

CALIFORNIA CODE OF REGULATIONS  
Title 4. Business Regulations  
Division 13. California Alternative Energy and Advanced Transportation Financing Authority

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED  
TRANSPORTATION FINANCING AUTHORITY  
REGULATIONS IMPLEMENTING  
THE COMMERCIAL ENERGY EFFICIENCY FINANCING PROGRAM

**EFFECTIVE AUGUST 15, 2022**

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## **Section 10092.1**     Definitions

- (a) “Ancillary Elements”: Project components that fall outside a Scope of Work. These components may include:
  - (1) Non-ESMs completed by a contractor who is not a Participating Contractor;
  - (2) Services provided by a Participating Project Developer;
  - (3) Distributed Generation; and/or
  - (4) Capitalized Interest.
- (b) “Authority”: California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code, or its agent.
- (c) “Bill Impact Estimate” (BIE): An estimate of the anticipated energy cost savings that are expected to result from the installation of Energy Saving Measures, which is provided by either the Participating Project Developer, the Participating Contractor, or the Finance Provider Entity to the Eligible Commercial Financing Customer prior to work being performed on the Eligible Property(ies).
- (d) “Capitalized Interest”: Accrued interest from a previous finance agreement for a Project (such as a construction loan or down payment loan) where the interest has been added to the Total Financed Amount of an Eligible Financing Agreement.
- (e) “CHEEF Financing Identifier” or “CHEEF Financing ID”: An identification number associated with an Enrolled Financing Agreement created by the Authority and provided to the Finance Provider Entity at the time the financing is approved for enrollment in the Program.
- (f) “Claim-Eligible Charge-Off Amount”: The Total Charge-Off Amount multiplied by the Claim-Eligible Ratio.
- (g) “Claim-Eligible Financed Amount”: The portion of the Total Financed Amount that is eligible for reimbursement in the event of a charge-off. The Claim-Eligible Financed Amount is limited to \$1 million. Non-Energy Components are limited to 30% of the dollar value of the total Claim-Eligible Financed Amount. The Claim-Eligible Financed Amount is equal to the Total Financed Amount less both of the following:
  - (1) Distributed Generation; and
  - (2) Non-Energy Components beyond the allowable 30%.
- (h) “Claim-Eligible Ratio”: The ratio of the original Claim-Eligible Financed Amount to the original Total Financed Amount.
- (i) “Commission” or “CPUC”: The Public Utilities Commission established pursuant to Article XII of the California Constitution.
- (j) “Community Choice Aggregator” (CCA): A Community Choice Aggregator as defined in Section 331.1 of the Public Utilities Code.

- (k) “CSLB”: The Contractors State License Board established pursuant to the Contractors State License Law (Chapter 9 commencing with Section 7000 of Division 3 of the Business and Professions Code).
- (l) “Delayed Bill”: A delay of the date on which an IOU is scheduled to send a monthly bill to an OBR Customer, as reported by the IOU to the Authority.
- (m) “Demand Response” (DR): Reductions, increases, or shifts in electricity consumption by customers in response to either economic or reliability signals. Economic signals come in the form of electricity prices or financial incentives, whereas reliability signals appear as alerts when the electric grid is under stress and vulnerable to high prices. Demand Response programs aim to respond to these signals and maximize ratepayer benefit.
- (n) “Distributed Generation” (DG): Technologies that generate or store energy at or near the site where it will be used. Distributed Generation may serve a single structure or it may be part of a microgrid. Technologies classified as Distributed Generation systems include, but are not limited to, solar photovoltaic, solar thermal, wind power, hydropower, biomass, fuel cells, combined heat and power, and battery storage.
- (o) “Eligible Commercial Financing Customer”: An entity or individual who enters into an Eligible Financing Agreement with a Finance Provider Entity for the purpose of completing a Project. The entity or individual is not required to own the Eligible Property.
- (p) “Eligible Contractor”: An individual or entity that meets the requirements specified in Section 10092.4(b)(1).
- (q) “Eligible Financing Agreement”: An agreement made between a Finance Provider Entity and an Eligible Commercial Financing Customer to finance a Project for which the Total Financed Amount does not exceed \$5 million. The agreement must be for improvements to an existing building and may not be for the construction or purchase of a building. The agreement must meet the definition of either an Eligible Lease or Eligible Equipment Financing Agreement, Eligible Loan, Eligible Service Agreement, or Eligible Savings-Based Payment Agreement. The Eligible Financing Agreement must meet the requirements specified in Section 10092.5(b).
- (r) “Eligible Lease” or “Eligible Equipment Financing Agreement”: An agreement that provides the Eligible Commercial Financing Customer with Energy Saving Measures in exchange for payments in amounts that are due according to a schedule established in the agreement. The payments must result in full satisfaction of the obligation. Those payments are made to the Finance Provider Entity or its assignee for a specified term. Title to the equipment may transfer at the beginning or end of the term.
- (s) “Eligible Loan”: An agreement that provides the Eligible Commercial Financing Customer with ownership of Energy Saving Measures in exchange for payments in amounts that are due according to a schedule established in the agreement. Those payments must result in full satisfaction of the obligation. Those payments are made to the Finance Provider Entity or its assignee for a specified term. Eligible Loans must be closed end loans; no revolving lines of credit will qualify.
- (t) “Eligible Project Developer”: An individual or entity that meets the requirements specified in Section 10092.4(b)(2).

