



REQUEST FOR PROPOSALS

Notice to Prospective Bidders for Subcontractors to Conduct Analysis To Update Energy Efficiency Potential, Goals and Targets For 2013 and Beyond

February 14, 2011

Operating under contract to the California Public Utilities Commission ("CPUC"), KEMA, Incorporated ("KEMA") invites you to respond to this Request for Proposals ("RFP"), entitled "Subcontractors to Conduct Analysis to Update Energy Efficiency Potential, Goals and Targets for 2013 and Beyond." The contract will be awarded for two separate tracks: the Economic Potential Study ("Potential Study") and the Goals and Targets Study ("Goals Study"). Bidders may submit proposals to prepare one or both tracks. Your proposal must comply with the instructions herein.

The Economic Potential Study shall identify the total cost effective energy-efficiency potential available in California from 2013 through 2022 on an annual and cumulative basis, providing the key input into the Goals and Targets Study. The Goals and Targets Study will provide recommendations to the Commission on the anticipated levels of energy savings California may expect to achieve through the various delivery mechanisms in California, in addition to naturally occurring savings. These Goals and Targets will serve the Commission in several energy proceedings, further described herein.

Firms interested in responding to this RFP are encouraged to send an e-mail notification indicating which track(s) they intend submit a proposal, their firm's name, contact person, e-mail address, mailing address, and phone number. This notification should be sent to the attention of Fred Coito at KEMA, and Dina Mackin at dm1@cpuc.ca.gov. Your notification will help us ensure that your firm receives any supplemental or updated information that might be released related to this RFP. There is a mandatory informational meeting on February 22, 2011.

If you have questions, or need clarifying information regarding the RFP submission process or administration of contracts, please contact:

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Attachments

1. Required Attachment Check List
2. Proposal/Proposer Certification Sheet
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7. Sample Standard Agreement (STD 213)

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Purpose and Background

Through a subcontract with KEMA, the CPUC's Energy Division solicits qualified bidders to conduct a study that will support Commission guidance to set energy efficiency goals and targets for 2013 and beyond for the energy efficiency programs of Investor-Owned Utilities (IOUs), namely: Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas and Electric Company, and Southern California Gas Company, as authorized in D.04-09-060, D.05-09-043 and D.08-07-047.¹

A. Purpose of Energy Efficiency Potential Study and Goals & Targets Study

In 2004 the Commission adopted aggressive ten-year energy savings goals to meet its commitment to make Energy Efficiency the resource of first choice, as established in the Energy Action Plan.² The goals serve several important roles in the State regulatory framework:

- 1. To provide guidance for the utilities' next energy efficiency portfolios:** The energy efficiency goals were first adopted in Decision D.04-06-090 to set the benchmark that the IOU energy efficiency programs were expected to achieve. The goal-setting process set a framework for the program planning cycle, determining the targets for utility energy efficiency program portfolio performance. Based on this decision, the CPUC adopted aggressive annual and ten-year cumulative goals for verified electric and natural gas savings and allowed the utilities to develop their own programs and portfolios. To measure the IOUs progress toward their goals, the Energy Division developed an extensive evaluation, measurement and verification program (EM&V) to verify that utility programs meet their commitments. Since D.04-06-090, the Commission adopted interim goals in 2007 in D.07-10-032.³ The Commission also reviewed the IOUs 2009-11 (later 2010-12) portfolio applications to ensure that they are projected to meet or exceed the goals.
- 2. To update the forecast for energy procurement planning:** As the Energy Action Plan established energy efficiency as first in the loading order, the state must adopt a long term benchmark that can be used in utility energy procurement planning. The IOUs energy efficiency goals adopted from this study will be incorporated into the California Energy Commission's (CEC) *Integrated Energy Policy Report*⁴ (IEPR), which establishes the demand forecast for long-term procurement planning. This forecast is an input into the CPUC's Long Term Procurement Planning Proceeding (LTPP),⁵ which determines the generation resources that energy efficiency is expected to offset in order to minimize costs to ratepayers.⁶
- 3. To inform strategic contributions to California's greenhouse gas reduction targets:** The California Global Warming Solutions Act of 2006 (AB 32)⁷ relies on intensified energy efficiency efforts across California. The California Air Resources Board's (CARB) Scoping Plan⁸ for

¹ D. 04-09-060 can be viewed at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/40212.htm

D.05-09-043 can be view at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/49859.htm.

² The Energy Action Plan can be viewed at: <http://www.cpuc.ca.gov/PUBLISHED/REPORT/51604.htm>

³ D.07-10-032 can be viewed at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/85995.htm

⁴ IERP can be viewed at http://www.energy.ca.gov/2009_energy_policy/index.html

⁵ LTPP can be viewed at http://www.cpuc.ca.gov/PUC/energy/Procurement/LTPP/LTPP2010/index_2010.htm

⁶ "The energy savings goals adopted in this proceeding shall be reflected in the IOUs' resource acquisition and procurement plans so that ratepayers do not procure redundant supply-side resources over the short- or long-term. . . subsequent procurement plan cycles . . . shall incorporate the most recently-adopted energy savings goals into those filings." D.04-09-060, p.52-53

⁷ For more information on AB 32, see <http://www.arb.ca.gov/cc/ab32/ab32.htm>

⁸ Scoping Plan can be viewed at http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf

Assembly Bill (AB) 32 establishes a statewide energy efficiency target of at least 32,000 GWh and 800 million therms by 2020. If achieved, emission reductions from these efficiency savings would result in over 25 million metric tons of GHG emissions reductions, making them the second largest component in the State's overall emissions reduction program. Future EE goals updates will have implications for forecasts of GHG reductions to be provided by EE policy initiatives.

- 4. To set benchmarks for Risk Reward Incentive Mechanism (RRIM):** The Shareholder RRIM for Energy Efficiency Programs was adopted in D. 07-09-043⁹ for the 2006-2008 energy efficiency program cycle to provide a shareholder incentive for utilities that meet or surpass their energy efficiency goals. This return represents the expected substantial cost savings to ratepayers created by displacing more expensive supply-side alternatives with energy efficiency, resulting in lower utility revenue requirements and lower customer bills. However, the role of the energy efficiency goals in RRIM is subject to change under a proposed decision for 2010-2012 RRIM reforms and thus does not need to be addressed by bidders in this proposal.¹⁰

The primary objective of the Goals and Targets Study is to provide a comprehensive quantitative and qualitative assessment of energy savings potential from a variety of perspectives in order to help the CPUC frame and choose energy efficiency goals in a way that best meets the CPUC's policy objectives. Bidders may use any or all of the publicly available data sources, methodology and models from the 2008 study, further described below, or may propose alternative sources for these components.

B. Roles of Energy Division, KEMA (Lead Contractor), Subcontractor (Project Leads(s)), and IOUs

Advised by KEMA, the Energy Division will be responsible for the selection and management of the "Project Lead(s)" who will prepare the 2012 Potential Study and Goals and Targets Study. The Energy Division will manage the methodology, work (and expenditures) of the contract while KEMA will manage the administration of the contract and provide advisory support to CPUC staff. The CPUC will order the IOUs to pay for the activities described in this RFP using ratepayer funds authorized under D.10-04-029. No State funds will be expended for the work described in this RFP. It is our preference to select one contractor that has the capacity to conduct all components of the potential and goals of the study, within the 12-month timeline available. However, efficacy is a greater priority and it may be necessary to divide the tasks. While bidders are encouraged to submit proposals for both tracks, they may choose to submit for only one, and may submit a joint proposal with other consultants. The Energy Division may elect to award the contracts to two separate bidders that may have submitted proposals for both tracks. Bidders may propose to subcontract components of the analysis to certain consultants of their choosing. The Project Lead(s) will be solely responsible for completion of a work product that meets the requirements described herein. The IOUs will have sole responsibility for payment to the contractor(s) for the work described in this RFP. This RFP Scope supersedes Chapter 9 of the EM&V Plan

C. Structure of the 2008 Potential & Goals Studies

The 2010-2012 portfolio cycle was informed by the 2008 California Energy Efficiency Potential Study and the 2008 Goals Study.¹¹ The Potential Study considered the short-term and long-term gross and net achievable market potential of a wide range of initiatives. In D.08-07-047 Commission sought to account for all potential, not just utility-based efficiency programs, recognizing that IOU programs were not the only delivery mechanisms operating in the real world, nor should they be the only source of prospective savings to consider when determining goals to achieve. The study incorporated the latest estimates of

⁹ D.07-09-043 can be viewed at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/73172.htm

¹⁰ The RRIM reform rulemaking, R.09-01-019 can be viewed at <http://docs.cpuc.ca.gov/published/proceedings/R0901019.htm>

¹¹ The Potential and Goals Study can be viewed at <http://www.cpuc.ca.gov/PUC/energy/Energy+Efficiency/EE+Policy/eegoals.htm>

baseline end-use equipment ownership and end-use load profiles, along with the latest estimates of efficiency measure costs, savings, and saturation across the service territories of California's four IOUs in order to assess the cost-effectiveness (from both a utility and customer perspective) of over 300 energy efficiency measures commercially available in California. The Potential study had three analytic components:

- 1. Technical Potential Analysis:** Technical potential was defined as the amount of energy savings that would be possible if all technically applicable and feasible opportunities to improve energy efficiency were taken, including retrofit measures, replace-on-burnout measures, and new construction measures.
- 2. Economic Potential Analysis:** Using the results of the technical potential analysis, the economic potential was calculated as the total energy efficiency potential available when limited to only cost effective measures.
- 3. Market Potential Analysis:** The final output of the potential study was a market potential analysis, defined by the amount of customer measure adoption and resulting savings that could be expected to occur in response to a) specific levels of program funding and measure incentive levels over time, and b) assumptions about market influences

Informed by the 2008 Potential Study, the 2008 Goals Study assessed the energy savings potential achievable through a combination of "delivery mechanisms," or initiatives that the State could leverage: codes and standards, IOU programs, and Big Bold Energy Efficiency Strategies (BBEES), which became a component of the Strategic Plan, which is further described in Section 1.D.3.

Total energy use is calculated in a bottom-up fashion as the product of end-use energy intensities (e.g. kWh/household or kWh/ft²), end-use equipment saturations, and the number of households (residential) or floor area (commercial) by building type. The results of the scenario analysis informed the Commission on the most cost-effective combination of initiatives, which established the goals for each of these initiatives.

D. Policies that will Impact Energy Efficiency Goals for 2013 and Beyond

The 2012 Goals and Targets Study must incorporate the impacts of new policies and initiatives that have been (or will be) adopted and/or implemented since the completion of the 2008 study.

