

GRANT SOLICITATION

**Alternative and Renewable Fuel
and
Vehicle Technology Program**

**Solicitation Number
PON-09-003**

**Subject Area:
Biomethane Production**

APPLICATION PACKAGE

November 25, 2009



Arnold Schwarzenegger, Governor

GRANT SOLICITATION AND APPLICATION PACKAGE

Alternative and Renewable Fuel and Vehicle Technology Program

Subject Area: Biomethane Production

- 1. Release Date:** November 25, 2009
- 2. Proposal Due Date:** January 11, 2010, by 4 p.m.
- 3. Purpose:**

The California Energy Commission (Energy Commission) is seeking to fund projects that involve the design, construction and operation of biomethane production facilities.

The intent of this solicitation is to encourage the development of a new industry in California to produce a transportation fuel that is one of the most effective greenhouse gas reduction strategies, and that can significantly reduce petroleum fuel demand, stimulate economic development, and reduce environmental impacts associated with the State's major waste sources.

- 4. Availability of Solicitation Documents and Information:**

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

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

California Energy Commission
Grants and Loans Office
1516 Ninth Street, MS-1
Sacramento, CA 95814
Telephone: (916) 654-4584

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

- 5. Background:**

Assembly Bill 118 (Núñez, Chapter 750, Statutes of 2007), created the Alternative and Renewable Fuel and Vehicle Technology Program. The statute, subsequently amended by AB 109 (Núñez) Chapter 313, Statutes of 2008), authorizes the Energy Commission to develop and deploy alternative and renewable fuels and advanced transportation technologies to help attain the state's climate change policies. The Energy Commission has an annual program budget of approximately \$100 million and provides financial support for projects that:

- Develop and improve alternative and renewable low-carbon fuels;
- Optimize alternative and renewable fuels for existing and developing engine technologies;
- Produce alternative and renewable low-carbon fuels in California;
- Decrease, on a full fuel cycle basis, the overall impact and carbon footprint of alternative and renewable fuels and increase sustainability;
- Expand fuel infrastructure, fueling stations, and equipment;
- Improve light-, medium-, and heavy-duty vehicle technologies;
- Retrofit medium- and heavy-duty on-road and non-road vehicle fleets;
- Expand infrastructure connected with existing fleets, public transit, and transportation corridors; and
- Establish workforce training programs, conduct public education and promotion, and create technology centers.

The statute requires the Energy Commission to adopt and update annually an investment plan to determine funding priorities and opportunities and describe how program funding will be used to complement other public and private investments. The Energy Commission adopted its first investment plan at the April 22, 2009, Business Meeting. A link to the *Investment Plan for the Alternative and Renewable Fuel and Vehicle Technology Program (CEC-600-2009-008-CTF)* can be found at <http://www.energy.ca.gov/2009-ALT-1/index.html>

6. Eligible Projects:

The Energy Commission is permitted to fund a wide range of projects relating to alternative and renewable fuels including those that:

- Develop and improve alternative and renewable low-carbon fuels, including electricity, ethanol, dimethyl ether, renewable diesel, natural gas, hydrogen, and biomethane, among others, and their feed stocks that have high potential for long-term or short-term commercialization, including projects that lead to sustainable feed stocks, or
- Produce alternative and renewable low-carbon fuels in California, or
- Decrease the overall impact of an alternative and renewable fuel's life cycle carbon footprint and increase sustainability.

To be eligible for this solicitation, proposed biomethane projects must be located in California and use feed stocks from one or more of the following sources:

- Landfills,
- Solid waste streams, including municipal, forest, and agricultural residues,
- Dairies, and
- Wastewater treatment plants.

And, eligible projects must include the production of biomethane for:

- Use directly as a transportation fuel,
- Transport via natural gas pipelines for dedicated transportation fuel uses at other locations, to the extent allowed by law or regulation, and
- Use as process energy in the production of liquid transportation fuels.

7. Eligible Applicants:

This solicitation is open to public agencies, vehicle and technology entities, businesses, and public-private partnerships, and academic institutions. To be eligible, applicants must have a business presence in California.

Applicants may submit multiple proposals, however, each proposal must be for a distinct, separate project and must be submitted separately adhering to all requirements contained in this solicitation.

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

8. Funding Information:

The maximum funding available for this solicitation is \$21.5 million. However, the Energy Commission reserves the right to increase this amount to \$26 million.

The Energy Commission reserves the right to reduce the award to an amount deemed appropriate in the event the budgeted funds do not provide full funding of Energy Commission grants. In this event, the Grantee and the Energy Commission shall meet and reach agreement on a scope of work commensurate with the level of available funding.

9. Match Funding Requirements:

A minimum match funding of 50 percent of total project cost in cash or cash and in-kind services is required. Proposals having greater match funding will be scored higher. Proposals must disclose the source and provide verification and documentation for the matching funds.

Energy Commission funds will be released only if the required match percentages are expended. Match percentages will be evaluated quarterly.

10. Payment of Prevailing Wages:

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

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

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

For detailed information about prevailing wage and the process to determine if the proposed project is a public work, see the Prevailing Wage Compliance Questions and Answers (Attachment J).

11. California Environmental Quality Act (CEQA):

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

12. Selection of Projects and Award Process:

The following process will be utilized to select and award project(s) for funding:

- All applications will be initially screened for compliance with the Air Quality Guidelines for the Air Quality Improvement Program and the Alternative and Renewable Fuel and Vehicle Technology Program and section 3103 of the Regulations for the Alternative and Renewable Fuel and Vehicle Technology Program. (See section 15 below entitled Proposal Requirements.) Proposals that are not in compliance will be disqualified.
- A Scoring Committee will score the final applications using the relevant criteria (Attachment B).
- The Energy Commission may invite applicants to a clarification interview for their applications. Applicants may appear in person at the Energy Commission or discuss the application by telephone. The Energy Commission will provide no reimbursement to any applicant for the interview appearance.
- A minimum score of 70% is required for the application to pass and be considered for funding. Additional scoring information is in Attachment B. Eligible projects will be ranked according to their overall score.
- Projects obtaining at least the minimum score will be considered for funding, starting with the highest ranked project.
- The Energy Commission reserves the right to determine the number of final applications it will fund and for each winning application to negotiate with the Applicant: the final project scope, any additional special terms and conditions, and the level of funding received pursuant to this solicitation.
- The results of the Energy Commission’s decision of proposed funding level, the rank order of proposers, and the amount of each proposed award will be released through a Notice of Proposed Awards (NOPA).

