordance with the requirements of the California Labor Code.
2. Prevailing wages have been paid as required by law.
3. All construction contractors and subcontractors have maintained labor records as required by the Labor Code and such records shall be made available to the Energy Commission upon request.
4. The undersigned Grantee acknowledges that disbursement of any payments of production incentives under the above noted Agreement by the Energy Commission is expressly made in reliance upon the representations made in this certification.

Grantee:

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Each contractor and subcontractor performing work activities subject to the prevailing wage law for the above referenced Facility must sign below. Include additional pages if necessary.

Construction Contractor and Subcontractors hereby certifies as follows:

1. The contract with Grantee to perform work activities subject to the prevailing wage law for the above referenced Facility contained requirements that the construction contractor and all its subcontractors comply with prevailing wage law and pay prevailing wages in accordance with the requirements of the Labor Code.
2. Prevailing wages have been paid as required by law.
3. Construction contractor and all its subcontractors have maintained labor records as required by the Labor Code and such records shall be made available to the Energy Commission upon request.
4. The undersigned construction Contractor acknowledges that disbursement of any payments of production incentives under the above noted Agreement by the Energy Commission is expressly made in reliance upon the representations made in this certification.

Construction Contractor

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Construction Contractor

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____