These policies include but are not limited to the following:

- 1. State legislative requirements:**
 - **AB 1103:** Adopted in 2007, the Commercial Building Benchmarking bill mandates energy benchmarking and energy disclosure for non-residential buildings. It requires non-residential business owners to input energy consumption and other building data into the Environmental Protection Agency's ENERGY STAR Portfolio Manager system, which generates an energy efficiency rating for the building.
 - **AB 1109:** Adopted in 2007, the Huffman Bill requires the state to set standards for general service lamps so as to achieve specific reductions in "average" residential and commercial lighting consumption by 2018. The regulations, in combination with other programs and activities affecting lighting use in the state, would be structured to reduce statewide electrical energy consumption by not less than 50% from the 2007 levels for indoor residential lighting and not less than 25% from the 2007 levels for indoor commercial and outdoor lighting by 2018.
 - **Title 24 Update:** The Energy Efficiency Standards for Residential and Nonresidential Buildings were established in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards most recently were updated January 1, 2010, and supersede the 2005 Standards to incorporate new energy efficiency technologies and methods. The next updated is expected to occur 2013.

- **AB 758:** AB 758 (Skinner, 2009) requires the Energy Commission to develop and implement a comprehensive program to achieve greater energy savings in the state of California's existing residential and nonresidential building stock. The Energy Commission will conduct regulatory proceedings to establish an energy efficiency program directed at existing buildings that fall significantly below the efficiency required by the current Title 24 Standards. The outcome of the proceeding is yet to be determined, but will likely impact the energy efficiency potential of IOU programs beginning in 2014.

2. Total Market Gross

In the decision adopting the 2008 Goals update¹², the CPUC determined that in future cycles it should adopt goals on a "Total Market Gross" (TMG) basis. This was a policy shift in two respects. First, "total market" refers to policy initiatives beyond those historically pursued through utility programs. For example, the goals adopted in D.08-07-047 explicitly include codes and standards, which the utilities do not have the authority to implement themselves, although they have pursued programs intended to increase compliance. Second, "gross" means that ancillary consequences of programs, such as free-ridership and spillover, would be counted toward the goal. This policy shift therefore means that a variety of savings sources now count toward goal achievement.

For future portfolio cycles, the Energy Division distinguishes "goals" on a total market gross basis from IOU specific "targets"—the portion of expected energy efficiency that the IOUs are expected to achieve through their program portfolio. The distinction is important for the multiple purposes that the goals must meet, described in Section 1.A. **The TMG goals are used in the IEPR forecast for long term procurement planning and as the GHG reduction benchmark, while the targets are used for IOU portfolio planning and may be considered in setting the benchmark for the RRIM mechanism.**

3. Update to cost effectiveness parameters

The energy efficiency cost effectiveness methodology was adopted in D.05-09-043 and updated in D.06-06-063,¹³ and modeled by Energy + Environmental Economics (E3) to inform the 2004 and 2008 goals. The Assigned Commissioner issued a ruling in R. 09-11-014 on December 23, 2010 that enumerated the list of cost effectiveness parameters the Commission will consider updating in 2011.¹⁴ The update to the cost effectiveness calculator to be used in the 2012 Potential and Goals Studies is expected to be complete by August 2011 through a separate contractor. The current model is in excel and publicly available on the E3 website.

Most of the updates expected to be straightforward, as they are primarily based on recently adopted inputs to the Distributed Generation effectiveness methodology, which was based on the energy efficiency model. The methodology had several updated inputs such as natural gas prices, electricity prices, and 2008 temperature profiles by climate zone. They also incorporated new sources for capacity costs, incorporating both wholesale energy market (MRTU) prices and generation capacity prices from the bilateral resource adequacy (RA) market, as well as a new avoided cost for Renewable Portfolio Standard (RPS).

4. Strategic Plan

The ARB Climate Change Scoping Plan for AB 32 indicated that the state must intensify its energy efficiency efforts in order to meet its GHG reduction targets, setting a preliminary target of at least 32,000 GWh and 800 million therms by 2020. To meet this target, the CPUC worked with multiple stakeholders and state agencies to develop the *Long Term Energy Efficiency Strategic Plan*¹⁵ that would identify new

¹² D.08-07-047 can be viewed at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/85995.htm

¹³ D.05-09-043 can be viewed at and D.06-06-063 can be viewed at http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/57756.pdf

¹⁴ The ACR can be viewed at <http://docs.cpuc.ca.gov/efile/RULINGS/128798.pdf>

¹⁵ Strategic Plan can be viewed at <http://www.cpuc.ca.gov/NR/rdonlyres/D4321448-208C-48F9-9F62->

collaborative initiatives across market sectors and cross-cutting areas. The Strategic Plan was also intended to accelerate the improvement of cost effective EE technologies and program delivery mechanisms over time. The plan identifies a number of strategies that move beyond IOU's traditional programs, lays the groundwork for their implementation, and includes numeric goals associated with the list of strategies. As some of these strategies are untested and rely on a number of public and private partners to implement, the Energy Division does not necessarily foresee including these goals directly in the TMG goals or the EE targets that the RRIM will be based on. The Energy Division is considering the establishment of multiple targets, including possible "reach goals" for various purposes. **The Energy Division is seeking strategic analysis and conceptualization on how to incorporate these initiatives into the goals update.**

One of the central outcomes that the Strategic Plan seeks to achieve is market transformation. Market transformation is long-lasting, sustainable changes in the structure or functioning of a market achieved by reducing barriers to the adoption of energy efficiency measures to the point where continuation of the same publicly-funded intervention is no longer appropriate in that specific market. Market transformation includes promoting one set of efficient technologies, processes or building design approaches until they are adopted into codes and standards (or otherwise substantially adopted by the market), while also moving forward to bring the next generation of even more efficient technologies, processes or design solutions to the market.

Through these new strategies, the IOUs and other partners have developed initiatives to pursue energy efficiency through other methods. **Determining how to evaluate and incorporate these new programmatic initiatives into the goals is an important issue for the Commission.** A few of these include:

- **Whole House Retrofits** program provides incentives, marketing, contractor field support to build a market and the infrastructure for comprehensive home performance retrofits.
- **Zero Net Energy Buildings Action Plan** identifies key actions that are required to achieve Strategic Plan milestones, secure leaders for the steps to achieve these actions, and track and report on progress against the Strategic Plan. Priority strategies focus on: reach codes, expanding Title 24/20, creating a Path to Zero" campaign to educate and increase market awareness, advancing plug load technologies, expanding benchmarking/retro-commissioning, and making the business case for deep energy savings.
- **Continuous Energy Improvement (CEI)** program is a non-resource program that provides comprehensive strategic energy planning and consulting services for large commercial and industrial customers. These services include: long-term strategic energy planning, corporate-wide energy management, benchmarking, project implementation support, performance monitoring, and energy management certification tools that serve as a launching platform for other utility and non-utility programs and services.
- **On-Bill Financing (OBF)** provides non-residential customers with unsecured loans that cover 100 percent of the energy efficiency equipment and installation costs (net of rebates and other incentives, and with loan amount caps) at zero percent interest. Customers then re-pay the loans through charges that are added on to their regular utility bills. These programs are designed to facilitate the purchase and installation of comprehensive, qualified energy efficiency measures by customers who might not otherwise be able to act given capital constraints and/or administrative and time burdens.
- **Behavior Pilot Program** explores the use of experiment design principles to evaluate methods of shifting consumer behavior in energy conservation. Using control groups to compare consumer campaigns will allow energy efficiency programs to include energy savings achieve through these campaigns.

- **Low Income Energy Efficiency (LIEE)** is an established state program that provides energy efficiency for low income residents. The Strategic Plan is integrating LIEE into the broader energy efficiency processes, and the goals study should account for LIEE as well.

5. Impact of Federal Stimulus on California's Energy Efficiency Market

The American Recovery and Reinvestment Act of 2009 (ARRA) provided \$314.5 million in federal funding million for energy efficiency and renewable energy programs in California. The California Energy Commission is administering four programs: the State Energy Program (\$226 million), the Energy Efficiency Conservation Block Grant Program (EECBG) (\$49.6 million), Appliance Rebate Program (\$35.2 million), and Energy Assurance Planning (\$3.6 million). Additionally, the EECBG programs provided over \$300 million to local governments, as well as a \$225 million to the state Community & Service Department to expand its activities to weatherize low income homes through the Low Income Home Energy Assistance Program (LIHEAP).

6. Federal Appliance and Equipment Standards

The US Department of Energy is updating a number of the appliance and equipment standards in 2011, which will take effect in 2012.¹⁶

¹⁶ More information can be viewed at http://www1.eere.energy.gov/buildings/appliance_standards/laws_regs.html and <http://www.standardsasap.org/federal.htm>

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Scope of Work

The 2012 Portfolio Guidance for Energy Efficiency Goals and Targets consists of two tracks: an Economic Potential Study and a Goals & Targets Study, which will be prepared concurrently by one or by separate contractors. As the results of Economic Potential Study will be a critical input in the Goals and Targets Study, the selected contractor(s) will need to coordinate with the Energy Division to determine the final output to serve as an input in the Goals and Targets model. This RFP is seeking bidders for both the Economic Potential Study and the Goals and Targets Study. Bidders may submit proposals for one or both tracks.

As discussed in Section 1.B, the EM&V lead contractors, KEMA and Itron designed a preliminary project scope for multiple potential and goals studies based on a needs assessment in the EM&V Evaluation Plan.¹⁷ Bidders should expect that the portfolio will be extended no more than one year, and that the Potential Study is due to be complete on September 31, 2011, and the Goals Study is due to be complete on December 31, 2011. These are hard deadlines, since the portfolio planning schedule is dependent on the release date of the Goals Study. We understand that this scope is ambitious and that the schedule will be a limiting factor. We are looking for bidders that can limit the scope and create a simple and efficient path to accomplishing these tasks.

A. Study Scope

1. **Track 1 Economic Potential Study** shall determine the total cost-effective energy savings available from 2013-2022 on an annual and cumulative basis. The scope of the study shall account for 100% of retail energy use in IOU territories, and **should be disaggregated to the sector level:** single and multi-family residential, commercial, industrial and agricultural, to align with IEPR forecast. Given the time available for this report, we do not intend for the Potential Study to be disaggregated to the measure level or to use data from DEER. **The 2011 Potential Study, the 2012 Economic Potential Study will not include an assessment of market potential.** The proposed budget should be adjusted to reflect this change.

The EM&V Plan defines additional independent studies to support the Potential Study: “New Construction Potential Study,” “Customer Adoption Behavior Study,” Agricultural market characterization and Potential Study” and “Plug Load Potential Study.” These studies may be conducted separately depending on the final decision on the portfolio schedule, but for this RFP Project Lead should assume to be responsible for covering the potential for each of these areas.

2. **Track 2 Goals and Targets Study** shall be a strategic analysis and model that identifies the level of energy savings that can be achieved from the combination of state initiatives described in section 1.D and IOU programs. The metrics of the goals and targets shall be defined to align with the applications of goals and targets described in Section 1.A. Specifically, the TMG Goals must meet the needs of the IEPR forecast and GHG proceeding by accounting for free ridership and spillover effects, while the targets must disaggregate the expected energy savings from IOU program goals by sector for CPUC guidance on IOU portfolio development and oversight.