- Applicants may request a debriefing to determine why their Application was not selected. A request for debriefing must be received no later than 30 days after the release of NOPA.
- Applicants proposed for an award pursuant to this solicitation will be required to refine a detailed set of award documents, including but not limited to: a Scope of Work (Attachment D), a schedule of products and due dates (Attachment E), and detailed budget forms (Attachment G).
- Upon receiving the required documents, the Energy Commission will prepare a Grant Agreement, including applicable Terms and Conditions¹ and any additional terms and conditions, and send it to the grant recipient for review, approval, and signature.
- The Grant Agreement will be scheduled and heard at an Energy Commission Business Meeting for approval.
- Once all approvals are in place, the Energy Commission will fully execute the Grant Agreement. Recipients are approved to begin the project only after the date of the full and final execution of the Grant Agreement.

13. Schedule of Proposal and Award Process:

Event	Date
Release of Solicitation	November 25, 2009
Workshop	December 15, 2009
Deadline to Submit Questions	December 15, 2009 no later than 3 pm
Posting of Questions & Answers from Workshop	December 24, 2009
Deadline to Submit Proposals	January 11, 2010
Post Notice of Proposed Awards	February 18, 2010
Approval of Awards at Energy Commission Business Meeting	April to May, 2010

14. Proposal Workshop:

A proposal workshop will be held through in-person participation, WebEx, and conference call. Participation by prospective Applicants is optional. Please call: Pilar Magana at 916-651-9866 or refer to the Energy Commission's website at: <http://www.energy.ca.gov/contracts/index.html> to confirm the date and time.

¹ Samples of the required detailed award documents and the Grant Terms and Conditions can be found at [<http://www.energy.ca.gov/contracts/>] as part of this solicitation package. However, please note that the Energy Commission reserves the right to modify the award documents and/or the Grant Terms and Conditions prior to executing Grant Agreements.

December 15, 2009
9 a.m.
California Energy Commission
Hearing Room A, First Floor
1516 Ninth Street
Sacramento, California 95814

Slides and audio from the meeting will be broadcast via our WebEx web conferencing system. To join the WebEx, the Energy Commission's on-line meeting service, please use the following instructions:

Computer Logon with a Direct Phone Number:

1. Please go to <https://energy.webex.com> and enter the unique meeting number **368 896 861**.
2. When prompted, enter your information and the following meeting password **Meeting@9**.
3. After you login, a prompt will appear on-screen for you to provide your phone number. In the Number box, type your area code and phone number and click OK to receive a call back on your phone for the audio of the meeting. International callers can use the "Country/Region" button to help make their connection.

Computer Logon for Callers with an Extension Phone Number, etc.:

1. Please go to <https://energy.webex.com> and enter the unique meeting number **368 896 861**.
2. When prompted, enter your information and the following meeting password **Meeting@9**.
3. After you login, a prompt will ask for your phone number. **CLICK CANCEL**.
4. Instead call 1-866-469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number which is listed in the top left area of your screen after you login. International callers can dial in using the "Show all global call-in numbers" link (also in the top left area).

Telephone Only (No Computer Access):

1. Call 1-866-469-3239 (toll-free in the U.S. and Canada) and when prompted enter the unique meeting number above. International callers can select their number from <https://energy.webex.com/energy/globalcallin.php>.
2. If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. Please be aware that the meeting's WebEx audio and on screen activity may be recorded.

Conference Call:

To participate in the meeting by phone, please call (866) 469-3239 by 9:00 a.m. Passcode: **368 896 861**. Call Leader: Rhetta deMesa.

15. Proposal Requirements:

All applicants must provide hard copies of one (1) original and six (6) copies of the proposal and a CD containing all of the documents related to the proposal in editable form. The original must be signed by an authorized representative of the Applicant's organization.

All proposals must contain the following information:

A. Proposal cover page:

Applicants must include a complete and signed Cover Page shown in Attachment A. The proposal must include an original Cover Page signed by an authorized representative of the Applicant's organization.

B. Executive Summary:

The maximum length of the Executive Summary is two (2) pages. The Executive Summary must include, at a minimum, project description, project objectives, and quantitative and measurable goals to be achieved.

C. Project narrative:

The Project Narrative must include a detailed description of the proposed project, including the entity that will own and operate the proposed project, operational goals and objectives of the proposed project, and an explanation of how the proposed project:

1. Complements, and does not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions; and maintains or improves upon emission reductions and air quality benefits in the State Implementation Plan for Ozone, California Phase 2 Reformulated Gasoline standards, and diesel fuel regulations. These requirements are described in the *Air Quality Guidelines for the Air Quality Improvement Program and the Alternative and Renewable Fuel and Vehicle Technology Program* that can be found at <http://www.arb.ca.gov/regact/2008/aqipfuels08/oalfinreg.pdf>.
2. Complies with the prohibition against funding projects that are required to be undertaken by state or federal law, district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. This prohibition is described in section ----- of the *Regulations for the Alternative and Renewable Fuel and Vehicle Technology Program* that can be found at <http://www.energy.ca.gov/altfuels/index.html>.

The Project Narrative also must include:

- A discussion of how the proposed project addresses each of the scoring criteria as described in Attachment B. Provide sufficient detail so that reviewers will be able to evaluate the proposal against each of the scoring criteria.
- A description of a plan to, upon successful completion of the proposed project, collect and report for a period of six months data on the performance of the project as it relates to achievement of operational goals and objectives.
- A detailed discussion of collaborations and coordination related to the propose project.
- Highlights of previous work and innovative features related to the proposed project.
- Any other significant factors to enhance the value of the proposal.

