

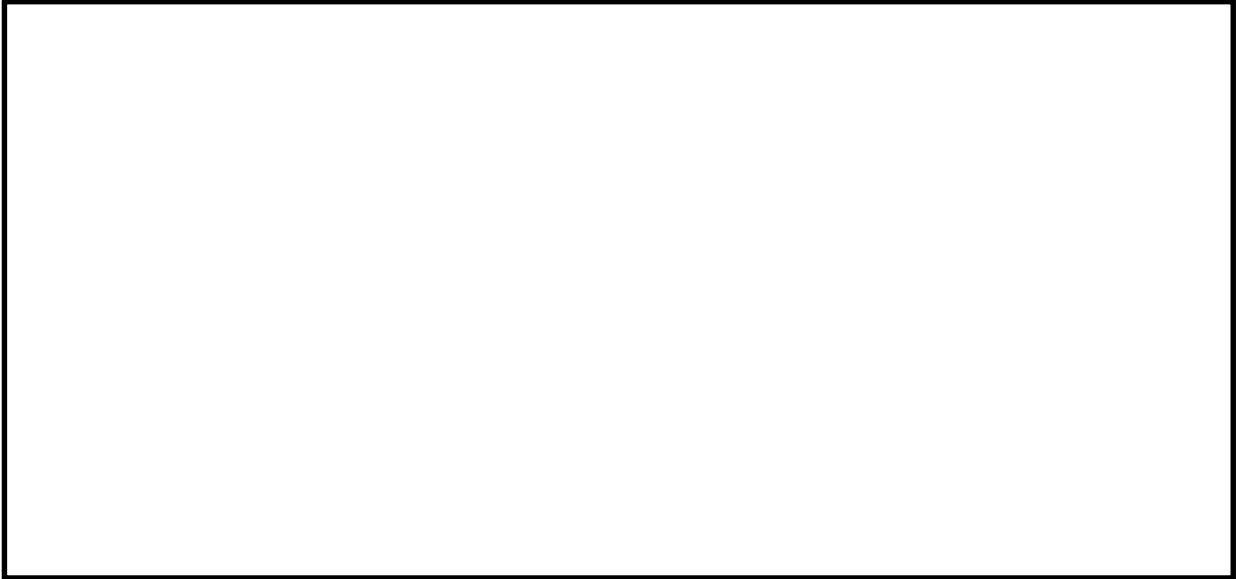
**Guidebook
for the
Renewable Technology Program**

**Volume 2
New Renewable Resources Account**



California Energy Commission

P500-97-00?



This guidebook contains general instructions for new renewable power producers on how to qualify and apply for funding from the Renewable Resource Trust Fund. For more detailed information on the Renewable Resource Trust Fund, please see the Energy Commission's *Policy Report on AB 1890 Renewables Funding*. The report (Publication Number P500-97-002) may be obtained through the California Energy Commission's Publication's Office at (916) 654-5200.

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How to Bid in the Renewable Energy New Technologies Program

Introduction

Thirty percent of the AB 1890 money, or approximately \$162 million dollars, is allocated to the New Technologies Account, intended to provide support to prospective new renewable electricity generation projects. Participating projects will compete by submitting bids in an auction as described in this volume, to receive a fixed, generation-based production incentive.¹

The auction will determine winners and losers based upon two simple elements of each bid: 1) the cents/kilowatt-hour incentive requested and 2) the estimated generation over five years. Winners will receive incentives for the first five years of operation, assuming a successful project is developed, with two exceptions: 1) winning projects that come on-line prior to receiving their award will receive incentive payments for the first five applicable years, and 2) projects that come on-line on or after January 1, 2002 will only receive payments until the end of 2007, regardless of their on-line date, and run the risk of receiving no payments at all.

Prospective bidders should note that this bid is for a limited production incentive amount (not to exceed 1.5 cents per kWh) rather than for the entire revenue compensation for a proposed project. Winning projects are expected to sell the electricity they generate for whatever price it can command in the electricity marketplace. Projects are not entitled to incentive payments without proof of electricity generation and sale. Ancillary aspects of particular projects, such as transmission constraints or capabilities, capacity value, environmental benefits, and reliability benefits will not be considered in bid evaluation nor in payment or nonpayment of production incentives. Bidders must evaluate and rely on the prospects for market valuation of such characteristics, or prospects of capturing that value through other programs. While bidders may reflect this in their bids, they should not expect the Energy Commission to consider these ancillary factors in the bid evaluations or incentive payments or nonpayment's in this program.