- (u) “Eligible Property”: A property that is both of the following:
- (1) Supplied with gas and/or electric service by one or more IOU(s), Electric Service Provider(s) (ESPs) as defined in Section 394(a) of the Public Utilities Code Section, or Community Choice Aggregator(s); and
  - (2) Used for business activities. If the purpose of the business is residential housing, the property must meet the definition of Multifamily Property.
- (v) “Eligible Savings-Based Payment Agreement”: An agreement that provides the Eligible Commercial Financing Customer with Energy Saving Measures in exchange for regular payments to the Finance Provider Entity or the Finance Provider Entity’s assignee. The term may be specified by a number of months or may run until payments have reached a specified amount. The agreement must satisfy all of the following criteria:
- (1) Savings will be measured and verified no less than annually;
  - (2) Total monthly energy and efficiency charges for the Eligible Commercial Financing Customer must be projected to be "cash flow positive," based on industry-accepted estimates, meaning: allowing for seasonal variations, the combined monthly energy expense (gas and electric) along with all projected monthly Eligible Savings-Based Payment Agreement charges is projected to be less than the Eligible Commercial Financing Customer's pre-project monthly energy expense;
  - (3) The Eligible Commercial Financing Customer will share in benefits if actual savings exceed projected savings; and
  - (4) The Eligible Commercial Financing Customer does not bear risk in the event that savings are less than projected.
- (w) “Eligible Service Agreement”: An agreement that provides the Eligible Commercial Financing Customer with the use of Energy Saving Measures as well as ongoing service and maintenance of that equipment in exchange for regular payments to the Finance Provider Entity or the Finance Provider Entity’s assignee for a specified term. Title to the Energy Saving Measures does not transfer to the Eligible Commercial Financing Customer. The agreement must include either:
- (1) A guarantee of functionality for any Energy Saving Measures and Non-ESMs; or
  - (2) A guarantee of energy savings. Equipment functionality or energy savings must be measured no less than annually.
- (x) “Eligible Small Business Financing Customer”: An Eligible Commercial Financing Customer for which the entity benefiting from the Eligible Financing Agreement is either a business or non-profit. An Eligible Small Business Financing Customer cannot be a public entity. An Eligible Small Business Financing Customer must meet at least one of the following size requirements, on average, over the past 3 years:
- (1) 100 or fewer employees;
  - (2) Annual revenues of less than \$15 million; or
  - (3) Meets the U.S. Small Business Administration’s size standards for a Small Business matched to the North American Industry Classification System found in Part 121.201 of Title 13 of the Code of Federal Regulations.

- (y) “Energy Efficiency” (EE): An energy using appliance, equipment, control system, or practice for which the installation or implementation results in reduced grid-supplied energy use while maintaining a comparable or higher level of energy service as perceived by the customer.
- (z) “Energy Professional”: An individual who is either:
  - (1) Recognized as a Certified Energy Manager (CEM) by the Association of Energy Engineers with a certification that is current and free of disciplinary actions; or
  - (2) A Professional Engineer (PE) licensed by the State of California whose license is current and free of disciplinary actions.
- (aa) “Energy Saving Measure” (ESM): Any Energy Efficiency or Demand Response measure including alterations and improvements that are legally or practically required to complete the installation of the Energy Saving Measure. This includes energy audits that meet the Authority's requirements as specified on the Energy Saving Measure List. An ESM must utilize or conserve a fuel provided by an IOU, CCA, or ESP at the Eligible Property.
- (bb) “Energy Saving Measure Identifier” or “ESM ID”: A unique identifier assigned by the Authority to each measure contained within the ESM List.
- (cc) “Energy Saving Measure List” or “ESM List”: The list of pre-qualified Energy Saving Measures, with corresponding requirements, fuel-savings type designations, and Self-Installer eligibility, published by the Authority.
- (dd) “Energy Service Provider” (ESP): An Electric Service Provider as defined in Section 218.3 of the Public Utilities Code.
- (ee) “Enrolled Financing Agreement”: An Eligible Financing Agreement approved for enrollment in the Program pursuant to Section 10092.8(b).
- (ff) “Enrollment Date”: The date that the Trustee has funded the Finance Provider Entity's Loss Reserve Account for the Enrolled Financing Agreement.
- (gg) “Executive Director” (ED): The Executive Director of the Authority or their designee.
- (hh) “Finance Provider Applicant” (FPA): The Affiliate Finance Provider Applicant and Primary Finance Provider Applicant, collectively.
  - (1) “Affiliate Finance Provider Applicant”: As described in Section 10092.2(a).
  - (2) “Primary Finance Provider Applicant”: As described in Section 10092.2(a).
- (ii) “Finance Provider Entity” (FPE): The Primary Finance Provider Entity and the Affiliate Finance Provider Entity, collectively.
  - (1) “Affiliate Finance Provider Entity”: The Affiliate Finance Provider Applicant approved for participation in the Program along with a Primary Finance Provider Entity as specified in Section 10092.2(a).
  - (2) “Primary Finance Provider Entity”: Primary Finance Provider Applicant approved for participation in the Program. It may be approved along with an Affiliate Finance Provider Entity as specified in Section 10092.2(a).

- (jj) “Financial Institution”: Any insured depository institution, insured credit union, or Community Development Financial Institution (CDFI), as those terms are each defined in Section 4702 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702), or a Financial Development Corporation as the term "Corporation" is defined in Section 14003(f) of the Corporations Code, or any non-bank entity supervised by the Federal Reserve.
- (kk) “GoGreen Business Energy Financing”: The public-facing name to be used in informational and marketing materials about the Program.
- (ll) “Investor-Owned Utility” (IOU): Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, or Southern California Gas Company, collectively referred to as “IOUs.”
- (mm) “IOU Custom”: A program offered by the IOUs, RENs, or CCAs in which measures require pre-approval and incentives are based on unique project characteristics.
- (nn) “IOU Deemed”: A program offered by the IOUs, RENs, or CCAs in which eligible measures and rebate amounts are pre-determined. For the purpose of this definition, IOU Deemed includes the following prescriptive program types: downstream, midstream, upstream, and direct install.
- (oo) “Loss Reserve Account”: An account established and maintained by the Trustee at the Authority’s direction to hold the Loss Reserve Contribution for Enrolled Financing Agreements for the benefit of a Finance Provider Entity.
- (pp) “Loss Reserve Account Representative”: As described in Section 10092.2(b)(6).
- (qq) “Loss Reserve Contribution”: The credit enhancement contributed to the Loss Reserve Account for each Enrolled Financing Agreement in the Program pursuant to Section 10092.9(c).
- (rr) “Marketing Representative”: As described in Section 10092.2(b)(7).
- (ss) “Microloan”: An Eligible Financing Agreement with a Total Financed Amount of less than or equal to \$10,000.
- (tt) “Multifamily Property”: A residential building with five or more units.
- (uu) “Non-Energy Components”: All Non-ESMs, Capitalized Interest, as well as any fees for services from a Participating Project Developer on a single Project.
- (vv) “Non-ESMs”: Any equipment, alteration, or improvement that does not fall under the definition of an Energy Saving Measure. A measure included on the ESM List may not be considered a Non-ESM, with the exception that Non-ESMs include measures that would otherwise be considered an ESM but do not utilize or conserve fuel provided by an IOU, CCA, or ESP. Non-ESMs do not include Distributed Generation.
- (ww) “OBR Approval Date”: The date on which an IOU confirms that the OBR Total Charge will be placed on the OBR Customer's utility bill.