¹⁷ The Evaluation Plan can be viewed at <http://www.energydataweb.com/cpucFiles/topics/59/2010-2012%20Energy%20Efficiency%20EM&V%20Plan%2012-20-10.pdf>

The EM&V Plan defines additional independent studies to support the Goals Study: ZNE Potential, Costs, and Goals Study, and the Strategic Plan Feasibility Study, and Title 24/20 "Reach" Compliance Study. The Energy Division expects that the Goals Study Project Lead will be responsible for producing a final set of goals with a broad strategic approach that integrates the areas of these studies. The Energy Division anticipates the budget would be higher than was proposed in the Plan. The Project Lead may propose that these additional studies are prepared separately or as part of the Goals Study, however, the Goals Study Project Lead will be responsible for ensuring that these components are completed and successfully incorporated into the Goals Study.

B. Deliverables

1. **Scoping plan:** The selected contractor(s) will work with Energy Division to develop a comprehensive project scope, which may involve adjustments to the submitted proposal and may be informed by stakeholder workshops. Upon initiating the contract with the selected bidder(s), the Energy Division/KEMA will hold a series of initiation meetings to develop the scoping plan. The scoping plan will require conceptualization and an ability to articulate the general framework for the state's energy efficiency goals to policy makers. The scoping plan will finalize the work product to be delivered to the Commission at the end of the study. It will include:

Track 1:

- a. Description of methodological framework
- b. Description of data inputs and discussion of proposed data sources that will be included as discussed in Section 2.B.3
- c. Review of 2008 Portfolio Study to identify differences in methodology and inputs
- d. Update to work plan submitted in bidder's proposal to align with project scope

Track 2:

- a. Conceptual framework of how the policies enumerated in Section 1.D will be incorporated into goals study
 - b. Methodological framework for development of Goals and Targets Study, including data requirements and sources
 - c. Methodology to assess the savings associated with the Strategic Plan goals, including data requirements and sources
 - d. Detailed definition of the TMG Goals and IOU specific Targets
 - e. Definition of metrics to align goals with IEPR forecast. (This component may depend on available time and budget—please address individual budget assumptions for this task in your cost section)
 - f. Update to work plan submitted in bidder's proposal to align with project scope
2. **Informal monthly progress reports:** The monthly reports will be set to establish open and regular communication between KEMA/Energy Division and the contractor(s). If tasks are subcontracted, the Energy Division also expects subcontractors to directly report on progress. Content of progress report will be process driven, to be determined by need, and will not be a formal work product in itself. KEMA also requires rigorous status reporting requirements that will be required of all subcontractors.

Applies to both tracks.

3. **Functional models:** Both tracks shall produce a computer model to provide numeric outputs to be determined in the scoping plan. As a minimum requirement, the models must conform to CPUC rules on access to models, databases and documentation, subject to PU Code Section 1822, Rules 10.3 and 10.4.¹⁸ However, transparency and accessibility are high priorities to parties of the Goals proceeding. Proposals will be evaluated on their ability to provide a transparent

¹⁸ CPUC Rules of Practice and Procedure can be viewed at http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/105138.htm

model with which parties may alter inputs and conduct additional runs. (User accessibility may depend on available time and budget—please address individual budget assumptions for the additional cost to make model available for public use in your cost section)

Track 1:

The Economic Potential Study should be calculated based on the following inputs at a minimum.

The contractor will not be responsible for developing new data sources but may need to identify and convert them to a new format for use in the models.

- a. Energy efficiency parameters
- b. Base level energy intensity
- c. Energy prices
- d. Measure adoption rate
- e. Market saturation rates
- f. Cost-effectiveness from the E3 database
- g. Trends and forecasts for measure adoption

Track 2:

The contractor shall develop model(s) that can be adjusted to alternate scenarios to quantify the most cost effective approach to achieving the State's policy goals. Certain inputs will likely need to be updated in the final month(s) before the Goals study is due for completion, in order to incorporate the results of the Potential Study before the Goals are adopted. The Goals and Targets model should enable the following inputs to be altered to run multiple scenarios:

- a. Compliance requirements in Title 20/24 and appliance standards from CEC¹⁹
- b. Measure adoption rates
- c. Consumer behavior assumptions and impact of the economy
- d. Emerging technology with scenarios to incorporate variable impacts of technology advances and market adoption rates

4. **Draft and Final reports:** Contractors must produce a written report to meet the timeframe necessary for a 2014 portfolio implementation start. The draft reports shall be presented in a public workshop for comments, and contractors shall provide a subsequent revision into a final report.

Track 1:

The Economic Potential Study shall provide a detailed explanation of the steps taken to calculate the economic potential, with a series of tables and charts to supply as input to the goals study. The specific report structure will be finalized during the scoping plan.

Track 2:

The Goals and Targets Study will provide a strategic framework to a) inform the CPUC Commission as it proceeds to adopt goals and targets, and b) subsequently guide the IOU's in portfolio planning and the State agencies in forecasting for procurement and greenhouse gas reduction. The Study will inform Commission decisions, which in turn will provide:

- **Defined Total Market Gross Goals** to be used in IEPR load forecast for procurement planning and the greenhouse gas proceeding. The TMG goals will include the market potential of tested energy efficiency programs, statewide initiatives and free-ridership that can be reliably expected to deliver a calculated level of energy efficiency savings. It shall also include scenario analysis to test the assumptions described above, and possibly a set of "reach" goals associated with the strategic plan.

¹⁹ Source can be viewed at <http://www.energy.ca.gov/title24/>

- **Utility Specific Targets** to be used in the 2014 portfolio planning, disaggregated by sector. It shall describe the variables for scenario analysis and provide a detailed explanation of the calculations.

C. Desired alternative approaches

The energy efficiency proceedings are reviewing alternative approaches to portfolio 2012 Goals and Targets Study. **Bidders' recommendations on and ability to incorporate some or all of the analyses listed below into the study methodology or approach will be among the criteria for selecting the winning bidder.** These approaches are not required components of the final report, but the Energy Division solicits the bidders' perspectives on the most effective approaches to achieve the necessary outcomes, and how to manage the associated contract costs.

Track 1:

Alternative measurements of energy intensity: The CPUC currently uses an end-use basis for energy intensity, and quantifies energy efficiency improvements by products. Since new technologies have been changing consumers' energy service demand, we are interested in the merits of possible new approaches to measure energy intensity either for sectors or measures, or sector-based energy intensity, such as energy use per square foot.

Track 2:

1. **Consumption reduction based goals:** [There is significant interest in using a goal setting approach that compares a) the bottom up potential study with top down consumption reduction goals, and b) with studies being conducted during the 2010-2012 portfolio cycle to evaluate energy efficiency on a macro consumption basis. The Energy Division desires help with strategic thinking about how to integrate these new studies into the goal setting process, how to benchmark energy efficiency measures with consumption reduction, and to consider whether these studies better align with market transformation objectives and CEC end-use load forecasting.
2. **Use of relativistic goals:** The current goal structure is a fixed level for each year, in MWh/ MW and MMtherms. Given the unpredictability of future economic and weather conditions, as well as achievement of policy initiatives, indexed or formula-based goals relative to a given demand forecast may be more appropriate over the long term.

3

Bidder Requirements

With support from KEMA, the Energy Division will be responsible for the selection and management of the project lead(s) to prepare the Economic Potential Study and the 2012 Goals and Targets Study. KEMA will provide advisory and administrative support. It is our preference to select one contractor that has the capacity to conduct all components of the potential and goals of the study, within the 12-month timeline available. However, efficacy is a greater priority and it may be necessary to divide the tasks. While bidders are encouraged to submit proposals for both tracks, they may choose to submit for only one, and may submit a joint proposal with other consultants. The Energy Division may elect to award the contracts to two separate bidders that may have submitted proposals for both tracks. Bidders may also propose to subcontract components of the analysis to certain consultants of their choosing.

For both tracks, bidders must demonstrate the capacity to effectively manage all of the following types of tasks:

1. **Strategy Development and project management:** The project leads must demonstrate the ability to work with the Energy Division to determine how the two studies should be structured to meet multiple objectives. The strategic analysis will include the ability to settle on overall methodologies to address the needs outlined above, articulate the structure of the analysis, set a timeline for the necessary components of the modeling, and clearly define the metrics of inputs and outputs for the goal setting process.
2. **Modeling:** Contractor(s) must provide existing models and/or demonstrate ability to develop models that can incorporate the multiple essential inputs. Bidders should provide samples of past models and/or descriptions of methodology for proprietary models. For any proprietary models, bidders should describe how to conform to CPUC rules on access to models, databases and documentation, subject to PU Code Section 1822, Rules 10.3 and 10.4.²⁰ Bidders must be able to either run alternative scenarios at the parties' request provide access to the modeling software to the parties to energy efficiency proceedings.
3. **Data Source Management:** Contractor(s) must be able to identify and manage reliable data sources and/ or provide supporting analyses to serve as inputs into the master model, based on the inputs listed in the Scope of Work.
4. **State of California Contractor Provisions:** All selected consultants are subject to the laws pertaining to government contractors and must certify that they comply with clauses listed in Attachments 1-3.
5. **Form 707 Conflict of Interest:** Contractor(s) are subject to the disclosure and documentation requirements of the Political Reform Act and the regulations of the Fair Political Practices Commission, further described in Attachment 4. Bidders must provide a statement in their proposal that they understand the conflict of interest provisions and will comply with these provisions upon selection and before contract is signed.

²⁰ CPUC Rules of Practice and Procedure can be viewed at http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/105138.htm

4

Proposal Components

Bidders for either track must submit responses to all components of this section. **If bidders are submitting a proposal for only one track, be sure to indicate and keep responses within the page limit. If bidders submit a proposal for both the potential and the goals study, you may provide the responses jointly, but be sure to address all required components for each track.** If responding to both tracks bidders may double the page limit. However, submitting a concise, well-organized response is among the evaluation criteria.

Evaluation criteria for each question are listed in Section 5.C. Responses should be submitted in 12 point Times New Roman, with standard margin. A “memo format” (single spaced with sub-headings like in this RFP document) is preferred.

A. Cover Letter

Please submit a cover letter with your proposal to introduce your proposal and team. The cover letter should include:

- An indication of which tracks are being bid;
- Brief discussion of approach(es)
- Brief description of bidder’s relevant experience
- Brief description of key staff and identification of subcontractors

B. Strategic Analysis Components

This portion of the proposal should demonstrate bidder’s competency in assisting ED in the strategy development and conceptualization phase of the project. The final study design and project work plan may alter components of the proposal.

1. Overview and Introduction to Structure of Analysis

3 page limit for Potential Study, 5 page limit for Goals & Targets

Track 1: Provide a concise overview of how you would structure an analysis to quantify the Economic Potential. This section should provide your general framework.

Track 2: Provide a concise overview of how you would structure an analysis to quantify goals on a TMG basis and utility-specific targets as described in Section 2.A.1. This section should communicate the broad concepts to the non-expert (your audience is professionals in the energy efficiency field, but without experience with potential studies).