The Energy Commission is not responsible for any costs associated with bid preparation or project construction or operation, including costs of transmission access. Bidders shall not hold the Commission responsible for any consequences of their bids.

This guidebook describes when the competitive auction will be held; who is eligible to participate; how and where to submit a bid; what information to include in a bid; and how bids will be evaluated and accepted or rejected. The guidebook contains standard forms

¹ The procedures described here will be used for the first auction. Subsequent auctions, if any, may or may not have different procedures.

that shall be used in bid preparation and submittal. Finally, the guidebook provides an explanation of what to expect after the auction for both accepted and rejected bids.

When Will Bidding Occur

One Bid Is Scheduled On December 1, 1997

The new technology funds will be allocated, as much as possible, through a single competitive auction to be held on December 1, 1997. Bids must be received at the Energy Commission on or before 5:00 p.m. on the auction date, as explained below (see *Where To Submit Your Bid*).

Two pre-bid workshops will be held to answer questions from prospective bidders prior to the due date for bids. Bidders that desire clarification about the auction should prepare questions for the workshops or send a written request for clarification. Verbal replies or interpretations will not be binding or official unless subsequently repeated in writing as part of a workshop clarification report or auction guidebook addendum. Such written clarifications will be issued simultaneously to all prospective bidders.

When Will Results Be Announced?

Results of the auction will be announced approximately one month after the auction is held. During this time, the Energy Commission may request clarifying information from individual bidders.

Announcement of the overall auction results is not a guarantee to winners. Winners must pass project milestones as described later. Individual winning awards from the auction must be approved by the Commission in a public hearing.

Will There Be More Than One Bid?

If all funds are not allocated in this first auction, or if other funds for this purpose become available, subsequent auctions may be held. Subsequent auctions, if deemed necessary with due consideration of market conditions and previous auctions, will be separated by at least 12 months and may be related to milestones established for preceding auctions. The Commission cannot guarantee that any auction will be held after the first scheduled auction.

Who Is Eligible to Bid

Bidders in the auction must submit bids that refer to an eligible project. An eligible project is any proposed to be built, newly constructed, or substantially refurbished

renewable electricity generation facility (or portion thereof) meeting the eligibility criteria set forth below:

- 1) The physical equipment comprising the eligible project must be wholly located within California.
- 2) The eligible project must use an electricity generation technology or fuel source that is renewable as defined in this guide.
- 3) The eligible project must either be:
 - a) first placed in operation (generating electricity for sale) on or after September 23, 1996; or
 - b) substantially refurbished on or after September 23, 1996, such that at least 80% of the fair market value of the project derives from new generation equipment installed as part of the refurbishment; or
 - c) a separable improvement to or enhancement of an operating existing facility that was first placed in operation prior to September 23, 1996 such that the proposed incremental generation is contractually available for sale, distinguishable from existing generation at the facility, and not associated with a utility contract that provides long-term fixed energy or capacity payments.

Projects involving facilities with existing contracts providing high fixed energy and capacity prices (such as a repower of a wind facility with an ISO4 contract) may participate in the auction. If such a project is among the winners of the auction, they must no longer be associated with these contracts prior to receiving approval of their awards (see Milestone #1 on page 10). Winning projects bear the burden of proof and the cost of distinguishing the new generation of the project from any associated existing generation. Winning projects should also be aware that any production incentives they receive from the Existing account after the auction is held may be subtracted from any New award they receive.

Prospective bidders should also be aware that though they may be eligible to bid according to the above criteria, if they win the bid, they must be prepared to pass post-auction milestones prior to receiving any payments from the New account (as described on pages 9-17). Bidders are encouraged to prepare to satisfy these requirements while preparing for bidding, but are not expected to pass these milestones until after the auction is held.

Where To Submit Your Bid

An original and five (5) copies of your bid shall be submitted and received by the California Energy Commission Renewable Project Office by 5:00 p.m. PST on December 1, 1997. Bids must show the bidder's name and address, be enclosed in sealed envelopes, and be addressed as follows:

**California Energy Commission
Energy Technology Development Division
Attention: Renewable Project (MS 45)
1516 9th Street
Sacramento, California 95814-5512**

What Should Be in Your Bid

Every bid shall include the information listed below, and use the forms provided in this guidebook, so that the Energy Commission can evaluate the bids.