- (xx) “OBR Customer”: An Eligible Commercial Financing Customer that has elected to make payments on its Eligible Financing Agreement through OBR.
- (yy) “OBR Modified Charge Cutoff Date”: The recurring day of the month by which the FPE must provide the Authority with an updated OBR Total Charge amount in order for the updated OBR Total Charge to appear on the OBR Customer’s next IOU bill. The OBR Modified Charge Cutoff Date is specific to each customer’s IOU billing cycle and may differ from one billing cycle to another.
- (zz) “OBR Removal Date”: The date on which an IOU confirms that the OBR Customer will be removed from participation in OBR and that the customer’s OBR Total Charge will not appear on its next utility bill or any subsequent bills.
- (aaa) “OBR Tariff”: The gas and electric Rule No. 43 On-Bill Repayment Tariffs filed by each IOU through advice letters and approved by the Commission.
- (bbb) “OBR Total Charge”: The financing payment amount to appear on the OBR Customer's next IOU bill, including any applicable penalties, late fees, and interest, as communicated by the FPE to the Authority.
- (ccc) “On-Bill Repayment (OBR)”: The repayment of an Enrolled Financing Agreement through charges placed on the OBR Customer's monthly IOU bill, pursuant to the requirements of Section 10092.15.
- (ddd) “Operational Reserve Fund (ORF)”: An account administered by the Authority that may be drawn upon if there is a Delayed Bill or Returned Item.
- (eee) “ORF Balance”: The amount that must be reimbursed to the ORF by an FPE as the result of one or more payments made from the ORF.
- (fff) “Participating Contractor”: An Eligible Contractor who has been granted approval to participate in the Program by the Authority as described in Section 10092.4(c).
- (ggg) “Participating Project Developer”: An Eligible Project Developer who has been granted approval to participate in the Program by the Authority as described in Section 10092.4(c).
- (hhh) “Program”: The Commercial Energy Efficiency Financing Program described in the regulations within this Article.
- (iii) “Program Holding Account”: The account established and maintained by the Trustee at the Authority’s direction to hold funds allocated by the IOUs for the Program.
- (jjj) “Program Identifier” or “Program ID”: A number assigned by the Authority or its agent(s) that represents a program administered by the Authority.
- (kkk) “Project”: One or more Scopes of Work as well as any Ancillary Elements at one or more Eligible Properties financed in whole or in part under a single Eligible Financing Agreement.

- (lll) “Regional Energy Network” (REN): Regional Energy Network granted authorization by the Commission under Decision 12-05-015 and later defined in Decision 12-11-015.
- (mmm) “Returned Item”: A returned payment, closed bank account, scrivener’s error, or other payment processing issue that results in a negative payment amount to an IOU from an OBR Customer.
- (nnn) “Scope of Work”: The Energy Saving Measures and/or Non-ESMs installed and certified pursuant to the requirements of Section 10092.7(a) – (c) and Section 10092.8(b)(3) by a single Participating Contractor or Self-Installer as reported to the Authority, as part of a Project.
- (ooo) “Scope of Work Completion Date”: Date that a Participating Contractor or Self-Installer completes installation of its Scope of Work.
- (ppp) “Self-Installer”: An Eligible Commercial Financing Customer who installs any measures pursuant to the requirements in Section 10092.7(c).
- (qqq) “Total Charge-Off Amount”:
- (1) For Eligible Leases or Eligible Equipment Financing Agreements and for Eligible Loans: the Total Charge-Off Amount equals the outstanding principal balance at the time of charge-off.
  - (2) For Eligible Service Agreements and Eligible Savings-Based Payment Agreements: the Total Charge-Off Amount equals the (total initial installation amount paid to contractor(s) divided by the number of months in the term) multiplied by the number of months remaining in the term at the time of charge-off. Ongoing monthly service charges are excluded from the Total Charge-Off Amount.
- (rrr) “Total Financed Amount”: The total amount funded by the Finance Provider Entity toward the Project. The Total Financed Amount does not include charges for ongoing service and/or maintenance and does not include any interest payments or ongoing finance charges.
- (1) For Eligible Leases or Eligible Equipment Financing Agreements and Eligible Loans: The original principal amount as disclosed to the Eligible Commercial Finance Customer through loan or lease documentation or the job addendum.
  - (2) For Eligible Service Agreements and Eligible Savings-Based Payment Agreements: The total installation amount paid to the Participating Contractor and/or disclosed on the job addendum, inclusive of equipment, taxes, labor, and shipping costs and exclusive of ongoing service and oversight payments by Eligible Commercial Financing Customer.
- (sss) “Trustee”: The financial institution chosen by the Authority to hold or administer some or all of the Program Holding Accounts and Loss Reserve Accounts.

Authority: Section 26006 and 26009, Public Resources Code  
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code



## **Section 10092.2** Finance Entity Enrollment

### **(a) Descriptions of Finance Provider Applicant and Entity Program Roles**

- (1) The “Primary Finance Provider Applicant” is the financing company that is applying to the Program for enrollment as a Finance Provider Entity and includes any business organization that is managed, owned, or controlled by the applicant that will perform one or more of the Program roles. The Primary Finance Provider Applicant may fulfill all of the Program roles (described in Section 10092.2(b)(1) – (7)) themselves, or the entity may invite an Affiliate Finance Provider Applicant (as described in Section 10092.2(a)(2)) to apply to fulfill some of the roles. Additionally, the Primary Finance Provider Applicant may invite a Marketing Representative to fulfill the Marketing Representative role described in Section 10092.2(b)(7). If there are two or more entities fulfilling Program roles together, it will be the finance entity that plans to fulfill the “Financing Submittal role” that will be the Primary Finance Provider Applicant. The Primary Finance Provider Applicant must meet requirements described in Section 10092.2(c) and must be a signatory to the Program application.
- (2) The “Affiliate Finance Provider Applicant” is a potential co-applicant along with the Primary Finance Provider Applicant. It may fulfill one or more of the roles of the Program described in Section 10092.2(b)(1) – (7). The Affiliate Finance Provider Applicant must meet the requirements described in Section 10092.2(c) and must be a signatory to the Program application.
- (3) “Finance Provider Applicant” means the Primary Finance Provider Applicant and the Affiliate Finance Provider Applicant collectively.
- (4) “Primary Finance Provider Entity” means a Primary Finance Provider Applicant who has been accepted for enrollment in the Program. The Primary Finance Provider Entity must fulfill all the Program roles described in Section 10092.2(b)(1) – (7) themselves, or this entity may fulfill Program roles along with an Affiliate Finance Provider Entity and, potentially, an additional entity serving as Marketing Representative. If there are two entities fulfilling Program roles together, it will be the finance entity that fulfills the Financing Submittal role that will be determined to be the Primary Finance Provider Entity.
- (5) “Affiliate Finance Provider Entity” means an Affiliate Finance Provider Applicant that has been accepted for enrollment in the Program to fulfill Program roles along with the Primary Finance Provider Entity.
- (6) “Finance Provider Entity (FPE)” means the Primary Finance Provider Entity and the Affiliate Finance Provider Entity collectively.