2. Incorporation of Strategic Plan

5 page limit (Goals & Targets Study only)

Please discuss how you propose to incorporate the strategic plan in to the overall Goals and Targets Study. Explain how the numeric potential, goals and savings of the [California Long Term Energy Efficiency Strategic Plan](#) should be incorporated into the analysis, including high level assessments of cost to achieve Strategic Plan goals and methods of marrying these goals and objectives to “bottoms-up” potential data.

3. Methodology Walk-through

7 page limit for each track

Provide a step-by-step explanation of your proposed methodology, including but not limited to assessment of potential and/or policy-driven scenarios. You may reference the 2008 Goals &

Potential Studies as a point of comparison. Include a discussion of the alternative approaches and how they may be incorporated into the study.

B. Modeling and Data Sources

4. Discussion of Modeling Approach 5 page limit for each track

List out each of the inputs in Section 2.B.3 and discuss the treatment of these inputs in the model. Provide an explanation for any data inputs that may have to be adapted to fit format of model or involve additional analysis outside of the modeling structure. Please identify your data sources. Describe the modeling format, including software, incorporation of databases. For proprietary models, please describe how you will provide access to parties and make calculations transparent.

5. Previous Potential and/or Goals Studies:

Please provide a CD with the following materials. You may provide a 2 page discussion of each, explaining whether there are elements that you would use for the 2012 study and/or how you would alter your approach.

- a. Copy of 1-3 past report(s) your team has prepared that demonstrates the skills and capabilities that are required for this project.
- b. Past model. If model is proprietary, Energy Division will sign confidentiality agreement to access only for purpose of assessing Bidder's qualifications and proposed approach. If model is not in excel, provide the outputs and supporting materials (i.e. appendices) that were used to explain your models and calculations. You should provide sufficient information to evaluate the methodology and usefulness of output formats, as well as potential for parties to run options.

C. Work Plan

6. Outline of work plan 7 page limit for each track

Provide a timeline for the components of your proposed analysis with a brief description of the work involved, to meet the February 1, 2012 Draft Report due date. (See schedule in Section 5.A) The work plan should include:

- a. Description of the individual tasks
- b. Key deliverables of each task
- c. The number of hours, by category of personnel, you anticipate each component of the analysis requiring
- d. Personnel to be assigned to each task, and expected hours or percent of time from key staff by task
- e. If you identify certain components of the analysis to subcontract, please describe the discrete task, name the contractor, and amount of budget devoted to that sub-contractor for each task. Then describe key personnel of sub-contractor to be assigned.

D. Project Team Experience and Qualifications

Each bidder shall provide the following information to demonstrate the experience and qualifications of the proposed Prime Contractor firm, Project Manager, and Team members, including any subcontractors.

7. Project Team Description and Member Background

Team Description: Provide a background description of the contracting firm [no more than 3 pages] and an introduction to the proposed Project Management Team [no more than 3 pages] including, but not limited to the following:

- a. Identification of the Lead Project Manager.

- b. An organization chart of the Project team, showing all key personnel to be assigned.

Member Background:

(One page limit per individual, and total number of pages for all personnel to max of 20)

Provide the following background information and documentation for each of the Project Team members. **By providing the list of Project Management Team members, the bidder is making a commitment to assign the listed team members to the Project Team. Any substitution in team member must be replaced with a person of equivalent skills and experience, and Energy Division must approve in writing any proposed substitution of subcontracting firms or individual key team members before any substitution occurs.**

Contractor and Subcontractor's key personnel as indicated in the attached resumes may not be substituted without the ED Contract Manager's prior written approval. Any substitution of subcontracting firms or any individual team members or key personnel will only be approved if the KEMA/ED Contract Manager deems such substitution reasonable under the circumstances. A current resume for each member should be included in the appendix to the proposal.

- a. Team member name
- b. The specific roles, functions, and areas of expertise the team member will provide to the Goal Study Team
- c. A narrative summary of the experience and capabilities related to the areas of expertise for which the team member is being proposed. Include number of years of professional experience in these areas of expertise.
- d. The team member's tenure working with the contracting firm.
- e. Academic Degrees and Credentials (List academic degrees/credentials and the institution granting degrees/credentials).
- f. Recent Projects (List and briefly describe up to five projects or other experience related to the areas of expertise for which the team member is being proposed).

E. Total Project Costs and Labor Rates

8. Labor Rates

Prepare a Microsoft Excel spreadsheet that contains the proposed **fully loaded hourly labor rates** for each Project Team member, based on the example below. Other expenses should also be included by type and by task. Tasks should be listed to correspond with the work plan. The completed spreadsheet must be submitted in Excel format as a separate file within the proposal package in addition to a table included within the proposal.

Track 2:

Please provide the cost for individual scenario runs requested by IOUs

Person	Hourly rate	Time by task					Total Labor	
		1	2	3	4	5	Time	Cost
Total Labor Hours								
Total Labor Cost								
Expenses								
Travel								
Materials								
Other (list)								
Total Expenses								

Total Cost		

The fully loaded labor rates shall be inclusive of all labor and labor-related costs; direct, indirect, general and administrative costs; subcontracting fees; and profit associated with providing the hourly services of each team member. **The CPUC expects the rates to be comparable to other government rates offered by firms providing similar services. (See discussion of “Phase III Proposal Cost Review” in Section 5.C Proposal Evaluation Process, below) The rates bid are considered capped and will not change during the term of the contract.** The Contractor will only be reimbursed for actual time incurred up to these rate caps.

Please note: The information provided in the Project Management Team Member Rates spreadsheet cannot be kept confidential by the CPUC. If bidders have both commercial and government rates, and are reluctant to reveal details of the lower governmental rates, bidders may offer a specified percentage cost discount from commercial rates for consideration in this proposal.

Contractors must abide by State of California travel cost limits.

5

Submission of Proposal

A. Proposal Timeline

Key Actions Dates	
	Due Date
Issue RFP for bidder review	2/14/11
Due date for bidder intent to bid email	2/18/11
Mandatory Bidder Conference call	2/22/11
Written Question Submittal Deadline	2/25/11
RFP addendums and answers to question posted	3/1/11
Proposal Due Date	3/21/11
Bidder interviews	3/29-3/30/11
Notification of winning bid(s)	4/4/11
Contract work begins	4/8/11
Stakeholder workshops	TBD
Draft Potential Study	9/1/11
Final Potential Study	11/1/11
Draft Goals & Targets Study Report Due	1/1/12
Final Goals & Targets Study Report Due	3/1/12
Goals Decision 2012	8/1/12

B. Submission of Proposal Qualifications

1. Please submit your proposal **electronically** to the addresses below. This page is the location where we invite you to submit a proposal in response to this solicitation. Please complete the submittal form on the website provided below and you will be provided with an e-mail confirmation that your proposal has been successfully uploaded.

Fred.Coito@KEMA.com
Dina.Mackin@cpuc.ca.gov

If files are too large to send as email, mail a CD with a copy of your full application and materials requested in Question 5 to:

Dina Mackin
Goals/Potential Study Application
California Public Utilities Commission, Energy Division
505 Van Ness Ave., San Francisco, CA 94102

2. Proposals should provide straightforward and concise descriptions of the bidder's abilities that satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.
3. **Material that exceeds specified page limits in any given section of the proposal will not be read or considered in the evaluation.**

4. A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of the attached forms or other irregularities of any kind.
5. Costs for developing proposals are entirely the responsibilities of the bidder and shall not be charged to KEMA.
6. An individual who is authorized to bind the proposing firm contractually shall (electronically) complete and sign Attachment 1, Proposal/Bidder Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. **An unsigned proposal may be rejected.**
7. A bidder may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal at any time prior to the proposal due date.
8. While not required in the RFP submittal package, the selected contractor(s) will be required to execute the Subcontractor Agreement with KEMA, as applicable, included as Attachments 7 and 8 of this RFP.
9. The CPUC's General Terms and Conditions (GTC) contained in Attachment 5 of this RFP will be incorporated into the Subcontractor Agreement. The GTC are not negotiable and will be included in the Prime Contractors' agreements with all subcontractors.
10. No oral understanding or agreement shall be binding on any party.
11. The following **Attachments** must be completed and (electronically) signed as part of the RFQ package submittal
 - Attachment 1 – Proposer / Bidder Certification Sheet
 - Attachment 3 - State of California Contractor Certification Clauses
 - Attachment 4 – Conflict of Interest Disclosure
 - Attachment 6 - Noncollusion Affidavit C. Proposal Evaluation Process

C. Evaluation Process

Phase I – Compliance with RFP and Bidder Minimum Qualifications

Proposals will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP and the bidder minimum qualifications outlined in Section 3. Proposals that are not in compliance with the RFP will be rejected.

Phase II – Technical Proposal Evaluation

Proposals that pass Phase I will be reviewed by the Prime's proposal evaluation team based upon the criteria described below. Evaluation for Track 1 and 2 will be treated separately. For each question, all proposals submitted for the track will be ranked by quality of response based on criteria described below. Since modeling and data analysis is more central to the potential study, and strategic analysis is more central to the Goals and Targets Study, questions for each track will be weighted based on the table below. The Energy Division will provide a qualitative discussion for the basis of its selection.

	Proposal Component	Potential Study	Goals Study
1	Overview and Introduction Structure of Analysis	10%	10%
2	Incorporation of Strategic Plan	0%	10%
3	Methodology walk-through	15%	15%
5	Discussion of modeling approach	15%	10%
6	Previous comparable studies	10%	10%

7	Outline of work plan	15%	15%
8	Project Team Member Background	25%	20%
	Total Points	100%	100%

Evaluation Criteria:

1. Overview and Introduction to Structure of Analysis

Both Tracks: Overview is organized and concise, demonstrating a thorough understanding of the Commission’s needs and articulating an effective approach to meeting the Commission’s needs

Track 2 only: Overview clearly explains how bidder proposes to quantify policy-driven goals to address the policies listed in Section 1.C. Overview reflects an understanding and effective application of the concept of Total Market Gross.

2. Incorporation of Strategic Plan

Track 2 only: Provides a coherent method to calculate costs and savings associated with Strategic Plan goals as well as risk/uncertainty analysis of achieving these goals. Demonstrates understanding of the role of the Strategic Plan within energy efficiency policy.

3. Methodology Walk-through

Both Tracks: Methodology is straightforward, transparent and demonstrates an ability to meet required outcomes. Methodology incorporated the alternative approaches from Section 2.C in an effective manner.

Track 1: Methodology is robust, demonstrates ability to calculate an economic potential with a reliable level of accuracy. Methodology provides clear proposal how all of the essential inputs will be calculated, which is comprehensible and well organized.

Track 2: Methodology explains how bidder will organize the analysis to incorporate the policies, codes and standards into the goal setting framework as well as how they will enable scenario analysis. Framework is thorough, effective, well organized, demonstrates an understanding of the Commission’s needs.

4. Discussion of Modeling approach

Both Tracks: Bidders present a modeling approach that is transparent and accessible, and easy for parties to read and understand. **Preference will be given to open source models.** Model effectively addresses the calculations of all components listed in Section 2.B.3.