In particular, each bid must be accompanied by a forfeitable bond equal to the amount determined by multiplying the generation estimate in the bid for five years by 0.2 cents per kilowatt-hour. Bonds will be returned to bidders except those who win the auction but do not pass Milestone #1 (see page xx).

Information Used In Auction

Only the first two pieces of information listed will be used to determine winners and losers in the auction. This information must be included in bids in order to proceed with the auction; bids that do not include this information will be disqualified.

- 1. The cents/kWh incentive payment requested in denomination no finer than one tenth of a cent, and not to exceed 1.5 cents per kilowatt-hour.**

These production incentives will be a constant cents/kWh amount paid monthly over at most a five year period for eligible generation, beginning with the first month of generation from the project or the authorization of award to the project, whichever is later.

- 2. The estimated annual average generation from the bid project.**

Bidders must, to the best of their ability, accurately estimate the level of generation that their proposed project will be able to provide. Underestimation of expected generation could lead to insufficient funds in the New account to make the payments expected. On the other hand, overestimation of expected generation will tie up funds unnecessarily. To encourage accurate estimates of generation, total incentive payments to a project will be limited by the amount of generation proposed in the bid for the project (over five years).^{2,3}

² That is, the upper limit on payments to a project will be equal to the estimated generation times the cents/kWh incentive received.

³ The Energy Commission will also examine the expected capacity factor for each project, compare to capacity factors experienced by similar existing projects, and require projects with clear discrepancies to clarify their information (bids may be deemed inadequate if clarification is not received). Any changes in

If the actual generation from a winning project averages less than 75% of the estimated generation over the first three years of operation, the cents/kWh incentives to the project will be reduced by 25% for the remaining two years of payments, and the total project award will be reduced to reflect the observed annual generation and the reduced incentive payments (funds removed from a project award will be reallocated per the Report). A reduction in project incentives and total award due to insufficient generation may be appealed to the Energy Commission. Projects that expect a period where generation will be low due to unforeseen long-term maintenance or similar events should notify the Energy Commission.

Information Required For Bids To Be Included In Auction

The remaining information in each bid, items 3 through 6, are necessary pieces of information to help determine that the projects bid are viable, serious projects. This information must be included in your bid for it to be accepted into the auction. Bids that do not include this information will be disqualified.

3. **Bid Bond.** The bidder shall include a bond with their bid equal to the estimated generation in the bid (over five years) times 0.2 cents/kilowatt-hour. Bid bonds are forfeitable and will be held by the Energy Commission until after the auction. Projects that lose the auction will have their bonds returned within one month. Winning projects will have their bonds returned upon passing Milestone # 1. Winners that do not pass Milestone #1 will forfeit their bonds. Forfeited bonds will be reallocated to subsequent auctions or other accounts per the Report.⁴
4. **Demonstration of eligibility.** The bidder shall provide documentation that the proposed project meets the eligibility to bid criteria described in this guide.
5. **Demonstration of site control and project feasibility.** The bidder shall describe the proposed project, including location, capacity, technology, expected transmission access, expected schedule for approval and construction, expected on-line date and other relevant information.⁵ The bidder shall provide evidence that the location proposed can be used as proposed and is available to be owned or controlled by the bidder or affiliated parties.⁶ The bidder shall provide evidence that the proposed project and any associated projects can be licensed and permitted under existing laws and regulations during the specified period.⁷

the capacity of the project subsequent to the auction will be closely examined. If the capacity change is not clearly justified by post-auction considerations, the Energy Commission may terminate the project grant or otherwise penalize the project.

⁴ The Energy Commission's *Policy Report on AB 1890 Renewables Funding*. (Publication Number P500-97-002)

⁵ Cost of transmission access, along with other bid preparation and project construction costs, is the responsibility of the bidder or proposed project, not the Energy Commission.

⁶ A contingent option to purchase or lease the location is sufficient for establishing ownership availability.

⁷ Examples of similarly situated projects that have been successfully licensed and permitted should be provided, at a minimum.