D. Scope of Work and Schedule

Applicants must include a completed Scope of Work and Schedule following the formats contained in Attachments D and E. All work must be scheduled for completion by December 31, 2013, including six months of data collection and reporting. Instructions for completing the Scope of Work are included in Attachment C. Instructions for the Schedule of Products and Due Dates are included in the document.

E. Resumes:

Short resumes, maximum of two (2) page(s) each, of the project team and key partners (individual in your organization or subcontractors), emphasizing experience related to activities to be performed in the project.

F. Budget:

Applicants must complete and include the budget forms contained in Attachment G. Instructions for completing the Budget form are included in Attachment F. All project expenditures (match share and reimbursable) must be expended within the approved term of the funding agreement.

The budget should allow for the expenses of a Kick-off Meeting, at least two Critical Project Review meetings, and a Final meeting. It is anticipated that meetings will be conducted at the Energy Commission located in Sacramento,

CA. Applicants should also budget for permits, insurance, etc., and limit the funding source to match funds.

The budget should allow for the preparation and submission of quarterly progress reports (2-4 pages each) during the approved term of the agreement, and a Final Report. Instructions for the Final Report will be provided to successful Applicants. For budgeting purposes please refer to the PIER Guidelines which can be found at:

<http://www.energy.ca.gov/contracts/pier/contractors/index.html>

The purchase of equipment (items with a unit cost greater than \$5,000 and a useful life of greater than one year) with Energy Commission funds will require disposition of purchased equipment at the end of the project. Typically, Grant Recipients may continue to utilize equipment purchased with Energy Commission funds as long as the use is consistent with the intent of the original Grant Agreement. *There are no disposition requirements for equipment purchased with match share funding.*

The budget must reflect estimates for **actual** costs to be incurred during the approved term of the project. The Energy Commission can only approve and reimburse for actual costs that are properly documented in accordance with the Grant Terms and Conditions.

The budget must **NOT** include any profit from the proposed project, either as a reimbursed item or as match share. In accordance with the Grant Terms and Conditions, ***NO PROFIT IS ALLOWED UNDER GRANT AGREEMENTS.*** Please review the Grant Terms and Conditions for additional restrictions and requirements.

16. Proposal Guidelines:

Proposal should adhere to the following guidelines.

- A. Limit the Project Narrative and Scope of Work to a maximum of 40 pages total. Resumes and other supporting documentation may be included as appendices.
- B. Use a standard 12-point font and 1-inch or larger page margins and number the pages.
- C. The original should be bound only with a binder clip; the other six (6) copies should be bound only with a staple in the upper left corner. No covers or other types of bindings are allowed.

17. Confidential Information:

Treatment of Confidential Information

The entire evaluation process from receipt of proposals to the posting of the Notice of Proposed Award is confidential. *However*, proposals and all submittals will become public records after the Energy Commission completes the evaluation and/or scoring process and the Notice of Proposed Awards is posted or the Solicitation is cancelled.

After the posting of the Notice of Proposed Awards, confidential materials submitted by unsuccessful Applicants will be destroyed and/or returned. The Energy Commission will not retain confidential submittals from unsuccessful Applicants.

Confidential materials submitted by successful Applicants will be kept confidential, pending incorporation of confidentiality determination as part of the subsequent Agreement as appropriate.

A complete application for confidentiality pursuant to Title 20, California Code of Regulations, sections 2505 may be required prior to execution of the Agreement at the option of the Energy Commission. These confidentiality specifications and procedures are issued in accordance with Title 20, California Code of Regulations, section 2501 et seq.

Information Considered Confidential

Consistent with its confidentiality regulations, and the California Public Records Act (Government Code Section 6250 et. seq), the Energy Commission generally will grant confidential treatment for information that is essential to understanding the proposal, clarifies the status of technology prior to Agreement work, or will be an Agreement deliverable that is information typically held in confidence. Examples include:

- Information that is patent pending (until a patent has been approved), including patent application numbers
- Technical trade secrets (e.g., detailed technical drawings)
- Marketing/business trade secrets (e.g., energy use data for an individual commercial or industrial facility, pending strategic partnerships with manufacturers)
- Economic/financial trade secrets (e.g., income tax records).

Conversely, the Energy Commission will **not** allow confidential treatment for certain other types of information. Applicants are cautioned against seeking confidentiality for the following types of information:

- Project descriptions/scope of work (including task descriptions, schedule of deliverables and due dates).
- Proposed project budgets (state share and match fund), including labor rates, overhead, direct labor, other direct costs, and the like.
- Names of employees, subcontractors and match fund participants.
- Test plans and reports.
- Progress reports.
- Final reports.

The Energy Commission may allow technical and business trade secrets to be reported in separate confidential addenda to test reports and final reports.

If you need to submit any confidential information to support your application, clearly mark the documents as "CONFIDENTIAL" and submit it as a separately bound Volume 2 with your application.

18. Proposal Submission Requirements:

One (1) original and six (6) copies of the proposal and a CD containing all of the documents related to the proposal **must be received no later than January 11, 2010, by 4 p.m.** Proposals may be mailed or hand delivered to:

California Energy Commission
Grants and Loans Office
Attn: Biomethane Production PON-09-003
1516 Ninth Street, MS-1
Sacramento, CA 95814

Postmark dates of mailing, electronic mail (E-mail), and facsimile (Fax) transmissions are not acceptable in whole or in part under any circumstances.

19. Grounds for Rejection:

Proposals **WILL** be rejected and not considered for funding if the proposal is not received by the Energy Commission's Grants and Loans Office by the specified due date and time.

Proposals **MAY** be rejected and not considered for funding if the proposal does not adhere to the guidelines listed under "Proposal Requirements."