5. Previous Potential and/or strategic analysis studies

Both Tracks: Previous studies demonstrate an overall effectiveness at preparing a high-quality analysis that is transparent and comprehensive.

6. Outline of work plan

Both Tracks: Demonstrates comprehensive thinking about the components of the project. Thoroughly defines the tasks. Demonstrates effective sequencing of tasks as well as which tasks may be concurrently prepared. Demonstrates practices and quality control procedures used to deliver high quality products that that are on-time and within budget.

7. Project Team Description and Team Member Background

Demonstrates that the team’s past experience and qualifications by the company in successfully completing similar work. Demonstrates qualifications and experience of staff necessary to complete all components of the work plan.

Phase III – Proposal Cost Review

The Commission will evaluate the top ranked bidder(s) for the reasonableness of labor rates for the staff included in this proposal. **If multiple bidders have comparable high rankings, then KEMA/Energy Division will select the proposal with the lowest cost.** If one contractor receives top ranking consistently across questions, **KEMA/Energy Division will review proposal cost to determine whether it is reasonable within the expected budget.**

Phase IV -- Final Determination

At the completion of Phase III, KEMA/Energy Division will announce the winning bid(s) and initiate a contract with the selected contractor(s).

D. Standard Conditions of Service

Service shall be available on the express date set by the CPUC and KEMA, after all approvals have been obtained and the agreement is fully executed. Should the Subcontractor fail to commence work at the agreed upon time, the Primes, upon five (5) days written notice to the Subcontractor, reserve the right to terminate the agreement. All performance under the Subcontractor Agreement shall be completed on or before the termination date of the Subcontractor Agreement.

If requested by KEMA, the Subcontractor shall furnish and deliver, prior to the commencement of Services, a Performance and Payment Bond satisfactory to the in the minimum amount of ten percent (10%) of the Contract Sum to cover the faithful performance of the Contract, all bills, labor, equipment and materials and the payment of all obligations hereunder. Such bonds shall be written by insurance/surety companies acceptable to the Company and having a rating equivalent to A.M. Best of "A-" or better.

KEMA further reserves the right to require Contractor, at no cost to KEMA, to review any work provided by unqualified personnel, if such work is determined not to be in accordance with the standards established in this Contract, Contractor shall be responsible for reperforming such work at no additional cost to KEMA. Notice to Contractor may be given either in writing or orally; if given orally, KEMA shall confirm the oral notice in writing within five (5) working days.

Should Contractor neglect to perform the Services properly or fail to perform any provision of the Contract, KEMA, after seven (7) days' written notice to Contractor, may, without prejudice to any other remedy KEMA may have, make good the deficiencies and may deduct the cost thereof from the payment then or thereafter due Contractor or, at KEMA's option, may notify Contractor and immediately terminate the Contract and take possession of all materials and documents and finish the Services by such means as KEMA sees fit, and if the unpaid balance of the contract price exceeds the expense of finishing the Services, such excess shall be paid to Contractor, but if such expense exceeds the unpaid balance, Contractor shall pay the difference to Company.

Attachment 1:

Proposal / Bidder Certification Sheet

This Proposal/Bidder Certification Sheet must be signed and returned along with all the "required attachments" as an entire package with electronic signatures. The proposal must be transmitted in accordance with RFQ instructions.

1. Place all required attachments behind this certification sheet.
2. If my firm is a DVBE or a certified Small Business in the state of California, I have included documentation demonstrating that I have met the requirements to be classified as a DVBE and/or a Small Business.
3. As a subcontractor, I acknowledge that all approved work orders will be signed by both the ED Contract Manager and the Prime Contractor's Project Manager, and will be added to the official contract file held by the CPUC's Contract Office. I, as a subcontractor to the Prime Contractor will be contractually obligated to perform the work documented in work orders subsequently signed by the Prime Contractor's Project Manager and the ED Contract Manager.
4. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

An Unsigned Proposal/Bidder Certification Sheet May Be Cause for Rejection

Table 0-1

1. Company Name		2. Telephone Number ()	2a. Fax Number ()
3. Address			
Indicate your organization type:			
4. Sole Proprietorship		5. Partnership	6. Corporation
Indicate the applicable employee and/or corporation number:			
7. Federal Employee ID No. (FEIN)		8. California Corporation No.	
Indicate applicable license and/or certification information:			
9. Contractor's State Licensing Board Number		10. PUC License Number CAL-T-	11. Required Licenses/Certifications
12. Bidder's Name (Print)		13. Title	
14. Signature		15. Date	
16. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:			
a. Small Business Enterprise Yes No If yes, enter certification number:		b. Disabled Veteran Business Enterprise Yes No If yes, enter your service code below:	
<p>NOTE: A copy of your Certification is required to be included if either of the above items is checked "Yes".</p> <p>Date application was submitted to OSBCR, if an application is pending:</p>			

Completion Instructions for Proposal/Bidder Certification Sheet
 Complete the numbered items on the Proposal/Bidder Certification Sheet
 by following the instructions below.

Table 0-2

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.

5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	No need to complete. This information is used to verify possession of a contractor's license for public works agreements.
10	No need to complete. This information is used to verify possession of a PUC license for public works agreements.
11	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
12, 13,14, 15	Must be completed. These items are self-explanatory.
16	If certified as a California Small Business, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.

ATTACHMENT 2:

Small Business (SB) and Disabled Veteran Business Enterprise (DVBE) Programs

The Disabled Veteran Business Enterprise (DVBE) and Small Business (SB) Certification Programs were established to increase business opportunities for the DVBE and SB communities with the State of California. The programs are designed to help DVBEs and SBs participate in a more level playing field with certain advantages when competing against other non-DVBEs and non-SBs for state contracts and purchases. Certified firms can also take advantage of other DVBE and SB benefits.

Small Business Certification Program

Executive Order S-02-06, requires state agencies to achieve a goal of 25% small business/micro business participation in state contracts. Small business/micro business (SB/MB) certification eligibility requirements are as follows:

- Must be independently owned and operated.
- Cannot be dominant in its field of operation.
- Must have its principal office located in California.
- Must have its owners (or officers in the case of a corporation) domiciled in California.
- Together with its affiliates, be either:
 - A business with 100 or fewer employees, and an average annual gross receipts of \$14 million or less over the previous three tax years, or
 - A manufacturer with 100 or fewer employees.
- Micro business: A small business will automatically be designated as a micro business if gross annual receipts, together with all affiliates, are less than \$3,500,000 or, the small business is a manufacturer with 25 or fewer employees.

Disabled Veteran Business Enterprise Participation Program

The Disabled Veteran Business Enterprise (DVBE) Participation Program (<http://www.pd.dgs.ca.gov/dvbe/default.htm>) was established to acknowledge disabled veterans for their service and to further DVBE participation in state contracting, promote competition and encourage greater economic opportunity.

The state of California established a DVBE participation goal of at least three percent. The goal applies to the total contract dollars expended each year by an awarding department.

DVBE eligibility requirements can be found in the following link: <http://www.pd.dgs.ca.gov/smbus/dvbecert.htm>
If a bidding firm is a DVBE, then documentation verifying this should be included with the proposal. Failure to submit documentation that the firm is a California certified DVBE may result in the firm not being considered for

this work. Information submitted by the bidding firm to apply as a DVBE entity will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of the PCC §10115, et seq., and MVC §999 et seq., and follow the investigatory procedures required by the CCR §1896.80. Contractors found to be in violation of certain provisions may be subject to loss of certification, penalties and/or contract termination.

At the State's and/or Prime Contractors option prior to contract award, a bidder is to submit proof of its certification to be a California Small Business or DVBE firm. The awarding contracting official named in the solicitation may contact each listed SB or DVBE, by mail, fax or telephone, for verification of the bidder's submitted SB or DVBE information. When requested, the document must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written confirmation as specified may be grounds for bid rejection.

Additional Information:

DGS-PD Office of Small Business and DVBE
Services (OSDS)
707 Third Street, Room 1-400, West Sacramento, CA
95605
Website: www.pd.dgs.ca.gov/smbus
OSDS Receptionist, 8 am-5 pm:
(916) 375-4940
PD Receptionist, 8 am-5 pm:
(800) 559-5529
Fax: (916) 375-4950
Email: osdchelp@dgs.ca.gov

FOR:

- Directory of California-Certified DVBEs
- Certification Applications
- Certification Information
- Certification Status Concerns
- General DVBE Program Info.
- DVBE Resource Packet
- DVBE Business Utilization Plan
- Small Business/DVBE Advocates

ATTACHMENT 3:

State of California Contractor Certification Clauses

CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CPUC CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

ATTACHMENT 4:

Conflict of Interest Disclosure

Bidders (subcontractors) must provide a statement in their proposal that they understand the conflict of interest provisions in this document and will comply with these provisions. Contractors (subcontractors) not providing this statement may be excluded from receiving work under this award.

Bidder agrees to be subject to and comply with any applicable state laws. This shall include compliance with state conflict of interest laws as directed by the ED Contract Manager. Additional information may be required prior to the award of this contract in order to comply with state conflict of interest requirements.

PLEASE NOTE: According to D.05-01-055, entities are specifically prohibited from “performing any program and portfolio impacts-related studies at the same time they are under contract for program delivery work.” The above prohibition applies as well if an affiliate is currently under contract to perform program implementation/delivery work. Parties should NOT bid on this RFQ if they or any of their affiliates are currently under contract to perform program implementation/delivery work. In accordance with D.05-01-055, “structurally separate non-IOU affiliates can separately perform EM&V and program implementation work without violating the [prohibition between program delivery and performing impacts-related studies] if they sign non-disclosure agreements that forbid contacts between the structurally separate firms on the contracted matters.” Entities must disclose all details regarding enforcement of the non-disclosure agreement. For example, if the entities share office space or otherwise have access to information from the separate entity, etc.

**For other bidder limitations, restrictions and guidelines please refer to the bidders’ guideline below.
Conflict of Interest/Disclosure Requirements – Individuals**

This section shall apply to all persons who will be performing work for the bidder under this RFQ, whether employees, independent contractors or others, who exercise judgment in making recommendations to the Commission or evaluating the work of other entities for the purposes of the evaluation, measurement and verification of the 2010-2012 utilities’ energy efficiency portfolios.

All such persons who will be performing work for the bidder under this RFQ, whether employees, independent contractors or others, must disclose: (a) receiving annual income of \$500 or more from; or (b) having investments of \$2000 or more in; or (c) having business positions with; or (d) accepting gifts from:

- A. Electric and gas utilities subject to the jurisdiction of the Commission; these include Pacific Gas & Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and Southern California Gas Company (collectively, the investor owned utilities or IOUs); or
- B. Entities that are providing energy efficiency program delivery or implementation services that are subject to the evaluation, measurement and verification (EM&V) requirements of the IOUs’ 2010-2012 energy efficiency programs.