6. **Bidder Information and Signatures.** The bid should include the full business address of the bidder, and the names and phone numbers of authoritative and technical contact persons. One or more authorized officials of the bidder must sign the attached statement of verification of bid information and of the bidder's intent to bid and to abide by the protocols of bidding and the structure of incentive payments as described. The name and title (if any) of each person that signs the bid shall be typed or printed below their signature. Satisfactory evidence of authority of each person signing the bid shall be furnished upon request.

Questions may be asked after bids are submitted to clarify elements of a specific bid. Only those bids that include adequate information will be included in the auction and considered for awards. Bids that do not include adequate information shall be disqualified and ineligible for rewards. The results of the auction (the winners and losers) will depend only on the payment incentives requested and the expected generation contained in the included bids.

Bids will not be returned to bidders; they will be retained for project files (except for bid bonds as described above). Trade secrets or proprietary information contained in bids shall be clearly marked as such, accompanied by a formal letter to the Energy Commission requesting confidentiality treatment under the Commission's regulations. To the extent that its regulations allow, the Commission will hold all information so marked as confidential.

Bidding Protocols

This section describes the protocols that will govern the initial auction. At this time, the Commission is considering two basic options for determining payments pursuant to the auction: a *market price* option and a *bid price* option. The market price option pays each winning bidder a "market price" determined by the auction, greater than or equal to all winning incentive payment requests. This option is expected to result in lower incentive payment requests, since bidders are more able to bid low, expecting the market price they receive if they win will be higher than their bids. The bid price option would pay each winning bidder a "bid price" specific to their bid and equal to their incentive payment request. This option is easier to implement and understand, and provides more certainty to bidders about what they may receive, but it also may lead to higher bids. Only one option will be selected for the auction; the Energy Commission is presenting both options in order to receive public opinion about which option is most appropriate for the New account auction.

Protocols for the solicitation are listed below. Some protocols apply to both the market price and bid price options; other protocols must be written differently for the market price and the bid price options, and in these cases alternative protocols are provided.

Protocols Applicable To Both Options:

1. To be eligible for consideration, bid's must be sealed, contain all required bid information, and be delivered to the Renewable Project at the California Energy Commission Renewable Project Office by 5:00 p.m. PST on December 1, 1997 (see page xx for exact address).
2. Only one bid per project should be submitted. If two or more bids are found to refer to the same proposed project, the bid with the lowest incentive payment request will be considered, or if equivalent, only one bid will be considered at random.
3. Bids will not be accepted with incentive payment requests for more than 1.5 cents/kWh.
4. Bids will be accepted in the order of lowest incentive payment request to highest. If accepting a bid under consideration does not cause the account funds to be equaled or exceeded by the expected total payouts, the bid will be considered a winning bid. If accepting a bid under consideration causes funds to be equaled or exceeded, or all bids have been considered, the auction will be closed as described in protocols 9 or 10 respectively.
5. Bids that have equal incentive payment requests will be added as a group to the list of winning bidders, as if they are a single bid. Again, protocol 9 describes what occurs when the auction is closed by a group of bids. The auction will not attempt to break ties through additional bid criteria beyond incentive payment requests.
6. When the auction is deemed closed, any remaining funds in the account will be held in trust for reallocation in either a subsequent auction or as deemed by the Commission pursuant to Section 383.5 of the Public Utilities Code.

Protocols Applicable To Market Price Option:

- 7_{mp}. Bids will not be accepted if the total incentive that may be paid to the project exceeds 25% of the account funds (approximately \$40 million dollars, or about 540 gWh/year at 1.5 cents/kWh). The total incentive that may be paid to the project shall be calculated as the product of the expected generation of the project for five years and 1.5 cents/kWh.
- 8_{mp}. Expected total payouts will be calculated as the product of:
 - 1) the sum of expected generation provided in the winning bids (already included) and the bids currently under consideration (next highest incentive requests), and
 - 2) the incentive payment request of the lowest bid yet to be considered, or the closing market price per protocol 9, whichever is lowest. If no bids remain to be considered, then the incentive payment request of the bid or bids under consideration will be used.