20. Cancellation or Amendment of the Solicitation:

It is the policy of the Energy Commission not to solicit proposals unless there is a bona fide intention to award an Agreement, The Energy Commission reserves the right to do any of the following:

- Cancel this solicitation;
- Revise the amount of funds available under this solicitation;
- Amend or revise this solicitation as needed; or
- Reject any or all proposals received in response to this solicitation.

21. Questions:

Questions about this solicitation may be submitted in writing or via e-mail to:

California Energy Commission
Grants and Loans Office
Attn: Biomethane Production PON-09-003
1516 Ninth Street, MS-1
Sacramento, CA 95814
skawilli@energy.state.ca.us

Questions submitted to the Energy Commission prior to the specified deadline will be answered and posted on the Energy Commission's website at <http://www.energy.ca.gov/contracts> as part of this solicitation package. The person and organization submitting a question will not be identified.

22. Attachments:

- A. Grant Proposal Cover Page
- B. Scoring Criteria
- C. Instructions for the Scope of Work
- D. Scope of Work Template
- E. Schedule of Products and Due Dates
- F. Instructions for Budget Forms
- G. Budget Forms
- H. Prevailing Wage Special Condition Template
- I. Prevailing Wage Compliance Certificate Form
- J. Prevailing Wage Compliance Questions and Answers
- K. Terms and Conditions with Payment Request Form
- L. California Environmental Quality Act (CEQA) Compliance Form
- M. Invoicing instructions

ATTACHMENT A

Grant Proposal Cover Page

The Grant Proposal Cover Page is posted as a separate Microsoft Word document. Please follow the format provided. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.

ATTACHMENT B

Scoring Criteria

Project Title: _____

The Energy Commission will evaluate each proposal based on the applicable criteria below. This is a competitive solicitation. It is important that applicants provide sufficient detail to properly evaluate the proposal. Please respond directly to each criterion, as appropriate. Use the criterion title as the heading for each response.

Each criterion will be scored on a basis of 0 to 10 points and then multiplied by the corresponding weighting factor. The resulting scores for the applicable criteria will be summed and divided by the maximum possible points to obtain a percentage. A minimum of 70 percent will be required to be eligible for funding.

Score	Response to the Criterion
N/A	Project will not be scored on criteria that are not applicable
0	Not responsive
1 – 2	Response is minimal
3 – 4	Responds only marginally to relevant considerations
5 – 6	Addresses most criteria but provides insufficient response
7 – 8	Responds satisfactorily to all relevant considerations
9	Responds completely, accurately, and convincingly to all relevant considerations
10	Response is complete, specific and superior, both quantitatively and qualitatively

1. Qualifications of the Applicant/Project Team

Weight 5

Maximum Points 50

Describe the applicant/project team and why they are well suited to successfully complete the proposed project. Explain the functions the applicant and each team member will perform, their qualifications and related technical and business experience, and the match of skills and capabilities to each task. Describe how the work effort will be coordinated, how quality control will be implemented and how schedules will be met by the applicant/team.

2. Market Transformation

Weight 3

Maximum Points 30

Describe how the proposed project will provide a measurable transition from a dependence on petroleum fuels to viable alternative and renewable fuels market.

Discuss how the proposed project will drive new technology advancement and promote the deployment of that technology in the market place and how the technology will be an important component of the transportation market in 2020 and 2050. Describe how the proposed project is consistent with California's existing and proposed climate change policies, including the Low Carbon Fuel Standard. These policies can be found at:

<http://www.climatechange.ca.gov/publications/legislation.html>

<http://www.arb.ca.gov/fuels/lcfs/lcfs.htm>

3. Market Viability

Weight 3

Maximum Points 30

Describe how the proposed project will lead to widespread use and consumer acceptance of the technology. Describe the niche market addressed by the proposed project. Discuss the market population that would be affected by the proposed project (including, as applicable, existing users, existing competition, use throughput, geographical need, and anticipated future demand). Discuss the technical and economic feasibility of the proposed project and the steps needed to develop, demonstrate, commercialize, and/or deploy the technology in the market place. Discuss the capital costs, input and production costs, end-use markets, anticipated revenues, and other relevant factors and how the proposed project will establish the technology as a cost-competitive option.

4. Project Implementation

Weight 3

Maximum Points 30

Describe how the proposed project will be completed in an effective and efficient manner. Clearly and logically discuss the schedule, sequence of tasks, and appropriate objectives of the proposed project. If applicable, describe how the proposed project will use existing or planned fueling infrastructure to maximize the outcome or alternative and renewable fuel blends of at least 20 percent, and higher blend ratios in the future. Describe compliance with CEQA, what has been done and what is expected to be done to comply with CEQA requirements. Describe fully any permitting that may be required for the project and the schedule for obtaining the necessary permits. Discuss all financing and contractual relationships needed to complete and operate the proposed project and their status. Describe the content and plan to implement the six-month data collection requirement upon completion of the proposed project.

5. Project Budget

Weight 1

Maximum Points 10

Describe how the budget is sufficient to complete and operate the proposed project. Explain why state funds are needed for the proposed project to go forward and if the funding request is consistent with the expected level of public and private benefits that will accrue if the proposed project is successful.

Describe the amount of non-state funds (cash and in-kind) in the proposed project and provide verification and documentation of the source and availability. Describe the cost efficiencies provided by the proposed project in reducing greenhouse gas emissions and petroleum use (calculated by dividing the amount of Energy Commission funds requested by both anticipated/potential petroleum reduction and GHG reduction from 2013 to 2020).

6. Economic Benefits

Weight 5
Maximum Points 50

Describe macro- and micro-economic benefits of the proposed project. Describe how the proposed project will expand business opportunities for or lead to the creation of California-based technology firms, jobs, and businesses. Identify how many and what type of jobs will be created and retained by the proposed project and if those jobs are permanent or temporary. Explain how the project will stimulate economic development in economically distressed areas or for low-income and minority populations. Describe local and state taxes that will be generated by the proposed project. Discuss how the proposed project will financially benefit end-users.