Conflict of Interest/Disclosure Requirements - Firms

In addition, certain conditions may render a team unable to give impartial, technically sound, objective assistance and advice, otherwise result in a biased work product, or result in an unfair competitive advantage. In order to properly evaluate and judge the proposed team, and avoid termination and/or controversy at a later stage, disclose for each participating firm:

- A. Any current contract, subcontract or other financial relationships, including the ownership of stocks or bonds, with PG&E, SDG&E, SCE, Southern California Gas Co., or with other entities who are currently implementing Energy Efficiency programs in conjunction with these utilities or other Energy Efficiency providers in California. (For contracts, provide the client name, total amount of payments, duration and nature of the service provided.)
- B. Prior contracts or subcontracts in which work was done (i.e., over the last three years) in any category with PG&E, SDG&E, SCE, Southern California Gas Co., prior contracts or other prior financial relationships, including the ownership of stocks or bonds, with PG&E, SDG&E, SCE, Southern California Gas Co., or with other entities who have in the past implemented Energy Efficiency programs in California. (For contracts and subcontracts, provide the client name, total amount of payments, duration and nature of the service provided.)
- C. Any current business relationship (including active proposals) with the firms identified in Section 4.7.A.-B above. (Provide the firm's name, the nature, scope and duration of the relationship or interest, and its total monetary value).
- D. In addition, please disclose any individuals who will be performing work under this RFQ who own 10% or more of the firm(s) bidding on this RFQ.
- E. Provide a statement, signed by the principal of each participating firm, asserting that the information provided in response to section 4.7 is correct to the best of your knowledge.

FOR CURRENT STATE EMPLOYEES:

- A. No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency unless the employment, activity, or enterprise is required as a condition of regular state employment.
- B. No officer or employee shall contract on that person's own behalf as an independent contractor with any state agency to provide goods or services.

FOR FORMER STATE EMPLOYEES:

- A. For the two year period from the date of leaving state employment, no former state officer or employee may enter into a contract in which that person was engaged in any of the negotiations, transaction, planning, arrangements, or any part of the decision making process relevant to the contract while employed in any capacity by any state agency.
- B. For the twelve month period from the date of leaving state employment, no former state officer or employee may enter into a contract with any state agency if that person was employed by that state agency in a policy making position in the same general subject area as the proposed contract within the twelve month period prior to that person leaving state service.

Bidder Guidelines

In Decision (D.) 05-01-055, the Commission established a "firewall" between entities performing program and portfolio impacts related studies and those doing program delivery work. The Commission, however, recognized that there could be potential practical implications of this firewall and left it to the Energy Division "to develop bidder guidelines consistent with [D.05-01-055] and to make determinations it deems appropriate to address questions that may arise concerning the eligibility of a particular evaluator, based on specific circumstances." (mimeo, p. 117). The following bidder guidelines have been developed pursuant to the Commission directives in D.05-01-055.

¹ If a firm or its affiliate²¹ currently has a contract for program implementation/delivery

* Under these guidelines, references to utilities or IOUs are to California utilities or IOUS, specifically: Pacific Gas

- II.** ²² with an IOU and wishes to bid on “program and portfolio impacts-related studies”(as defined in D.05-01-055) for the CPUC:
- a. According to D.05-01-055, entities are specifically prohibited from “performing any *program and portfolio impacts-related studies* at the same time they are under contract for program delivery work.”
 - b. The above prohibition applies as well if an affiliate is currently under contract to perform program implementation/delivery work.
 - c. In accordance with D.05-01-055, “structurally separate non-IOU affiliates²³ can separately perform EM&V and program implementation work without violating the [prohibition between program delivery and performing impacts-related studies] if they sign non-disclosure agreements that forbid contacts between the structurally separate firms on the contracted matters.”
 - i. Entities must disclose all details regarding enforcement of the non-disclosure agreement. For example, if the entities share office space or otherwise have access to information from the separate entity, etc.
- III.** If a firm or its affiliate completed a contract for program implementation/delivery for the 2010-2012 program cycle with an IOU and wishes to bid on program and portfolio impacts-related studies for the CPUC:
- a. A firm may bid on impacts-related studies for the CPUC, but may NOT bid on impacts-related studies involving the program the firm or its affiliate contracted with the IOU to implement/deliver.
- IV.** If a firm or its affiliate completed a contract with the CPUC for impacts-related studies and wishes to bid on program implementation/delivery contracts:
- a. A firm may not bid on program delivery/implementation contracts for IOUs involving the program areas evaluated for the CPUC for a period of one year following the completion of the contract with the CPUC.

& Electric (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), or Southern California Gas Company.

²¹ An affiliate is a firm that is related to another firm by any of the following circumstances:

- a. Common shareholdings or other means of control
- b. Shared office or warehouse facilities, equipment, systems, and/or employees
- c. Shared or common owners, officers, and/or directors
- d. A financial relationship, including loans and assistance to meet bond, security or credit requirements
- e. A contractual relationship, including assignment or transfer of rights, responsibility or property
- f. Family ties (spouse, parent, child, or sibling)
- g. An arrangement with any other business to assign a contract, in whole or in part. (Excluding those with a public financial institution.)
- h. An agent/broker relationship under which the firm is authorized to transact business for, or manage/control the affairs of another firm or individual, or act for them under the contractual relationship of agency.

²² As defined in Appendix B of Decision 05-04-051(Energy Efficiency Policy Rules), a program implementer is “An entity or person that puts a program or part of a program into practice based on contracts or agreements with the portfolio manager.” In this context, program implementation/delivery refers to any entity under contract to a regulated utility that is responsible for managing a program or program element.

²³ A structurally separate affiliate is an affiliate as defined in footnote 1, that has executed a non-disclosure agreement with its affiliate performing either program implementation/delivery or impacts-related studies and has taken proper measures to ensure compliance with the non-disclosure agreement. Depending on the structure of the affiliate relationship and the terms of the non-disclosure agreement, such steps could include not having office space or staff in common, or not sharing access to information on common computer equipment, etc.

i. Energy Division may reconsider this prohibition on a case-by-case review basis

- V.** In accordance with D.05-01-055, the Commission “will permit Energy Division to lift the firewall and use a case-by-case review...only in the event that there are inadequate bidders for an evaluation project. Under such circumstances, Energy Division should issue a separate round of RFQs to include firms with potential conflicts.”²⁴
- a. Circumstances where there are inadequate bidders are cases where no bids are submitted or bids are submitted, none of which pass the minimum scoring threshold set by Energy Division.
- VI.** All bidders will be required to disclose any and all affiliates performing energy-related work in California.
- VII.** Regardless of these guidelines, all bidders will be required to disclose any and all potential conflicts of interests. Individuals or firms may be prohibited from working on a project with the CPUC if their conflicts of interest potentially prevent them from providing unbiased service to the CPUC.
- VIII.** Scenarios not covered by these guidelines may be considered on a case-by-case basis as part of the evaluation and scoring of proposals, if the scenario appears to create a conflict of interest that potentially prevents the bidder from providing unbiased service to the CPUC.

²⁴ D.05-01-055 at mimeo p.118

**REQUIRED DISCLOSURES APPLICABLE TO INDIVIDUALS
WHO MAY BE CONSULTANTS
WITHIN THE MEANING OF THE POLITICAL REFORM ACT**

Under the Political Reform Act and the regulations of the Fair Political Practices Commission (FPPC), government contractors who are deemed “consultants” are subject to the disclosure and disqualification requirements of the Act. Only an individual who performs services pursuant to a contract with a government agency may be a consultant; a business entity is never a consultant even if it is the party that has entered into the state contract. Consultants may include: employees of business entities who have contractual arrangements with the state, individual contractors performing work for the state, or individuals who have a 10% or greater investment interest in companies with state contracts.

PART A:

Who is a consultant? Whether an individual is a consultant depends upon a variety of factors, including but not limited to the following: the scope of services of the contract, the length of service to the agency, the frequency and quantity of the services (sporadic or regular, continuous or occasional, full-time or part-time), and whether or not the individual advises or makes recommendations without significant intervening review by conducting research, preparing a report or analysis, or otherwise performing tasks requiring the exercise of judgment.

Individuals who advise the Energy Division, manage projects, implement and/or oversee data collection and analysis protocols, perform analysis or otherwise exercise judgment without intervening substantive review may be consultants within the meaning of the Political Reform Act. Such individuals may hold job titles such as: director, project manager, work order manager, senior economist, senior energy consultant, senior energy engineer.

PART A – REQUIRED DISCLOSURES:

Accordingly, the following information is required from all individuals who may perform work under this RFQ and: (1) have previously performed work for this agency pursuant to contract and/or are currently performing work for this agency; and (2) hold one of the positions described above or a similar position, and/or will perform any of the tasks described above or any task involving the exercise of judgment without substantive supervisory review:

1. Job title and brief description of duties to be performed under this RFQ
2. List of other contracts worked on for this agency
3. For each contract listed in response to i#2, please provide the following information:
 - a. title held during the period individual worked on the contract
 - b. brief description of work performed
 - c. length of contract, including start and end dates
 - d. total number of hours of work performed on contract
 - e. percentage of total work hours spent on contract
 - f. brief statement explaining whether work was on-going/continuous or occasional/sporadic.

Please note that these inquiries are fact-specific and the CPUC may need to obtain additional information in particular instances to reach a determination about whether a particular individual is a consultant.

PART B:

What restrictions are applicable to consultants? Individuals who are consultants must file a Form 700 Statement of Economic Interests listing those financial holdings that are subject to disclosure pursuant to the written determination of the CPUC’s Executive Director. Form 700s filed by consultants are public documents subject to inspection by members of the public upon request. If you are determined to be a consultant, you will be provided with a copy of the Form 700 Statement of Economic Interests and the written determination of the CPUC’s

Executive Director. You must complete the form and return it to the CPUC's Office of the Executive Director at 505 Van Ness Avenue, San Francisco, CA, 94102 within 30 days.

In addition, consultants are also subject to the disqualification provisions of the Political Reform Act and may not have economic interests in any of the investor-owned gas and electric utilities subject to the jurisdiction of the CPUC, (including Pacific Gas and Electric Company, San Diego Gas and Electric Company, Southern California Edison Company, and Southern California Gas Company) their parents, subsidiaries, or certain affiliates in the following threshold amounts:

1. Any investment in which the individual, his or her spouse, registered domestic partner, or dependent child has a direct, indirect, or beneficial interest totaling \$2,000 or more at any point during the period in which the contract is in effect. A consultant with investments that meet this threshold may not perform any work under this RFQ until she has divested her holdings in the investor-owned gas and electric utilities subject to the jurisdiction of the CPUC, such that their total value (including those of a spouse, registered domestic partner, and any dependent children) is below the \$2,000 disqualification threshold. It is the individual's responsibility to ensure that the value of her holdings remain below the threshold during the entire period during which the contract is in effect.
2. Gross income of \$500 or more (including the individual's community property share of his or her spouse's or registered domestic partner's income) received or promised during the 12-month period prior to the individual becoming a consultant. An individual with prohibited income in the threshold amount may not perform work on this RFQ for twelve months from the date on which the last payment was received/will be received.
3. Any business entity in which the individual, his or her spouse, registered domestic partner, or dependent child have a 10% or greater interest totaling \$2,000 or more in a calendar year AND the individual's pro rata share of the gross income (including the individual's community property interest in his or her spouse's or registered domestic partner's share) was \$10,000 or more during the twelve-month period prior to the individual becoming a consultant. An individual with prohibited income in the threshold amount may not perform work on this RFQ for twelve months from the date on which the last payment was received.