- 9_{mp}. If a bid or group of bids under consideration causes the expected total payouts to exceed or equal the funds in the account, the auction shall be closed through the following procedure:
- 1) an *account price* will be calculated as the total account funds divided by the total proposed generation, including the bids currently under consideration, not to exceed one and one half cents (\$0.015) per kilowatt hour;
 - 2) if the account price is higher than or equal to the incentive payment request of the bid or bids currently under consideration, they shall be included as winning bids, the auction shall be closed, and the *closing market price* shall equal the account price;
 - 3) if the account price is lower than the incentive payment request of the bid or bids currently under consideration, the projected generation amounts in the bids will be reduced by a percentage that will result in the account price being equal to the incentive payment request, bidders will be given the option of withdrawing their reduced bids from consideration, bids that are not withdrawn shall be included as winning bids, the auction shall be closed, and the *closing market price* will be the account price;
- 10_{mp}. If all bids have been considered and accepted while expected payouts remain less than or equal to the funds in the account, then the auction shall be closed and *the closing market price* shall be equal to the last incentive payment request considered.

Protocols Applicable To Bid Price Option

- 7_{bp}. Bids will not be accepted if the total incentive that may be paid to the project exceeds 25% of the account funds. The total incentive that may be paid to the project shall be calculated as the product of the expected generation of the project for five years and the incentive payment request in the bid.
- 8_{bp}. Expected payouts will be calculated as the sum of:
- 1) the expected generation provided in each winning bid and bid under consideration, times
 - 2) the incentive payment request in each winning bid and bid under consideration.
- 9_{bp}. If a bid or group of bids under consideration causes the expected payouts to exceed the funds in the account, the auction shall be closed through the following procedure: the projected generation amounts in the bids under consideration will be reduced by a percentage amount that will result in the expected payouts being equal to the account funds, bidders will be given the option of withdrawing their reduced bids from consideration, bids that are not withdrawn shall be included as winning bids, and the auction shall be closed.
- 10_{bp}. If all bids have been considered and accepted while expected payouts remain less than or equal to the funds in the account, then the auction shall be closed.

What Happens After The Bid

Bidders will be notified by mail of the results of the bid within one month of the date of the auction.

If You Win

Winners of the bid will be provided with a written notification that their bid has been accepted. However, a bidder is not assured of payment, nor is any payment implied or to be assumed, until the Energy Commission has adopted a project award package for the proposed project. Winning projects and Commission Staff will work together to develop project award packages for each winning project.

The project award package will document the winning project's eligibility, status as auction winner, relevance to the stated purposes of the account, applicable milestones prior to payment, and expected payment amounts and schedule. The project award packages will serve as the basis for adoption of the awards to each project at a publicly-noticed Energy Commission hearing.

Winning projects will be required to meet development and construction milestones between the auction and the expected on-line date, in order to elicit proposed projects that have a serious intent and opportunity of becoming operational. Milestones are intended to help track the progress of a project toward operational status, when incentive payments begin. The first milestone for all projects will be the preparation and adoption of a project award package. The project award package will lay out the remaining milestones for each project, following the list of milestones provided below. Individual projects may have a slightly different schedule of milestones, or be subject to additional milestones, depending upon the project.

A missed milestone may result in additional performance bonds, penalties, incentive payment forfeiture, or secondary milestones imposed on the project. The Energy Commission reserves the right to terminate an award if a milestone is missed. Such termination shall be done only through an award termination order adopted at a Commission hearing.

Milestone #1: Project Award Package Adoption

Timing: Approximately three months after auction (but may vary significantly for specific projects).

The project award package will include, but not be limited to: documentation of the project's status as an auction winner, documentation of a project's eligibility to receive payments from the New account, description of the project's relevance to the stated purposes of the New account, a listing and schedule of applicable milestones for the project prior to payment, and a tabulation of the expected schedule and amounts of

payment from the New account. Adoption of a project award package will effectively encumber the expected total payments to a project, subject to completion of milestones, generation of eligible kilowatt-hours, and any applicable penalties..

The Energy Commission believes that a typical project award package can be adopted within three months of the announcement of results from the auction. However, this time can vary significantly: those whose eligibility to receive payments from the New account was clear prior to the auction will be able to prepare award packages sooner than those who must take actions to ensure payment eligibility after the auction. For example, winning bidders with existing standard offer utility contracts must terminate those contracts to be eligible to receive payments. The Energy Commission will not adopt a project award package for a project unless payment eligibility is assured.