7. Sustainability

Weight 5
Maximum Points 50

Describe the environmental implications of the proposed project. Explain how the proposed project helps achieve sustainable reductions of greenhouse gas emissions associated with California's transportation system to help meet the California Air Resources Board's identification of the statewide greenhouse gas emissions limit to be achieved by 2020 (which can be found at <http://www.arb.ca.gov/cc/implementation/implementation.htm>). Quantify the potential greenhouse gas and petroleum reduction that could be realized by widespread commercial application of the technology in the marketplace and how the proposed project would contribute to achieving these reductions.

Describe how the proposed project will preserve and enhance the environmental quality of the state's natural resources and promote the superior environmental performance of alternative and renewable fuels, infrastructure and vehicle technologies. Explain how the proposed project will reduce criteria air pollutants and air toxics and reduce or avoid multimedia environmental impact, and lead to a decrease, on a life cycle basis, in emissions of water pollutants or any other substances known to damage human health or the environment. Describe if the proposed project will use waste material as a feed stock, renewable process energy. Explain how it will minimize the use of water and wastewater discharge. Explain how the proposed project will use best management practices which have been used to grow bio-energy crops as a feed stock or harvest forest residue consistent with restoration, fire-risk and ecosystem management.

Describe how proposed project will promote the sustainable production of alternative and renewable fuels through the use of certified sustainable feed stocks or in accordance with certified sustainable certification standards.

ATTACHMENT C

INSTRUCTIONS FOR THE SCOPE OF WORK

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

I. Technical Task List

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

II. Key Name List

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

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

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

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

III. Glossary

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

IV. Problem Statement

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

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

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

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

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

V. Goal of the Agreement

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

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

VI. Objectives of the Agreement

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

If the improvements that your project will make are not amenable to measurement, surrogate performance metrics that can be measured must be given. Describe the

methodology or procedure that will be used at the completion of the project to determine if the performance metrics have been achieved.

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

VII. Task 1.0 Administration

The administrative tasks must be included in every agreement and the language does not change. Do NOT change anything in the administrative tasks.

VIII. Technical Tasks (Tasks 2 and up)

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

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

A. The Goal

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

B. The Recipient shall ...

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

For Example:

The Recipient shall:

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

Please note that if a project is for demonstration, or if a project involves testing, one of the tasks should be Test Plan preparation. The Test Plan should include considerations such as the number of hours of operation, the type of monitoring

to be preformed, the manner in which data will be validated, analyzed, and reported.

C. Products:

Product(s):

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

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

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

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

1. Written Notification

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

Product: Written Notification regarding _____

2. Test Plans

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

Product(s):

- Draft _____ Test Plan
- Final _____ Test Plan

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

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

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

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

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

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

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

- the goal of the task or subtask;
- the description of the approach used;
- list of activities performed;
- description of the results and to what degree the goal was achieved;
- significant issues encountered and how they were addressed;
- a discussion of the implications regarding the success or failure of the results, and the effect on the budget and the overall objectives of the project;
- photographs as appropriate;
- *<add additional bullets specific to the project as needed>*.

Product(s):

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

4. Bills of Materials or Equipment Lists

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

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

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

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

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

Product: Written Notification of Site Selection

ATTACHMENT D

Scope of Work Template

The Scope of Work Template is posted as a separate Microsoft Word document. Please follow the format provided. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.

ATTACHMENT E

Schedule of Products and Due Dates

The Schedule of Products and Due Dates Template is posted as a separate Microsoft Excel document. Please follow the format provided. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.

ATTACHMENT F

Instructions for Budget Forms

Provide a detailed budget of proposed expenditures. Funds must be used for projects described in the work statement. Please include all categories listed below, and only these categories in the following order. If your project has no budget in the category, list it and put "\$0" in the budget column.

PERSONNEL: List job classification, hourly salary, number of hours to work on this project, and total cost. If employees are paid on a monthly versus hourly basis, provide monthly salary, percentage of time to be worked on this project, number of months to work on this project, and total cost.

FRINGE BENEFITS: Specify percentage of Salaries and Wages and total cost.

TRAVEL: List each trip (or category of trip), purpose of trip, itemization of costs, and cost per trip. Any trips that are not included in the grant budget will require prior written authorization from the Energy Commission Project Manager. Travel expenses are limited to the current approved rates for Non-Represented State Employees.

EQUIPMENT: Equipment is any item purchased by the Commission's grant recipient that has a per unit cost of \$5,000 or greater and a useful life of one year or longer. Itemize equipment with costs per item. Similar items can be consolidated into subcategories. Equipment purchased by subcontractors of the grant recipient should be listed under the Contractual cost category below.

MATERIALS/SUPPLIES: Materials/supplies consist of any purchases made by the Commission's grant recipient that does not meet the definition of Equipment (above). Itemize material/supplies with costs per item. Similar items should be consolidated into subcategories.

CONTRACTUAL: Specify the amount and purpose of each contract. This would include contracts for the purchase and installation of equipment, etc.

MISCELLANEOUS: List any other items that do not fall in any of the above categories. Examples include postage, direct telephone charges, etc.

INDIRECT COSTS: For each type of indirect charge, specify the type, rate and base, and total cost for these charges. Typical overhead types include indirect overhead and general and administrative (G&A). Other types of overhead charges may be allowable. Profit is NEVER allowable under a grant agreement.

ATTACHMENT G

Budget Forms

The Budget Forms is posted as a separate Microsoft Excel document. Please follow the format provided. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.

ATTACHMENT H

Prevailing Wage Special Condition Template

PUBLIC WORKS AND PAYMENT OF PREVAILING WAGE

A. Recipient/General Requirements

1. Recipient shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720 and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for any “public works” (as that term is defined in the statutes) performed on the Project funded by this Agreement. For purpose of compliance with prevailing wage law, the Recipient shall comply with provisions applicable to an awarding body. Compliance with state prevailing wage law includes without limitation: payment of at least prevailing wage as applicable; overtime and working hour requirements; apprenticeship obligations; payroll recordkeeping requirements; and other obligations as required by law.
2. Recipient shall certify to the Energy Commission on each Payment Request Form, that prevailing wages were paid to eligible workers who provided labor for work covered by the payment request and that the Recipient and all contractors complied with prevailing wage laws.
3. Prior to the release of any retained funds under this Agreement, the Recipient shall submit to the Energy Commission a certificate signed by the Recipient and all contractors performing public works activities stating that prevailing wages were paid as required by law. The required certificate follows these special conditions.