### **(b) Finance Provider Entity Roles Within the Program**

- (1) “Underwriting”
  - (A) Means following Program regulations for approving projects and financing for customers pursuant to Section 10092.5(b), Section 10092.6, and Section 10092.7(a) – (c) as well as following the credit and underwriting guidelines submitted by the Finance Provider Applicant pursuant to Section 10092.2(c)(3) that were approved by the Authority as part of the application process.
  - (B) The Underwriting role must be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity.
- (2) “Origination”

- (A) Means engaging in financing origination, including executing the legal contract for repayment of the Enrolled Financing Agreement with the Eligible Commercial Financing Customer, getting Program forms signed and certified by the Eligible Commercial Financing Customer, following Program regulations related to eligible products as well as adhering to product terms approved by the Authority as part of the application process.
  - (B) The Origination role must be performed by either the Primary Finance Provider Entity or Affiliate Finance Provider Entity.
- (3) “Financing Submittal”
  - (A) Means providing data, documentation, and certifications related to the Project, the Eligible Financing Agreement and the Eligible Commercial Financing Customer and submitting these data, documentation, and certifications to the Authority for enrollment in the Program.
  - (B) The specific data points required at Financing Submittal are described in Section 10092.8(b)(2).
- (4) “Servicing”
  - (A) Means conducting a customer service operation to on-board all Eligible Financing Agreements into the servicer's servicing system, handling customer inquiries regarding Eligible Financing Agreements already under servicing, sending out regular financing billing statements, collecting and applying payments, handling requests for modifications, collections where necessary, and distributions to investors where applicable.
  - (B) The Servicing role must be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity.
- (5) “Monthly Reporting”
  - (A) Means supplying the Authority with a regular report of required data related to financing applications, performance, and sale of financings as described in Section 10092.12.
  - (B) The Monthly Reporting role must be performed by either the Primary Finance Provider Entity or Affiliate Finance Provider Entity.
- (6) “Loss Reserve Account Representative”
  - (A) Means the Finance Provider Entity for whom the Loss Reserve Account(s) will be opened, and the sole entity that can file a claim in the event of a charge-off.
  - (B) The Loss Reserve Account Representative role must be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity.
- (7) “Marketing Representative”
  - (A) Means the entity that is publicly listed on Program websites and marketing materials as a result of participation in the Program.
  - (B) The Marketing Representative role must be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity, or by an additional entity.
  - (C) The Marketing Representative must sign the acknowledgements and certifications in Section 10092.2(c)(4), (5), and (7).

- (c) Application to Participate in the Program. A Primary Finance Provider Applicant must submit a complete enrollment application to the Authority signed by an individual authorized to legally bind the Primary Finance Provider Applicant and shall include the signatory's name, title, and date. Where the Primary Finance Provider Applicant wishes to apply along with an Affiliate Finance Provider Applicant, the Affiliate Finance Provider Applicant must also submit an application signed by an individual authorized to legally bind the Affiliate Finance Provider Applicant and provide their name, title, and date. Both the Primary Finance Provider Applicant and the Affiliate Finance Provider Applicant must sign the acknowledgements, certifications, and representations of the Finance Provider Applicant, below. A complete enrollment application includes the following information, disclosures, acknowledgements, certifications, and representations in a format to be specified by the Authority:

(1) Information

(A) For the Primary Finance Provider Applicant:

- (i) Name, address, and website URL of the Primary Finance Provider Applicant.
- (ii) Name, title, phone number, and e-mail address of the Program contact person for the Primary Finance Provider Applicant.
- (iii) The name(s) and e-mail address(es) of individual(s) who are authorized to provide and certify data and submit Eligible Financing Agreements for enrollment in the Program on behalf of the Primary Finance Provider Entity.
- (iv) Type of finance entity, e.g., insured depository institution, insured credit union, Community Development Financial Institution, or California Finance Lender, or other type.
- (v) Name(s) of any regulatory agency(ies) and any insuring agency(ies) to which the Finance Provider Applicant is accountable and license number(s), if applicable.

(B) For the Affiliate Finance Provider Applicant, if applicable:

- (i) Name, address, and website URL of the Affiliate Finance Provider Applicant.
- (ii) Name, title, phone number, and e-mail address of the Program contact person for the Affiliate Finance Provider Applicant.
- (iii) Type of finance entity, e.g., insured depository institution, insured credit union, Community Development Financial Institution, or California Finance Lender, or other type.
- (iv) Name(s) of any regulatory agency(ies) and any insuring agency(ies) to which the Finance Provider Applicant is accountable and license number(s), if applicable.

(C) For the Marketing Representative, if different than the Finance Provider Applicant:

- (i) Name, address, and website URL of the Marketing Representative.
- (ii) Name, title, phone number, and e-mail address of the Program contact person.