PART B – REQUIRED DISCLOSURES:

All individuals who are required to submit information in response to PART A must disclose investments in and/or income from any investor-owned gas and electric utilities subject to the jurisdiction of the CPUC, as well as their parents, subsidiaries and affiliates if the investments/income meet the thresholds described above.

1. For each investment please provide the following information: (a) the name of the entity in which the investment is held, and (b) whether the investment currently meets the \$2,000 threshold or whether it is likely to meet this threshold during the period when the contract is in effect.
2. For each source of income received/promised during the past twelve months in your capacity as an individual: (a) the name of the entity that is the source of the income; (b) whether the income meets the \$500 threshold; (c) the last date on which you received or anticipate receiving final payment under the contract or work arrangement.
3. For each source of income received/promised to a business entity in which you, your spouse, registered domestic partner, or dependent child have a 10% or greater interest totaling \$2,000 or more in a calendar year, please indicate: (a) the name of the entity from which the business received or is promised income; and (b) whether your pro rata share of the gross income (including your community property interest in your spouse's or registered domestic partner's share) totals \$10,000 or more during the past twelve months please OR is likely to total \$10,000 during any twelve month period during which this contract will be in effect; and (c) if the \$10,000 threshold has already been met, the last date on which the income was received or will be received; or (4) if the \$10,000 has not been met, please indicate at what point you anticipate it will be met.

ATTACHMENT 5:

Prime Contract Terms and Conditions

CPUC GENERAL TERMS AND CONDITIONS (GTC)

1. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
2. **ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
3. **AUDIT:** Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
4. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of 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 Contractor in the performance of this Agreement.
5. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.
6. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
7. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
8. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
9. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with

the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated hereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

10. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

11. TIMELINESS: Time is of the essence in this Agreement.

12. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

13. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

14. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

15. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.”

16. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

17. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

ADDITIONAL PRIME CONTRACT FLOW DOWN PROVISIONS

1. Confidentiality of Data/Nondisclosure Agreement

The Contractor recognizes that it may need access to information and documents that may be proprietary, confidential, or privileged in nature (Confidential).

Much of this Confidential information is protected from disclosure pursuant to the provisions of Public Utilities Code Section 583 and/or General Order 66-C.²⁵ The Contractor understands that these legal provisions generally preclude public disclosure of information obtained in confidence except with the permission of a Commissioner during the course of a public hearing or with the permission of the full Commission.

The Contractor acknowledges that it has received a copy of and read Public Utilities Code Section 583 and General Order 66-C. The Contractor agrees that it and all persons performing work for the Contractor under this Agreement, whether employees, independent contractors or others, shall be subject to and fully comply with these legal provisions and this section of this Agreement, including abiding by the terms prohibiting public disclosure of Confidential information pursuant to Public Utilities Code Section 583.

The Contractor agrees that all persons performing work for the Contractor under this Agreement, whether employees, independent contractors or others, shall protect the confidentiality of information as provided in the first sentence of Public Utilities Code Section 583. Furthermore, the Contractor agrees to have any such person who performs work for the Contractor under this Agreement, whether employees, independent contractors or others, agree to protect the confidentiality of information as provided in the first sentence of Public Utilities Code Section 583. The Contractor agrees that prior to commencement of any work associated with this Agreement, the Contractor shall provide a copy of this section of this Agreement, Public Utilities Code Section 583 and General Order 66-C to all who will be performing work under this Agreement.

Some of the Confidential material that the Contractor may have access to during the course of its work for the Commission may include both matters protected and not protected by Public Utilities Code Section 583. Confidential information that is covered by this section of this Agreement, includes, but is not limited to, the following:

1. Confidential information includes information that is protected by evidentiary privileges. These evidentiary privileges include but are not limited to, attorney work product privilege, the official information privilege, the attorney-client privilege, and the deliberative process privilege
2. Confidential information also includes:
 - Data collected by various CPUC evaluation contractor teams

²⁵ PUC 583 - <http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=9216624886+1+0+0&WAIAction=retrieve>

GO 66c - <http://162.15.7.24/Published/Graphics/644.pdf>

- Utility information included in periodic utility reports to the CPUC
- Information involving utility customers, including customer-specific data, and customer data in aggregate form
- Any preliminary data
- Any information subject to other prohibitions precluding disclosure

3. In addition, the Commission may choose to designate and mark specific information given to the Contractor during the course of this Agreement as Confidential and subject to nondisclosure.

To the extent that disclosure any of the above Confidential information does not require the permission of a Commissioner during the course of a public hearing or the permission of the full Commission, the Contractor will not to disclose any Confidential information without the express prior, written consent of Commission Staff.

The Contractor agrees to return all documents and copies of documents obtained during the course of this Agreement.

The Contractor agrees not to disclose any information regarding its work to third parties except with the Commission Staff's express prior, written consent. The Contractor agrees to notify the Commission Staff of any inquiries and/or requests for disclosure from any third parties regarding any information involved in this Agreement, or inquiries or requests for disclosure at a public hearing or in response to questions from a legislative committee regarding any information involved in this Agreement.

The Contractor will not make any public comment regarding its work, or the Commission's action on the same, except to the Commission Staff, Contractor's own personnel who are working on the project, and/or subcontractors involved in the completion of tasks under this Agreement; and then only to the extent required for the completion of tasks under this Agreement.

Ninety days after any document submitted has become a part of the public records of the CPUC, Contractor may at its own expense, publish or utilize the same but shall include the following legend:

LEGAL NOTICE

This report was prepared as an account of work sponsored by the California Public Utilities Commission. It does not necessarily represent the views of the Commission or any of its employees except to the extent, if any, that it has formally been approved by the Commission at a public meeting. For information regarding any such action, communicate directly with the Commission at 505 Van Ness Avenue, San Francisco, California 94102. Neither the Commission nor the State of California, nor any officer, employee, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document.

ATTACHMENT 6:

Noncollusion Affidavit

NONCOLLUSION AFFIDAVIT – CPUC Energy Efficiency 2010-2012 Evaluation Proposals

STATE OF CALIFORNIA)

) SS

COUNTY OF _____)

_____ ,

being first duly sworn, deposes and says that he or she

is _____

(position or title)

of

(the submitter of the proposal),

the party submitting the foregoing proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the submitter has not directly or indirectly induced or solicited any other submitter to put in a false sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any submitter or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the submitter has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the submitter or any other submitter, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other submitter, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the bidder has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

Dated: _____

By _____

(person signing for submitter)

ATTACHMENT 8:

KEMA Subcontractor Agreement Form

INDEPENDENT CONTRACTOR AGREEMENT

This AGREEMENT is made and entered into as of _____ (the "Effective Date") by and between KEMA, Inc., a Virginia corporation having offices at 67 South Bedford Street, Suite 201E, Burlington, MA 01803 ("KEMA") and _____ having offices at _____ ("Contractor").

WITNESSETH

WHEREAS, Contractor is engaged in the business of providing Evaluation, Measurement and Verification Services of the California Investor Owned Utilities' 2010-2012 Energy Efficiency Programs;

WHEREAS, KEMA and Contractor intend to set forth in this Agreement the terms and conditions under which Contractor shall make available, and KEMA shall obtain from Contractor, such services;

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements herein contained, and other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, and in consideration of KEMA proceeding with the subcontract agreement, the parties do hereby covenant and agree as follows:

1. INDEPENDENT CONTRACTOR

Contractor shall at all times be deemed to be an independent contractor. Nothing contained in this Agreement shall be construed as creating the relation of employer and employee, agent or joint venture between Contractor and KEMA. Contractor shall have full responsibility for and shall at all times be in compliance with all applicable local, state, and federal laws and regulations including all laws and regulations of any country outside of the United States where Contractor performs services. Contractor shall be solely responsible for any and all taxes imposed by any governmental body on the services performed by Contractor.

2. TERM

This Agreement shall have a period of performance commencing with the Effective Date as set forth above, and continue in full force and effect until the later of _____ 2010, or until all Task Orders issued hereunder have been fully performed, unless earlier terminated in accordance with the terms of this Agreement.

3. SERVICES TO BE PERFORMED - TASK ORDERS

Contractor shall provide consulting services to KEMA as more specifically authorized in Task Orders to be attached to and made a part of this Agreement. Each Task Order shall be sequentially numbered and shall contain information such as:

- i). The name of the KEMA client ("Client") for whom the services are to be performed, if applicable;
- ii). A description of the scope of work;
- iii). Period of performance of the Task Order;
- iv). Total dollar value of the Task Order;
- v). Type of contract;

- vi). Payment terms including applicable rates;
- vii). KEMA point of contact for the Task Order;
- viii). Contractor point of contact and Contractor Key Personnel;
- ix). Any other applicable terms and conditions.

Each Task Order shall be dated and signed by both parties, and shall be governed by the terms of this Agreement. In addition, the parties agree that each Task Order shall be governed by the terms and conditions of the respective Client's prime contract and/or purchase order. Contractor's performance under these Task Orders shall be subject to and in accordance with the Client's terms and conditions as contained in any prime contract with KEMA, and where applicable, Contractor shall be bound by such Client terms to the same extent as is KEMA. In the event of any conflict between the terms of this Agreement, the terms contained in any Task Order, and the Client's terms and conditions, the conflict shall be resolved in accordance with the following order of precedence (from highest to lowest): the Client's terms and conditions; the terms of the Task Order; the terms of this Agreement.

4. PAYMENT

Contractor shall submit invoices at the end of each month for services performed during that month. KEMA shall remit payment for the undisputed portion of each properly completed invoice within fourteen (14) days after receipt of payment from Client. Alternate payment terms may be specified in the individual Task Order(s). Invoicing instructions shall be set forth in the individual Task Order(s). Align with payment terms and invoice requirements of CPUC?

5. ASSIGNMENT

Contractor shall not assign, transfer or otherwise delegate this Agreement or any interest, or right or claim hereunder, nor subcontract any portion of the work to be performed, without the prior written consent of KEMA.

6. STANDARDS OF PERFORMANCE/WARRANTY

Contractor shall perform its services with care, skill and diligence in accordance with the applicable professional standards currently recognized by such profession, and shall be responsible for the professional quality, technical accuracy, completeness and coordination of all reports, designs, plans, information, specifications, and other items and services furnished under this Agreement. Contractor shall comply with all applicable federal, state and local laws, ordinances, codes, and regulations in performing its services. Contractor shall at all times comply with all Occupational Safety and Health Administration (OSHA) rules, regulations, safety standards and procedures, including any required monitoring, applicable to Contractor's work. In addition, Contractor shall ensure that each of Contractor's employees is adequately trained, qualified, and knowledgeable of such applicable safety standards and safety equipment. In the event any of the items delivered or services performed under this Agreement fail to meet these standards, Contractor shall correct or revise any errors or deficiencies so identified promptly and without additional compensation.