B. Flowdown Requirements

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

1. Contractor shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for all construction, alteration, demolition, installation, repair or maintenance work over \$1,000 performed under the contract. Contractor’s obligations under prevailing wage laws include without limitation: pay at least the applicable prevailing wage for public works activities performed on the Project; comply with overtime and working hour requirements; comply with apprenticeship obligations; comply with payroll recordkeeping requirements; and comply with other obligations as required by law.
2. Contractor shall ensure that the above requirements are included in all its contracts and any layer of subcontracts for activities for the Project.

ATTACHMENT I

Prevailing Wage Compliance Certificate

After the public works² activities funded by this Agreement are complete, Recipient must fill out and sign this certificate and obtain the signatures from all of its contractors and any layer of subcontractors involved in public works funded by this Agreement.

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

Recipient:

Energy Commission Agreement Number:

Date Public Works Completed:

Recipient hereby certifies as follows:

1. State prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720 and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, has been complied with for the “public works” (as that term is defined in the statutes) funded by this Agreement, including payment of at least prevailing wage as applicable; overtime and working hour requirements; apprenticeship obligations; payroll recordkeeping requirements; and other obligations as required by law.
2. All contracts and every layer of subcontracts involving public works funded by the above-referenced Agreement contained requirements that the contractor or subcontractor comply with prevailing wage law and pay prevailing wages in accordance with the requirements of the Labor Code.
3. The contractors and subcontractors have maintained labor records as required by the Labor Code and such records shall be made available upon request.
4. The undersigned Recipient acknowledges that disbursement of the retention by the California Energy Commission is expressly made in reliance upon the representations made in this certification.

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

Recipient:

Signature of Authorized Representative: _____

Printed/Typed Name:

Title:

Date:

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

Contractors and subcontractors hereby certify as follows:

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

Construction Contractor #1

Company Name:

Signature of Authorized Representative: _____

Printed/Typed Name:

Title:

Date:

Construction Contractor #2

Company Name:

Signature of Authorized Representative: _____

Printed/Typed Name:

Title:

Date:

Construction Contractor #3

Company Name:

Signature of Authorized Representative: _____

Printed/Typed Name:

Title:

Date:

Construction Contractor #4

Company Name:

Signature of Authorized Representative: _____

Printed/Typed Name:

Title:

Date:

Construction Contractor #5

Company Name:

Signature of Authorized Representative: _____

Printed/Typed Name:

Title:

Date:

Construction Contractor #6

Company Name:

Signature of Authorized Representative: _____

Printed/Typed Name:

Title:

Date:

ATTACHMENT J

Information on compliance with prevailing wage requirements under California law

Basic Provisions

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

California law requires payment of locally prevailing wages (including employer payments for employee benefits) to workers, laborers, and mechanics on state government contracts in excess of \$1,000 for public works projects.³ California prevailing wage requirements may also apply where a construction contract between private persons involves public works.⁴

Contractors and subcontractors on covered projects must also comply with additional requirements, such as providing workers' compensation coverage, maintaining certified payroll records and making such records available for inspection, and complying with apprenticeship obligations.⁵

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

Under California law, a "Prevailing Rate" is comprised of three components: (1) the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area (if a majority of such workers are paid at a single rate);⁶ (2) the rate for holiday or overtime work, as specified in an applicable collective bargaining agreement, or otherwise included with the prevailing basic hourly rate; and, (3) the prevailing rate of employer payments for any or all programs or benefits for employees, their families and dependents, and retirees, as enumerated in prevailing wage regulations issued by the California Department of Industrial Relations (DIR).⁷

³ Cal. Labor Code §§ 1723 (defining the statutory term "worker" to include "laborer, worker, or mechanic"), 1771 (stating general prevailing wage requirements applicable to workers on qualifying public works projects). 8 C.C.R. § 16000 (defining general prevailing rate of per diem wages to include the prevailing rate of employer payments for employee benefits). Labor Code Sections may be found online at <http://www.leginfo.ca.gov/calaw.html>.

⁴ Cal. Labor Code § 1720.2 (stating that "public works" is defined to include construction work done under a private contract where prescribed conditions exist). See also Cal. Labor Code § 1720(c).

⁵ See 8 C.C.R. § 16100(c) (enumerating obligations for contractors and subcontractors under California prevailing wage law).

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

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

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

The California Labor Code beginning at section 1720 deals with this issue. Labor Code sections 1720 and 1771 define public works as:⁸

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

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

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

Specific Job Categories

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

The California Department of Industrial Relations (DIR) Division of Labor Statistics and Research (DLSR) makes the final determination on which trades and/or workers are covered by prevailing wage laws. DLSR maintains a list of the covered trades/workers that are entitled to prevailing wage for public works commercial construction projects.⁹

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

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

⁸ See also 8 C.C.R. § 16001.

⁹ See www.dir.ca.gov/dlsr/statistics_research.html or call the DLSR Prevailing Wage Hotline (415) 703-4774 for more information about these trades.

➤ Laborer

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

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

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

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

An apprentice is permitted to work on a project subject to California prevailing wage requirements at less than the prevailing rate prescribed for the trade she performs. However, persons may only be employed at the apprentice wage rate on projects involving public works in limited circumstances. More specifically, in order to be eligible the employment and training of each apprentice must be in accordance with either the apprenticeship standards and apprentice agreements under which she is training, or the rules and regulations of the California Apprenticeship Council.¹⁰

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

Under DIR prevailing wage regulations, a helper is defined as any subjourneyman classification traditionally used to assist a journeyman.¹¹ In the absence of a determination that the use of such a subclassification prevails in a particular area, the helper classification may not be used as a substitute for a journeyman or apprentice.¹²

Miscellaneous Issues

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

No. California prevailing wage requirements do not apply to work carried out by a public agency with its own employees.¹³

¹⁰ Additional requirements that must be satisfied in order for persons employed in these classifications to be paid an apprentice wage rate on projects involving public works are found in California Labor Code Section 1775.5.