(2) Disclosures. The FPA must disclose the following:

- (A) If there are to be separate entities applying to be the Primary Finance Provider Entity and Affiliate Finance Provider Entity, which of the two entities will perform the Underwriting,

- Origination, Servicing, Monthly Reporting, and Loss Reserve Account Representative roles;
- (B) The name of the entity that will be the Marketing Representative;
  - (C) The name of the entity funding the Projects that are to be enrolled in the Program;
  - (D) The name of the finance agreement counterparty(ies) or the service agreement counterparty(ies) who will be named on the closing documentation provided to the Eligible Commercial Financing Customer;
  - (E) The assignee(s) of repayment streams, if any; and
  - (F) The FPA's intent as to what it will do with the Enrolled Financing Agreements, if known, (e.g. hold, sell, transfer, participate, etc.) and the identity of a purchaser, if applicable.
- (3) Proposed Products. To participate in the Program, the FPA must provide a description of proposed financial product(s), including:
- (A) A detailed description of the products the FPA is proposing to offer, including, but not limited to, the type of financing product and its relationship to the categories of Eligible Financing Agreements, collateral requirements (if any), minimum and maximum financed amounts, interest rates (including whether they are fixed or variable), terms, service or maintenance charges, fees, prepayment penalties, and a description of customer eligibility and underwriting criteria. These product offerings must be certified by at least one of the Finance Provider Applicants.
  - (B) A description of the geographic area(s) in California where the financing product(s) will be available.
  - (C) An explanation of how the Loss Reserve Contribution will be utilized to provide benefits to Eligible Small Business Financing Customers compared to the FPA's typical product offerings in one or more of the following ways:
    - (i) Broadened approval criteria;
    - (ii) Longer repayment terms;
    - (iii) Larger amounts available to finance;
    - (iv) Better rates; and/or
    - (v) Other advantageous terms.
- (4) Acknowledgements of the Finance Provider Applicant and the Marketing Representative. The application must include the FPA's acknowledgements contained within this Section, signed by an individual authorized to legally bind the FPA. If the FPA will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's acknowledgements below, signed by an individual authorized to legally bind the Marketing Representative.
- (A) The Authority has made no representations, promises, or guarantees pertaining to the volume, quantity, or quality of financing agreements issued pursuant to the Program.
  - (B) It, its representatives, and agents are not hired by the Authority or any of the participating IOUs, and must not represent themselves as such, or claim association or affiliation with the Authority or any of the participating IOUs in any capacity.
- (5) Certifications of the Finance Provider Applicant and Marketing Representative. The application must include the FPA's certifications of this Section, signed by an individual authorized to

legally bind the FPA. The FPA certifies that once it is enrolled in the Program as a Finance Provider Entity it will follow Section 10092.2(c)(5)(D)-(G) below. If the FPA will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's certifications of this Section, except for Section 10092.2(c)(5)(D), signed by an individual authorized to legally bind the Marketing Representative.

- (A) It is not subject to a cease and desist order or other regulatory sanction from the appropriate federal or state regulatory body that would impair its ability to participate in the Program.
  - (B) The individual signing the application is authorized to legally bind the Finance Provider Applicant, and must include the signatory's printed name, title, and date.
  - (C) All Finance Provider Applicants that are not Financial Institutions must comply with the additional requirements specified in Section 10092.3.
  - (D) The regulations within this Article constitute a lender services agreement between the FPE and the Authority.
  - (E) It must follow the Program regulations as set forth in this Article.
  - (F) It must permit an audit by the Authority of any of its records relating to Enrolled Financing Agreements during normal business hours on its premises, and must supply any other information concerning Enrolled Financing Agreements as may be requested by the Authority. Additionally, the Finance Provider Entity must permit an audit of its records relating to how it is representing the Program to the public, including, but not limited to, web and print collateral, marketing scripts, and marketing materials.
  - (G) The Authority and the State of California have no liability to the Finance Provider Entity under the Program except from funds deposited in the Loss Reserve Account(s) for the Finance Provider Entity.
- (6) In addition to the certifications listed in Section 10092.2(c)(5), the application must include the following certifications of the Primary Finance Provider Applicant. These certifications must be signed by an individual authorized to legally bind the FPA, that upon enrollment in the Program as Finance Provider Entity and for all forthcoming Eligible Finance Agreements submitted for enrollment in the Program, the FPA agrees that:
- (A) It will provide the documentation required in Section 10092.8(b)(1), the data required in Section 10092.8(b)(2), and will secure the certifications described in Section 10092.8(b)(3);
  - (B) The Eligible Commercial Financing Customer will be provided with a Bill Impact Estimate;
  - (C) The Eligible Financing Agreement will comply with all Program regulations;
  - (D) The Claim-Eligible Financed Amount will not include any costs for Distributed Generation;
  - (E) If the entirety of the Claim-Eligible Financed Amount has not yet been funded at the time of submittal, that it will be funded within 30 calendar days of submittal; and
  - (F) If after submittal, the Primary Finance Provider Entity determines it will not fund the entirety of the Claim-Eligible Financed Amount, that it will notify the Authority within 10 business days of this determination.
- (7) Representations of the Finance Provider Applicant and Marketing Representative. The application must include the FPA's representation, warranty, and covenant contained in this Section, signed by an individual authorized to legally bind the FPA. If the FPA will not be

filling the Marketing Representative role, the application must additionally include the Marketing Representative's representation, warranty, and covenant below, signed by an individual authorized to legally bind the Marketing Representative. Upon enrollment in the Program as an FPE:

- (A) It must retain all records relating to each Enrolled Financing Agreement for the term of financing.
- (B) It is solely responsible for identifying and making all disclosures and providing periodic reports to its Eligible Commercial Financing Customer(s) as required under applicable finance laws.
- (C) It must comply with all applicable finance laws, possess and maintain all required state and federal licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
- (D) It indemnifies, defends, and holds harmless the Authority, each of the IOUs, their affiliates, and each of its respective officers, directors, employees, agents, and representatives (each of which is an express beneficiary of this indemnity) from and against any and all losses arising in connection with any claim:
  - (i) Resulting from the negligent or unlawful acts or omissions, or willful or tortious conduct including, but not limited to, any failure of the Finance Provider Entity, or its agents, to comply with applicable finance laws in connection with Enrolled Financing Agreements;
  - (ii) Resulting from any error or omission by the Finance Provider Entity or any of its agents in the calculation or presentation of principal repayments or interest with respect to an Enrolled Financing Agreement, fees and charges, the receipt and processing of payments received from Eligible Commercial Financing Customers or any collection or enforcement action;
  - (iii) Alleging any breach of a representation, warranty, or covenant by that Finance Provider Entity;
  - (iv) Alleging any misrepresentation by the Finance Provider Entity or its agents with respect to the energy savings to be achieved in connection with an Enrolled Financing Agreement, or any failure or deficiency in the products, materials, or work supplied to a Eligible Commercial Financing Customer in connection with an Enrolled Financing Agreement; and/or
  - (v) Arising from the Finance Provider Entity's breach or alleged breach of the regulations within this Article and/or its confidentiality or privacy obligations under the regulations within this Article or with respect to the Program.
- (E) It agrees that the IOUs are not responsible for, and will have no liability for:
  - (i) The energy efficiency improvements funded through the Enrolled Financing Agreement(s) supported through the Loss Reserve Account(s);
  - (ii) The assessment of potential benefits and costs associated with those improvements;
  - (iii) The qualification of the Finance Provider Entity;
  - (iv) The Finance Provider Entity's marketing and/or lending policies and practices; or
  - (v) The Authority's educational and outreach activities.