Assurance of Payment Eligibility

The Energy Commission will not pay production incentives for generation that is ineligible for payment from the New account. While each payment will depend upon proof of eligible generation sold, the Energy Commission will not adopt awards for winning projects without an assurance that prospective generation from the project will meet eligibility requirements as follows:

1. Projects that are refurbishments (repowers) of facilities with existing standard offer contracts with utilities must terminate their contracts to assure payment eligibility.
2. Projects must be intended to produce electricity that is sold to end-use customers in California that pay or paid the public benefits charges from which the fund derives and any applicable competitive transition charge (CTC).⁸ Projects must provide statement of intent to sell to applicable customers or to the PX, or, if available, provide contracts or agreements with potential customers to assure payment eligibility.
3. Projects that are owned by customer-owned distribution utilities must be sold or transferred to separate affiliates in order to assure payment eligibility.
4. Projects that have affiliated components participating in the existing account or emerging account must have their New account components separately metered, or equally distinguishable, to assure payment eligibility. Projects are responsible for provision of and the cost of such guaranteed method of distinguishing between generation that is eligible and generation that is ineligible.
5. Projects that have a fossil component must document in the project award package that the fossil component will comprise no more than 25% of the total annual generation from the project.

⁸ That is, electricity that is used on-site, or is otherwise excluded from applicable CTC payments or public benefits charge payments, is not eligible to receive incentive payments from the New account

Post-Award Changes in Proposed Project

Projects are expected to go from award to completion unaltered in any way from how they are originally proposed; that is, projects are expected to be designed and proposed as feasible, permissible, serious projects. Changes may be required however, by permitting requirements or economic events that are unforeseen by the bidder. The Energy Commission must be notified in advance of any proposed change in a winning project while the incentive program is pending or operational for that project. Changes that have no material bearing upon the purposes or process of the incentive program, or on the amounts of incentives received by the project, will receive a letter of notification that the proposed change will not affect the project's award. For example, a project's name or owner may change (the second owner must meet eligibility criteria), without materially affecting the program.

Changes that do have a material bearing upon the purposes or process of the incentive program may, upon determination by the Energy Commission, result in penalties, forfeiture of incentive payments, or termination of grant awards to the project. For example, a project that is sold to a non-eligible owner or becomes non-renewable will materially affect the program. The Energy Commission will determine an appropriate response, ranging from notification that the proposed change will not affect the project's award to adoption of penalties and an order terminating the grant award of the project.

Milestone #2: Project Applications Filed

Timing: Approximately Nine Months After Project Award Package Adopted

The second milestone is the filing of all relevant project construction applications, including filing for any environmental and land-use permits.

If a project meets this milestone as detailed in the project award package, with no changes in the project, the project should notify the Energy Commission that the milestone has been reached. The Energy Commission may verify completion and then enter the record of completion in the project files.

If a project expects to meet this milestone, but the schedule is changed from that given in the project award package, the project should notify the Energy Commission and provide a new expected date for achieving the milestone and any other revisions to subsequent milestone dates that may be needed. The Energy Commission will determine whether any additional milestones or any penalties should be imposed on the project as a result of the delayed milestone.

If a project does not expect to achieve this milestone, even with delays, the project should notify the Energy Commission as soon as possible. If the project does not show changes that result in progress towards this or subsequent milestones, the Energy Commission will, within six months from the milestone date, determine whether the project award

should be terminated through an award termination notice. An award termination notice will result in the funds associated with the project being reallocated to subsequent auctions or other uses within the Renewables Fund.

If changes are required in a project as a result of the application process, the project should notify the Energy Commission of the change required. The Energy Commission will make a determination about the significance of the change and notify the project whether the change is acceptable or may result in penalties or termination of the project award.

If the milestone date passes without any notification by the project, the Energy Commission will contact the project and attempt to determine the status of the milestone. If no contact with the project can be established, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination notice.

Milestone #3: Project Approvals Obtained

Timing: Approximately Twelve Months After Project Award Package Adopted

The third milestone is the approval of all relevant project construction applications, including any environmental and land-use permits.

If a project meets this milestone as detailed in the project award package, with no changes in the project, the project should notify the Energy Commission that the milestone has been reached. The Energy Commission may verify completion and then enter the record of completion in the project files.

If a project expects to meet this milestone, but the schedule is changed from that given in the project award package, the project should notify the Energy Commission and provide a new expected date for achieving the milestone and any other revisions to subsequent milestone dates that may be needed. The Energy Commission will determine whether any additional milestones or any penalties should be imposed on the project as a result of the delayed milestone.