¹¹ 8 C.C.R. § 16000.

¹² 8 C.C.R. § 16200(a)(3)(H).

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

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

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

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

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

If you do not budget for prevailing wage, and it is later determined that the project involves public works and prevailing wage must be paid, you may be liable for damages and penalties.¹⁴ You also cannot later increase your grant award if it is determined that prevailing wages apply and increase project costs higher than budgeted. The amount requested in your proposal is the maximum that will be paid. Any increased costs for payment of prevailing wage must be paid with match funds. The Energy Commission's grant award amount does not change or increase if the applicant's costs increase for any reason.

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

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

¹³ Cal. Labor Code § 1771.

¹⁴ Cal. Labor Code § 1775.

request can be either for a specific project or type of work to be performed that the interested party believes may be subject to or excluded from coverage as public works under the Labor Code. Send requests for a coverage determination to:

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

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

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

- **What happens if I make a request to DIR but do not have a decision or am still unsure whether prevailing wages must be paid by the time the Energy Commission makes an award at a business meeting, or by the time I execute the grant agreement?**

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

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

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

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

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

Additional Information on State Prevailing Wage

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

ATTACHMENT K

Terms and Conditions with Payment Request Form

The Terms and Conditions Sample is posted as a separate portable document file (pdf). The sample can be accessed at www.energy.ca.gov/contracts as part of this solicitation package. Please read this for a complete understanding of what is being offered.

ATTACHMENT L

California Environmental Quality Act (CEQA) Compliance Form

The CEQA Compliance form is posted as a separate Microsoft Word document. Please follow the format provided. The template can be accessed at www.energy.ca.gov/contracts as part of this solicitation package.

ATTACHMENT M LABOR, FRINGE, AND INDIRECT

INVOICING INSTRUCTIONS FOR COST REIMBURSEMENT AGREEMENTS

PURPOSE

For cost reimbursement Agreements, the Energy Commission reimburses Contractors for actual allowable expenditures incurred, not to exceed the rate caps specified in the Agreement budget. Since organizations typically calculate actual costs for fringe benefits and indirect cost categories on a yearly or quarterly basis, costs invoiced the Commission may be based on estimated costs until the actual yearly (or quarterly) costs are calculated. These instructions are to clarify procedures for invoicing for labor and indirect costs and reconciling estimated with actual costs, if necessary.

TERMS

“Agreement” refers to contracts, interagency agreements, grants, and contingent awards.

“Annual” calculations of rates represent the most common methodology. However, if your organization calculates actual rates on a quarterly basis or other time period, substitute that period for “annual” in these instructions.

“Base” is the direct costs to which the rate is applied. The base for fringe benefits is direct labor. The most common bases for indirect costs are direct labor (and may include fringe benefits) or modified total direct costs (excluding capital costs, pass-through funding, and unallowable costs.) Other bases are acceptable as long as the Contractor applies rates consistently and adheres to generally accepted accounting principles and the applicable OMB circulars or federal acquisition regulations.

“Contractor” refers to contractors, grant recipients, and contingent award recipients.

“Indirect overhead” and “general and administrative” are the most common categories of indirect costs included as budget categories. However, if your organization utilizes different categories, which are included in your Agreement budget, please substitute those categories for the indirect categories listed below. The procedures should remain the same.

NOTE REGARDING AGREEMENT RATES

If your Agreement budget includes direct labor, fringe, indirect overhead, and/or general and administrative (G&A) costs but does not specify rates, AND you submitted a proposal in response to a solicitation, use the rates in your proposal. Proposal rates are incorporated by reference into your Agreement. If (1) the Agreement does not specify

rates AND (2) the proposal does not specifies rates or the Agreement was not competitively bid, calculate the rates as a percentage of the base by using the totals in your Agreement budget.

- **Example:**

(In the example below, the fringe benefit Agreement rate is calculated as a percentage of the direct labor costs, i.e., the base, using the Agreement direct labor and fringe benefit budgets.)

Agreement Direct Labor Budget	Agreement Fringe Budget	Rate
\$120,000	\$30,000	25%

DIRECT LABOR

Labor shall be billed at the Agreement rate or actual rate, whichever is lower. The Agreement rate is a cap, or maximum amount allowed to be billed. The Contractor can only bill for actual expenses incurred for hours worked on the Agreement at the actual labor rates of the Contractor or Contractor's employees, not to exceed the Agreement rate cap. If the Agreement shows a salary range for an employee classification (i.e., Energy Analyst \$30.00 - \$35.00 per hour), the Contractor shall bill only for the actual salary of the specific Energy Analyst who worked on the project (even if the actual salary is less than the range), up to the maximum of the range in the budget (i.e., \$35.00).

- **Example:**

Agreement Hourly Rate	Actual Hourly Rate	Billable Hourly Rate
\$32.00	\$35.00	\$32.00
\$32.00	\$30.50	\$30.50
\$30.00 - \$35.00	\$34.25	\$34.25

FRINGE BENEFITS

Fringe benefits shall be billed at the Agreement rate or actual rate, whichever is lower. The Agreement rate is a cap, or maximum amount allowed to be billed. The Contractor shall only bill for actual allowable fringe benefit expenses incurred for the Contractor's employees working on the Agreement, calculated as a percentage of labor rates, up to the Agreement fringe benefit rate cap.