(d) Application Process

- (1) Upon receipt of a completed application, the Authority will, within 15 business days, review and determine whether additional information is required, or whether the application is sufficient to permit the Finance Provider Applicant to be a Finance Provider Entity.
- (2) The Authority's decision regarding enrollment will be final.
- (3) The Authority will notify the Finance Provider Applicant of its decision and provide a Program-assigned identifier if enrolled as a Finance Provider Entity.

(e) Changes to Product Terms

- (1) If, after being approved to participate in the Program, an FPE wishes to make changes to products offered that will affect the benefits to Eligible Small Business Financing Customers (as described in Section 10092.2(c)(3) and Section 10092.5), the changes must be approved by the Authority.

(f) Finance Provider Entity Withdrawal and Termination

- (1) A Finance Provider Entity may withdraw from the Program after giving written notice, signed by an individual authorized to legally bind the FPE to the Authority. That notice must specify either:
  - (A) That the Finance Provider Entity waives any further interest in the Loss Reserve Account(s) and the reason for the Finance Provider Entity's withdrawal from the Program (including that all Enrolled Financing Agreements covered by the Loss Reserve Account(s) have been repaid or sold to a different Finance Provider Entity's portfolio); or,
  - (B) That the Finance Provider Entity will not enroll any further Eligible Financing Agreements under the Program but that the Loss Reserve Account(s) will continue in existence to secure all Enrolled Financing Agreements that were enrolled prior to that notice, and the reason for the Finance Provider Entity's withdrawal from the Program.
- (2) For any notice received pursuant to Section 10092.2(f)(1)(A), the remaining balance in the Finance Provider Entity's Loss Reserve Account(s) will be distributed to the appropriate Program Holding Account(s).
- (3) The Executive Director may terminate participation of a Finance Provider Entity in the Program, by notice in writing, upon the occurrence of any of the following:
  - (A) Entry of a cease and desist order, regulatory sanction, or any other action against the Finance Provider Entity by a regulatory agency or court with jurisdiction over the Finance Provider Entity;
  - (B) Failure of the Finance Provider Entity to abide by applicable finance law or the regulations within this Article;
  - (C) Failure of the Finance Provider Entity to service or enroll any Eligible Financing Agreements under the Program, as applicable, for a period of one year;
  - (D) Failure of the Finance Provider Entity to report to the Authority pursuant to Section 10092.12 for 60 calendar days; or
  - (E) Providing false or misleading information regarding the Finance Provider Entity, or an Enrolled Financing Agreement, to the Authority, or failure to provide the Authority with notice of material changes in submitted information regarding the Finance Provider Entity.

- (4) In the event of a termination, the Finance Provider Entity must not enroll any further Eligible Financing Agreements, but all previously Enrolled Financing Agreements will continue to be covered by the Loss Reserve Account(s) until the entity is paid, claims are filed, or the Finance Provider Entity withdraws from the Program pursuant to Section 10092.2(f)(1)(A).
- (5) A terminated Finance Provider Entity must continue to report on Enrolled Financing Agreements pursuant to Section 10092.12.
- (6) If a terminated Finance Provider Entity fails to report to the Authority pursuant to Section 10092.12 for 60 calendar days, the remaining balance in the Finance Provider Entity's Loss Reserve Account(s) may be distributed to the appropriate Program Holding Account(s).

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code



### **Section 10092.3** Additional Requirements for Entities that are not Financial Institutions

In addition to the requirements set forth in Section 10092.2(c), to be approved as a Finance Provider Entity, Finance Provider Applicants who are not Financial Institutions as defined in the regulations in this Article must meet the requirements described in this Section in a format to be specified by the Authority. All representations, warranties, and covenants in this Section must be signed by an individual authorized to legally bind the Finance Provider Applicant.

- (a) **Net Worth:** The Finance Provider Applicant must demonstrate to the Authority that it has a net worth of no less than \$1 million.
- (b) **Quality Control:** The Finance Provider Applicant must demonstrate to the Authority that it maintains quality control and management systems to evaluate and monitor the overall quality of its financing-related activities, including, where applicable, underwriting reviews and consumer complaint resolution processes.
- (c) **Underwriting Qualifications:** If the Finance Provider Applicant will perform the Underwriting role for the Program, it must provide in writing the following to the Authority:
  - (1) Demonstrated experience with underwriting commercial financing;
  - (2) Demonstrated experience with equipment financing and the coordination of that financing with contractors and businesses;
  - (3) Description of its underwriting process; and
  - (4) Demonstrated qualifications of the Finance Provider Applicant and key positions and associated job duties with regard to underwriting.
- (d) **Origination Qualifications:** If the Finance Provider Applicant will perform the Origination role for the Program, it must provide the following to the Authority:
  - (1) Proof of at least \$20 million in committed capital for general financing activities;
  - (2) Demonstrated ability, in writing, to originate commercial financing in accordance with all applicable finance laws, including related expertise and experience, trained and qualified personnel, and suitable systems, processes, and facilities to support the business;
  - (3) Demonstrated experience, in writing, with equipment financing and the coordination of that financing with contractors and businesses;
  - (4) Proof of at least 20 transactions originated or at least \$20 million in originated transactions; and
  - (5) Sample transaction documentation.
- (e) **Servicing Qualifications:** If the Finance Provider Applicant will perform the Servicer role under the Program, it must provide the following to the Authority:
  - (1) Demonstrated capacity, in writing, for, and experience with, servicing the type of product(s) the Finance Provider Applicant will be providing and general customer service; and
  - (2) A description of key positions and associated job duties, software, and systems used by the Finance Provider Applicant in performing the servicing of Enrolled Financing Agreements.
- (f) **Insurance:** The Finance Provider Applicant must maintain and provide evidence of the following insurance coverage:

- (1) General liability with limits of not less than \$1 million per occurrence for bodily injury and property damage liability combined. The policy must include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance must apply separately to each insured against whom a claim is made or suit is brought subject to the Finance Provider Applicant's limit of liability. The policy must include the State of California, its officers, agents, employees, and servants as additional insureds, but only insofar as the operations under the regulations within this Article are concerned.
  - (2) Statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the Program, including special coverage extensions where applicable. Employer's liability limits of \$1 million are required.
  - (3) All insurance coverage must be in effect for the complete term during which the Finance Provider Applicant is enrolled as a Finance Provider Entity. If the insurance coverage expires during this term, a new certificate must be received by the Authority at least 10 business days prior to the expiration of the insurance. The new insurance coverage must meet the terms required in this Section.
  - (4) The Finance Provider Entity is responsible for ensuring that insurance coverage will not be cancelled without 30 days' prior written notice to the Authority.
  - (5) The Finance Provider Entity is responsible for any deductible or self-insured retention contained within the insurance policy.
  - (6) Once enrolled, the Finance Provider Entity has the obligation to keep in effect at all times the insurance coverage specified in the regulations within this Article. If this obligation is not met, the Authority may, in addition to any other remedies it may have, terminate the Finance Provider Entity's participation in the Program, subject to the provisions set forth in the regulations in this Article.
  - (7) Any insurance meeting the requirements of the regulations within this Article must be primary, and not excess, to any other insurance carried by the Authority.
- (g) Representations of Finance Provider Applicants and Marketing Representatives. The application must include the FPA's representation, warranty, and covenant contained in this Section, signed by an individual authorized to legally bind the FPA. If the FPA will not be filling the Marketing Representative role, the application must additionally include the Marketing Representative's representation, warranty, and covenant below. These representations, warranties, and covenants are not limited to matters of which the Finance Provider Applicant and/or Marketing Representative had knowledge. Matters that are of public record will be deemed to be known by the Finance Provider Applicant and Marketing Representative.
- (1) The Finance Provider Applicant is duly organized and validly existing under the laws of the state of its organization and California with due power and authority to own its properties and to conduct its business as those properties are currently owned and that business is presently conducted, and has had at all relevant times and continues to have the power, authority, and legal right to participate in this Program.
  - (2) The Finance Provider Applicant is duly qualified to do business and has obtained all necessary licenses and approvals in all jurisdictions in which the ownership or lease of property or the conduct of its business will require those qualifications.
  - (3) The Finance Provider Applicant has the power and authority to execute and to carry out the terms of the Program.
  - (4) There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Finance Provider Applicant or its properties:

- (A) Asserting the invalidity of the regulations within this Article;
  - (B) Seeking to prevent the consummation of any of the transactions contemplated by the regulations within this Article; or
  - (C) Seeking any determination or ruling that might materially and/or adversely affect the performance by the Finance Provider Applicant of its obligations under the regulations within this Article.
- (h) The Finance Provider Applicant must make the following representations, warranties, and covenants to the Authority, signed by an individual authorized to legally bind the FPA. These representations, warranties, and covenants are not limited to matters of which the Finance Provider Applicant had knowledge. Matters that are of public record will be deemed to be known by the Finance Provider Applicant.
- (1) The Finance Provider Applicant has, and must maintain throughout its enrollment in the Program as an FPE, trained and qualified employees and suitable facilities and operating systems for the performance of the Underwriting, Origination, and Servicing functions, as applicable, required to administer the Program.
  - (2) For a Finance Provider Applicant planning to fill the Servicing role, the Finance Provider Applicant has established, and must maintain throughout its enrollment in the Program as an FPE, a written disaster recovery plan that covers the restoration of the facilities, backup, and recovery of information in electronic data processing systems. Alternate processing facilities and systems are required to ensure continuous operations. The Finance Provider Entity must allow the Authority, at no additional cost to the Authority, to inspect its disaster recovery plan and facilities.
  - (3) For a Finance Provider Applicant planning to fill the Origination role, the Finance Provider Applicant has established, and must maintain throughout its enrollment in the Program as an FPE, adequate internal audit and management control systems to guard against dishonest, fraudulent, or negligent acts by employees and contractors involved in the origination process.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## **Section 10092.4 Contractor and Project Developer Participation**

### **(a) Description of Contractor and Project Developer Program Roles**

- (1) “Participating Contractor” is a contractor or contractor company who installs the ESMs and/or Non-ESMs on a Project. For the purpose of the regulations within this Article, a contractor has the same definition as defined in Section 7026 of the Business and Professions Code. The Participating Contractor provides data pursuant to Section 10092.8(b)(2) and certifications for Projects pursuant to Section 10092.8(b)(3)(A).
- (2) “Participating Project Developer” is an individual or entity who develops one or more Scope(s) of Work for the Eligible Commercial Financing Customer and facilitates data exchange between the Authority, the Eligible Commercial Financing Customer, the Finance Provider Entity, and/or the Participating Contractor. The Participating Project Developer does not perform installations on a Project. The Participating Project Developer provides data pursuant to Section 10092.8(b), and certifications for Projects pursuant to Section 10092.8(b)(3)(B). A Participating Project Developer with the requisite CSLB license(s) may also apply to be a Participating Contractor in the Program.
- (3) One or more Participating Contractors are required to complete a Project, except for Projects that are completely self-installed. A Participating Project Developer is required to certify a Project if the Project includes a Self-Installer and the Project is not financed with a Microloan. Only one Participating Project Developer may be active on a Project.