If a project does not expect to achieve this milestone, even with delays, the project should notify the Energy Commission as soon as possible. If the project does not show changes that result in progress towards this or subsequent milestones, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination notice. An award termination notice will result in the funds associated with the project being reallocated to subsequent auctions or other uses within the Renewables Fund.

If changes are required in a project as a result of the application approval process, the project should notify the Energy Commission of the change required. The Energy Commission will make a determination about the significance of the change and notify

the project whether the change is acceptable or may result in penalties or termination of the project award.

If the milestone date passes without any notification by the project, the Energy Commission will contact the project and attempt to determine the status of the milestone. If not contact with the project can be established, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination notice.

Milestone #4: Project Construction Started

Timing: Approximately Fifteen Months After Project Award Package Adopted

The fourth milestone is the beginning of construction of the project. The beginning of construction is intended to be the start of an ongoing construction effort to build the project.

If a project meets this milestone as detailed in the project award package, with no changes in the project, the project should notify the Energy Commission that the milestone has been reached. The Energy Commission may verify completion and then enter the record of completion in the project files.

If a project expects to meet this milestone, but the schedule is changed from that given in the project award package, the project should notify the Energy Commission and provide a new expected date for achieving the milestone and any other revisions to subsequent milestone dates that may be needed. The Energy Commission will determine whether any additional milestones or any penalties should be imposed on the project as a result of the delayed milestone.

If a project does not expect to achieve this milestone, even with delays, the project should notify the Energy Commission as soon as possible. If the project does not show changes that result in progress towards this or subsequent milestones, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination notice. An award termination notice will result in the funds associated with the project being reallocated to subsequent auctions or other uses within the Renewables Fund.

If changes are required in a project as construction begins, the project should notify the Energy Commission of the change required. The Energy Commission will make a determination about the significance of the change and notify the project whether the change is acceptable or may result in penalties or termination of the project award.

If the milestone date passes without any notification by the project, the Energy Commission will contact the project and attempt to determine the status of the milestone. If not contact with the project can be established, the Energy Commission will, within six

months from the milestone date, determine whether the project award should be terminated through an award termination notice.

Milestone #5: Project Construction Progress Check

Timing: Approximately Twenty-Four Months After Project Award Package Adopted

The fifth milestone is a checkpoint in the ongoing construction of a project, as defined in the project award package.

If a project meets this milestone as detailed in the project award package, with no changes in the project, the project should notify the Energy Commission that the milestone has been reached. The Energy Commission may verify completion and then enter the record of completion in the project files.

If a project expects to meet this milestone, but the schedule is changed from that given in the project award package, the project should notify the Energy Commission and provide a new expected date for achieving the milestone and any other revisions to subsequent milestone dates that may be needed. The Energy Commission will determine whether any additional milestones or any penalties should be imposed on the project as a result of the delayed milestone.

If a project does not expect to achieve this milestone, even with delays, the project should notify the Energy Commission as soon as possible. If the project does not show changes that result in progress towards this or subsequent milestones, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination notice. An award termination notice will result in the funds associated with the project being reallocated to subsequent auctions or other uses within the Renewables Fund.

If changes are required in a project since the start of construction, the project should notify the Energy Commission of the change required. The Energy Commission will make a determination about the significance of the change and notify the project whether the change is acceptable or may result in penalties or termination of the project award.

If the milestone date passes without any notification by the project, the Energy Commission will contact the project and attempt to determine the status of the milestone. If not contact with the project can be established, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination notice.

Milestone #6: Project Completed & On-line

Timing: Approximately Thirty-Six Months After Project Award Package Adopted

The sixth milestone is the on-line date of the project. The on-line date is intended to be the start of normal operation of the project, after any shakedown period, if necessary.

If a project meets this milestone as detailed in the project award package, with no changes in the project, the project should notify the Energy Commission that the milestone has been reached, and begin submitting monthly eligible generation data to the Energy Commission. The Energy Commission will verify completion and begin paying production incentives for monthly generation as submitted by the project.

If a project expects to meet this milestone, but the schedule is changed from that given in the project award package, the project should notify the Energy Commission and provide a new expected date for achieving the milestone and any other revisions to subsequent milestone dates that may be needed. The Energy Commission will determine whether any additional milestones or any penalties should be imposed on the project as a result of the delayed milestone.