If, in, KEMA's judgment, there is any nonconformity in the services provided by Contractor, Contractor shall promptly repair, replace, or reperform such items at KEMA's election. Repeat performance of services shall be at Contractor's expense. KEMA shall notify Contractor of such nonconformity within a reasonable time after discovery, and Contractor shall repair or replace within three (3) working days after KEMA's notice of nonconformity. If reperformance of services is not timely or satisfactory in KEMA'S judgment, KEMA may elect to terminate this contract and/or reprocure or reperform the services itself, at Contractor's expense.

7. CHANGES

Any changes in, modifications of, or amendments to this Agreement or any Task Order shall be in writing and signed by both parties.

8. TERMINATION

KEMA may terminate this Agreement and/or any Task Order issued hereunder at any time without cause upon submitting to Contractor a written notice to terminate. Upon receipt of such notice Contractor shall immediately cease to incur expenses pursuant to this Agreement, unless otherwise directed in the termination notice. KEMA shall

pay Contractor for work performed on any Task Order so terminated up to the date of termination but not to exceed the total value of the Task Order. No amount shall be allowed for anticipated profit or unabsorbed overhead. Upon termination Contractor shall immediately return to KEMA all documents, drawings and items of any nature whatsoever either supplied to Contractor or developed by Contractor under this Agreement and/or the Task Order so terminated.

9. CONFIDENTIALITY

During the term of this Agreement, KEMA and/or its Client(s) may disclose to Contractor, or Contractor may obtain access to, develop, or create, proprietary and confidential information or material concerning or related to KEMA's and/or its Client(s)'s processes, services, products or general business operations. Such information may include, but is not limited to, the discovery, invention, research, improvement, manufacture, or sale of KEMA's and/or its Client(s)'s products or services, or KEMA's and/or its Client(s)'s sales, costs, profits, pricing methods, organization, employee lists, service, software techniques, customer lists, processes, etc. ("Information"). However, Information shall not include any information which (a) is contained in a published document prior to the date of this Agreement; or (b) becomes publicly known through no wrongful act or failure to act on the part of Contractor; or (c) is known by Contractor without any proprietary restrictions at the time of receipt of such Information from KEMA and/or its Client(s)'s or becomes rightfully known to Contractor without proprietary restriction from a source other than KEMA and/or its Client(s). Contractor acknowledges the confidential, proprietary and secret character of the Information and agrees that the Information is the sole, exclusive, and extremely valuable property of KEMA and/or its Client(s). Accordingly, Contractor agrees not to reproduce any of the Information, and not to divulge all or any part of the Information to any third Party, either during or after the term of this Agreement. Contractor will only use the Information in order to perform the services specified in the Task Order(s) and in accordance with KEMA's instructions, and no further use of the Information, in whole or in part, will be made by Contractor. This Paragraph shall survive the termination or cancellation of this Agreement.

10. INSURANCE Align with CPUC's requirements?

Contractor, and any direct or indirect subcontractors, shall purchase such insurance as may be required by the Client's terms and conditions and/or purchase order/contract related to the Task Order being performed, if applicable, but in no event shall the insurance amounts be less than the limits set forth below. Such insurance shall be maintained for the full term of this Agreement, as set forth in Section 2, including applicable amendments and/or Task Orders that extend such period of performance. Contractor shall provide certificates of insurance prior to commencing work under any Task Order.

10.1. Workers' Compensation and Employer's Liability

Workers Compensation shall be procured and maintained at the Statutory Limit for each state Contractor's work is being performed or operated under in connection with this agreement and/or Task Order(s)

Employers Liability shall be procured at the following limits:

\$500,000 limit for Bodily Injury

\$500,000 limit for Bodily Injury by Disease

\$500,000 limit for Bodily Injury by Disease in the Aggregate

10.2. Comprehensive General Liability Coverage

Contractor shall procure a minimum coverage of \$1,000,000 for each occurrence, and \$2,000,000 in the aggregate. Coverage shall also include limits for Products and Completed Operations and Contractual Liability

10.3. Automobile Liability

Contractor shall procure a minimum of \$1,000,000 Combined Single Limit for owned, non-owned and hired vehicles.

10.4. Professional Liability:

\$1,000,000 per occurrence.

KEMA will evaluate on a case by case basis whether or not the scope of Contractors work is such that we will require Contractor to have Professional Liability insurance.

10.5. Contractor is required to provide the following:

(a) For the Commercial General Liability and Automobile Liability policies, KEMA and affiliates shall be designated as additional insured and shall be identified on the certificates of insurance issued on behalf of Contractor and any direct or indirect subcontractor(s) providing services, materials, or work. With the fully executed certificates of insurance, the Contractor shall provide a copy of a CG2010, TE 9901B, or equivalent endorsement.

(b) Waiver of Subrogation in favor of KEMA which shall be provided for the Commercial General Liability, Automobile Liability, and Workers Compensation policies. This may be identified on the issued certificate of insurance, or by endorsement.

(c) Contractor's coverage shall be identified on the certificate as primary

(d) Contractor shall notify KEMA 30 days prior to cancellation, or material change, of any policies listed within Section 10.

10.6. Certificate Holder shall read as follows:

KEMA, Inc.

67 South Bedford Street, Suite 201E

Burlington, MA 01803

Attn: Legal Department

11. INDEMNIFICATION AND RELEASE

Contractor shall defend, indemnify and hold KEMA, its officers and directors, employees and Clients harmless from and against any and all claims, demands, causes of action, suits and other litigation and related damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from the services performed or failed to be performed by Contractor or anyone for whose acts Contractor may be liable. Contractor shall reimburse KEMA for all expenses, including but not limited to attorney's fees, paid or otherwise incurred to enforce the provisions of this paragraph if either Contractor or Contractor's insurer refuses to so defend, indemnify or hold KEMA harmless as provided above.

Contractor hereby unconditionally and irrevocably releases and forever discharges, to the fullest extent permitted by applicable law, KEMA and its officers, directors, employees, agents, representatives, assigns, affiliates, parents, subsidiaries, and successors in interest, of and from any and all debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, damages, and any and all claims, demands, and liabilities arising in relation to this Agreement or the work of Contractor hereunder.

12. LIMITATION OF LIABILITY

In no event shall KEMA or its Client be liable to Contractor for any consequential, indirect, exemplary, special, incidental or punitive damages including, without limitation, lost profits, even if such damages are foreseeable or the damaged party has been advised of the possibility of such damages and regardless of whether any such damages are deemed to result from the failure or inadequacy of any exclusive or other remedy, and, in no event shall KEMA's or its Client's liability to Contractor exceed the total amount of payments made under this Agreement.

13. COST RECORDS AND ACCOUNTING

Contractor shall maintain such accounts, books and other appropriate records for all costs and expenses incurred in performing services under any Task Order and shall make such accounts, books and records available to Client(s) as may be required by the terms of the Client's purchase order/contract related to the Task Order being performed.

14. NON-INTERFERENCE

Contractor agrees that during the term of this Agreement, including any extensions thereof, and for a period of three (3) years thereafter, it will not, either directly or indirectly:

- i). solicit on behalf of any party other than KEMA, any KEMA Client for whom it performed work pursuant to any Task Order hereunder, to perform work that is the same as, or substantially similar to, that work set forth in the Prime Contract associated with such Task Order;
- ii). perform any services or provide any products to any KEMA Client for whom it performed work pursuant to any Task Order hereunder, that are the same as, or substantially similar to, those services and/or products set forth in the Prime Contract associated with such Task Order.

15. NON-SOLICITATION

Contractor agrees that during the period of performance of this Agreement and for one (1) year thereafter, it will neither directly nor indirectly solicit for employment, engage as a contractor, hire, nor otherwise induce any employee or contractor of KEMA to leave the employ of KEMA.

16. RIGHTS IN DATA

Contractor shall, upon completion of all work performed under any Task Order or earlier as directed by KEMA, submit to KEMA any and all information developed in the course of performance of the Task Order. In addition, Contractor shall, upon completion of all work performed under any Task Order, or earlier as directed by KEMA, deliver to KEMA all materials furnished to Contractor by KEMA including all copies thereof.

Any and all proprietary rights, copyrights, patent rights and other intellectual property rights in and to all analyses, data, databases, documentation, reports, inventions, processes, software including tools, code, computer programs, designs and related documentation; modifications, adaptations and improvements of any of the foregoing; and other works of authorship ("Developments") conceived, developed, first implemented, or produced by Contractor solely or jointly with employees, consultants, agents, or contractors of KEMA or its Client(s) shall be governed by the terms of the Client's terms and conditions and/or purchase order related to the Task Order under which such work was performed. Notwithstanding the above, as between Contractor and CPUC, all right, title and interest in and to any such Developments shall be and remain with CPUC, and Contractor hereby assigns all of its right, title and interest in and to any such Developments to CPUC.

17. EQUITABLE RELIEF

The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, it is agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.

18. ATTORNEY'S FEES:

In any action or proceeding arising in connection with or relating to this Agreement, each party shall be responsible for its expenses and costs of such action or proceeding together with its attorney's fees and executive time reasonably incurred in prosecuting or defending such action, including any fees, costs and charges incurred in any prior mediation.

19. ENTIRE AGREEMENT

This Agreement and all Task Orders issued hereunder contain the entire Agreement between the parties with respect to the matters covered herein. This Agreement cannot be modified except in writing signed by both parties.

20. SEVERABILITY

If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be illegal or otherwise unenforceable, that finding shall not invalidate the whole of this Agreement, but only such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreement of the parties herein set forth.

21. WAIVER

The failure of any party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. To be in force and enforceable, any waiver must be in writing and must be signed by both parties.

22. NOTICES

All notices and other communications hereunder shall be in writing and shall be deemed to be given if delivered personally or by facsimile transmission, telexed or mailed by registered or certified mail (return receipt requested), postage prepaid, or deposited for overnight delivery with a reputable overnight delivery service, such as Federal Express, to the parties at the following addresses (or at such other address for the party as shall be specified by like notices; provided that notices of a change of address shall be effective only upon receipt thereof):

To KEMA Inc.

KEMA, Inc.

67 South Bedford Street, Suite 201 East

Burlington, MA 01803

Attention: Legal Department

To Contractor

GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, exclusive of its conflict of law rules, except for questions regarding the status of Contractor's relationship as an independent contractor, which shall be governed by the law of the state where Contractor resides.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives as of the day and year indicated below.

KEMA Inc.

CONTRACTOR

Signature: _____

Signature: _____

Name: _____

Name: _____

(Type or Print)

(Type or Print)

Title: _____

Title: _____

Date: _____ Date: _____