- **Example:**

Agreement Fringe Rate	Actual Fringe Rate	Billable Fringe Rate
30%	35%	30%
30%	25%	25%

Annual Adjustments to Fringe Benefits:

Actual fringe benefit rates shall be calculated annually. Each year the Contractor shall adjust billed rates to reflect the actual annual calculations, not to exceed the Agreement fringe benefit rate cap. If necessary, an adjustment shall be made to the next invoice after the annual rates have been calculated for the difference between the billed and actual amount of fringe benefit costs, not to exceed the Agreement fringe benefit rate cap. The Contractor shall attach an Energy Commission Invoice Rate Adjustment form (attached) to the adjustment invoice.

At the end of the Agreement, actual rates shall be calculated for the period from the last adjustment through the final invoice. If the final adjustment period is a partial year, the Contractor shall use the prior year actual rates. An adjustment shall be made to the final invoice for any difference between the billed and actual amount of fringe benefit costs, not to exceed the Agreement fringe benefit rate cap. The Contractor shall attach an Energy Commission Invoice Rate Adjustment form to the final invoice. No adjustment for underbillings can be made after the final invoice is paid or if there are no funds remaining in the Agreement. If the Contractor has overbilled the Energy Commission, the Commission may reduce payment of the final invoice by the amount overbilled or bill the Contractor, at the Commission's sole discretion.

Contractor shall maintain documentation of rate calculations in accordance with the recordkeeping, cost accounting, and auditing provisions of the Agreement terms.

- **Example:**

(In the example below, the Contractor calculates the fringe benefit costs as a percentage of the direct labor costs.)

	Direct Labor	Agreement Rate	Actual Rate	Billable Rate	Rate Billed	Adjustment
Year 1	\$10,000	30% (\$3,000)	35% (\$3,500)	30% (\$3,000)	28% (\$2,800)	2% (+ \$200)
Year 2	\$12,000	30% (\$3,600)	25% (\$3,000)	25% (\$3,000)	30% (\$3,600)	-5% (- \$600)
Year 3	\$15,000	30% (\$4,500)	40% (\$6,000)	30% (\$4,500)	30% (\$4,500)	0% (\$0)

INDIRECT OVERHEAD

Indirect overhead shall be billed at the Agreement rate or actual rate, whichever is lower. The rate in the Agreement is a cap, or maximum amount allowed to be billed. The Contractor shall only bill for actual allowable indirect expenses, calculated as a percentage of the base specified in the Agreement, up to the Agreement indirect rate cap.

- **Example:**

Agreement Indirect Rate	Actual Indirect Rate	Billable Rate
40%	45%	40%
40%	35%	35%

Annual Adjustments to Indirect Rates:

Actual indirect rates shall be calculated annually. Each year the Contractor shall adjust billed rates to reflect the actual annual calculations, not to exceed the Agreement indirect rate cap. If necessary, an adjustment shall be made to the next invoice after the annual rates have been calculated for the difference between the billed and actual amount of indirect costs, not to exceed the Agreement indirect rate cap. The Contractor shall attach an Energy Commission Invoice Rate Adjustment form to the adjustment invoice.

At the end of the Agreement, actual rates shall be calculated for the period from the last adjustment through the final invoice. If the final adjustment period is a partial year, the Contractor shall use the prior year actual rates. An adjustment shall be made to the final invoice for any difference between the billed and actual amount of indirect costs, not to exceed the Agreement indirect rate cap. The Contractor shall attach an Energy Commission Invoice Rate Adjustment form to the final invoice. No adjustment for underbillings can be made after the final invoice is paid or if there are no funds remaining in the Agreement. If the Contractor has overbilled the Energy Commission, the Commission may reduce payment of the final invoice by the amount overbilled or bill the Contractor, at the Commission's sole discretion.

Contractor shall maintain documentation of rate calculations in accordance with the recordkeeping, cost accounting, and auditing provisions of the Agreement terms.

- **Example:**

(In the example below, the Contractor calculates indirect on a modified direct cost base.)

	Modified Direct Costs	Agreement Rate	Actual Rate	Billable Rate	Rate Billed	Adjustment
Year 1	\$100,000	40% (\$40,000)	35% (\$35,000)	35% (\$35,000)	40% (\$40,000)	-5% (-\$5,000)
Year 2	\$125,000	40% (\$50,000)	42% (\$52,500)	40% (\$50,000)	35% (\$43,750)	5% (+ \$6,250)
Year 3	\$130,000	40% (\$52,000)	32% (\$41,600)	32% (\$41,600)	35% (\$45,500)	-3% (-\$3,900)

GENERAL AND ADMINISTRATIVE (G&A)

If the Agreement budget separates G&A costs from indirect overhead, the Contractor shall bill G&A at the Agreement or actual rate for G&A, whichever is lower. The rules for billing are the same as those for indirect overhead described in the previous section.

LOADED RATES

Loaded rates are rates that include direct labor plus one or more of the following rate components in one hourly rate: fringe benefits, indirect overhead, G&A, and profit. Contractors can bill at loaded rates **only if the contract terms specifically allow for loaded rates** and if they meet the following conditions:

1. In order for fringe benefits, indirect overhead, G&A, or profit to be included in the loaded rate, the base for calculating that rate must include direct labor as one of the cost components.
2. The rates for the individual components of the billed loaded rate cannot exceed the Agreement caps or actual rates for direct labor, fringe benefits, indirect overhead, and G&A, whichever is lower.
3. The rates for the individual components of the billed loaded rate should be adjusted annually. See instructions above for each component of the loaded rate.

- **Example:**

Direct Labor Hourly Rate	Agreement Fringe Rate 25%	Actual Fringe Rate 30%	Billable Fringe Rate 25%	Agreement Indirect Rate 45%	Actual Indirect Rate 40%	Billable Indirect Rate 40%	Billable Loaded Rate
\$25.00	\$6.25	\$7.50	\$6.25	\$11.25	\$10.00	\$10.00	\$41.25
\$32.00	\$8.00	\$9.60	\$8.00	\$14.40	\$12.80	\$12.80	\$52.80
\$35.45	\$8.86	\$10.64	\$8.86	\$15.95	\$14.18	\$14.18	\$58.49