All projects are expected to come on-line prior to December 31, 2001. Any project that fails to come on-line before this date can still receive monthly payments, but will receive no payments for any generation beyond December 31, 2006, five years from the expected on-line date. In addition, the Energy Commission will still determine whether any additional milestones or any penalties should be imposed on the project as a result of the delayed on-line date.

If a project does not expect to achieve this milestone, even with delays, the project should notify the Energy Commission as soon as possible. If the project does not show changes that result in progress towards this or subsequent milestones, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination notice. An award termination notice will result in the funds associated with the project being reallocated to subsequent auctions or other uses within the Renewables Fund.

If changes are required in a project since the start of construction, the project should notify the Energy Commission of the change required. The Energy Commission will make a determination about the significance of the change and notify the project whether the change is acceptable or may result in penalties or termination of the project award.

If the milestone date passes without any notification by the project, the Energy Commission will contact the project and attempt to determine the status of the milestone. If not contact with the project can be established, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination notice.

After A Project Comes On-line

An on-line project will submit monthly information about the eligible generation from the project to the Energy Commission. The Energy Commission will verify the eligibility and generation amount, if necessary, and will provide the appropriate production incentives to the project.

If a project consistently generates less than described in its bid or current project award package, the project will run the risk of a penalty for underproduction imposed by the Energy Commission. This penalty will be deducted from subsequent payments to the project, if the project averages less than 75% of its expected generation during the first three applicable years. The Energy Commission will determine, based upon the generation information submitted, whether a project may be at risk for a penalty for underproduction, and notify the project. Projects that are generating less than expected may request a change in their project award package or appeal the penalty notification. Such a request or appeal should describe the circumstances of the lower than expected generation, and explain clearly why the shortfall in generation was not accounted for in the original bid for the project and in subsequent milestones during project construction.

If a project consistently generates more than described in its bid, the project should notify the Energy Commission whether they prefer receiving production incentives for each eligible kilowatt hour generated per month or receiving incentives only for the eligible generation as expected in their project award package. In the first case, a project will receive the production incentives allocated in less than five years, and thereafter receive no further incentives. In the second case, a project will receive production incentives for a longer period, up to five years, of eligible generation.

The Energy Commission may determine that some generation from a project is ineligible, and penalize the project by reducing subsequent production incentives appropriately. The Energy Commission will notify a project that a portion of its generation is of questionable eligibility, and the project may appeal or clarify with additional information in an effort to avoid any penalty.

If You Lose

Notification Of Nonacceptance

Losers of the auction will be provided with notifications that their proposed projects were not acceptable, and the reason or reasons for nonacceptance of their bids (bids could be determined ineligible or incomplete as well as request a payment incentive that is above the auction market price determined). Losing bids will not be provided, within the current auction, with an opportunity to “improve” their bid with a lower payment request or other alterations of their bid characteristics. Losing bids have the right to appeal to the Energy Commission only upon the grounds that the guidelines established herein for the auction were not followed.

Subsequent Auctions

Losing projects from a auction may participate with the same or a similar project bid in any subsequent auctions that are held, provided that they meet the eligibility criteria established for those auctions. Any funds that are not allocated (encumbered) through the first auction described herein, or that are made available through penalty payments, terminations of grant awards, unforeseen underpayments, and rollover from other Renewable Trust Fund Accounts may be allocated through subsequent auctions, if deemed necessary with due consideration of market conditions and previous auctions. Any subsequent auctions will be separated by at least 12 months and may be related to milestones established for preceding auctions. The Commission cannot guarantee that any auction other than the first scheduled event, described herein, will be held.

Definitions

Renewable	Electricity generation facilities that use power sources other than those defined as conventional in Section 2805 of the Public Resources Code. Specifically: solar, wind, geothermal, waste-tire, biomass, MSW, digester gas, and small hydropower (30 MW or less.)
Project	A group of one or more pieces of generating equipment, and ancillary equipment necessary to attach to the transmission grid, that is unequivocally separable from any other generating equipment or components.
Facility	Same as project.
Fair Market Value	The value that a project would receive if sold. Can be determined by independent assessor in lieu of sale.
Metered	The independent measurement with a standard meter of the electricity generated by a project or facility.

Appendix: Bid Forms

[Forms to be developed]

Eligibility Statement

Bidding Statement

PreCertification

Monthly Performance Reporting Form

Payment Statement