### **(b) Eligibility Requirements for Program Participation**

- (1) Eligible Contractor Requirements. To participate in the Program as a Participating Contractor, an Eligible Contractor must:
  - (A) Provide installation service of at least one measure on the ESM List;
  - (B) Complete a training made available by the Authority;
  - (C) Submit an application to the Authority pursuant to Section 10092.4(c)(1);
  - (D) Not be an employee of the Eligible Commercial Financing Customer;
  - (E) Have no outstanding judgments or liens;
  - (F) Have no disciplinary action taken by the CSLB against its license within the past 24 months;
  - (G) Hold a CSLB license(s) relevant to the work performed under the Program; and
  - (H) Be covered by general liability insurance of at least \$1 million per occurrence.
- (2) Project Developer Eligibility Requirements. To be eligible to participate in the Program as a Participating Project Developer, an Eligible Project Developer must:
  - (A) Complete a training made available by the Authority;
  - (B) Submit an application to the Authority pursuant to Section 10092.4(c)(2);
  - (C) Have no outstanding judgments or liens;
  - (D) Be covered by general liability insurance of at least \$1 million per occurrence; and
  - (E) Demonstrate to the Authority that it has completed at least 10 projects in a project developer role. Any organization with a verifiable contract as an IOU, REN, or CCA Energy Efficiency or Demand Response implementer at the time of their application to the Program is exempt from this requirement.

(c) Application to Participate in the Program

- (1) To participate in the Program, the Eligible Contractor must submit an application in a format approved by the Authority that:
  - (A) Includes the data points specified in Section 10092.4(c)(3);
  - (B) Includes the acknowledgements specified in Section 10092.4(c)(5) and certifications specified in Section 10092.4(c)(7);
  - (C) Includes proof of current insurance coverage as described in Section 10092.4(b)(1)(H); and
  - (D) Is signed by an individual authorized to legally bind the Eligible Contractor.
- (2) To participate in the Program, the Eligible Project Developer must submit an application in a format approved by the Authority that:
  - (A) Includes the data points specified in Section 10092.4(c)(4);
  - (B) Includes the acknowledgements specified in Section 10092.4(c)(6) and certifications specified in Section 10092.4(c)(7) and (8);
  - (C) Includes proof of current insurance coverage as described in Section 10092.4(b)(2)(D);
  - (D) Demonstrates that it has completed at least 10 projects in a project developer role or, if the Eligible Project Developer is implementing an IOU, REN, or CCA program as described in Section 10092.4(b)(2)(E), the Eligible Project Developer must provide the name of the IOU, REN, or CCA, the name of the Energy Efficiency or Demand Response program, and the term of its implementer contract; and
  - (E) Is signed by an individual authorized to legally bind the Eligible Project Developer.
- (3) Data points supplied by the Eligible Contractor
  - (A) The Eligible Contractor's business name, address, and, if applicable, website URL;
  - (B) Name, title, business address, business phone number, and e-mail address of the Eligible Contractor's Program contact person;
  - (C) Name, phone number, and e-mail address the Eligible Contractor will make publicly available for sales and marketing purposes;
  - (D) CSLB license number(s) and type(s) held relevant to the work performed under the Program;
  - (E) The name(s) and e-mail address(es) of individual(s) who are authorized to provide data to the Authority;
  - (F) The name(s) and e-mail address(es) of individual(s) who are authorized to certify and submit data to the Authority;
  - (G) A description of the types of services offered by the Eligible Contractor as part of the Program;
  - (H) Any languages, in addition to English, in which the Eligible Contractor can communicate with customers;
  - (I) The geographic area(s) serviced by the Eligible Contractor;
  - (J) List of any IOU, REN, or CCA trade professional programs in which the Eligible Contractor is currently participating; and
  - (K) The date the Eligible Contractor completed the mandatory training.

(4) Data points supplied by the Eligible Project Developer

- (A) The project developer organization's name, address, and, if applicable, website URL;
  - (B) Name, title, business address, business phone number, and e-mail address of the project developer's Program contact person;
  - (C) Name, phone number, and e-mail address the Eligible Project Developer will make publicly available for sales and marketing purposes;
  - (D) The name(s) and e-mail address(es) of individual(s) who are authorized to provide data to the Authority;
  - (E) The name(s) and e-mail address(es) of individual(s) who are authorized to certify and submit data to the Authority;
  - (F) A description of the types of services offered by the Eligible Project Developer as part of the Program;
  - (G) Any languages, in addition to English, in which the Eligible Project Developer can communicate with customers;
  - (H) The geographic area(s) serviced by the Eligible Project Developer;
  - (I) List of any IOU, REN, or CCA energy efficiency programs in which the Eligible Project Developer is currently participating; and
  - (J) The date the Eligible Project Developer completed the mandatory training.
- (5) Acknowledgements of the Eligible Contractor. The application must include the Eligible Contractor's acknowledgement, signed by an individual authorized to legally bind the Eligible Contractor, that:
- (A) Its representatives and agents are not employees of the Authority or any of the participating IOUs, and must not represent themselves as such;
  - (B) The Authority and the State of California will have no liability to the Eligible Contractor under the Program; and
  - (C) The IOUs are not responsible for, and will have no liability for:
    - (i) The energy efficiency improvements funded through the Enrolled Financing Agreements supported through the Loss Reserve Accounts;
    - (ii) The assessment of potential benefits and costs associated with those improvements;
    - (iii) The selection of Eligible Contractors;
    - (iv) The Eligible Contractor's marketing policies and practices; and
    - (v) The Authority's educational and outreach activities.
- (6) Acknowledgements of the Eligible Project Developer. The application must include the Eligible Project Developer's acknowledgement, signed by an individual authorized to legally bind the Eligible Project Developer, that:
- (A) Its representatives and agents are not employees of the Authority or any of the participating IOUs, and must not represent themselves as such;
  - (B) The Authority and the State of California will have no liability to the Eligible Project Developer under the Program; and
  - (C) The IOUs are not responsible for, and will have no liability for:
    - (i) The energy efficiency improvements funded through the Enrolled Financing Agreements supported by the Loss Reserve Accounts;

- (ii) The assessment of potential benefits and costs associated with those improvements;
  - (iii) The selection of Eligible Project Developers;
  - (iv) The Eligible Project Developer's marketing policies and practices; and
  - (v) The Authority's educational and outreach activities.
- (7) Certifications of the Eligible Contractor and Eligible Project Developer. The application must include the Eligible Contractor or Eligible Project Developer's representation, warranty, and covenant, signed by an individual authorized to legally bind the applicant, that as a Participating Contractor or Participating Project Developer the entity:
  - (A) Is responsible for identifying and making all disclosures required under applicable finance laws;
  - (B) Must comply with all applicable laws and tariffs, possess and maintain all required state licenses, and remain in good standing with all governmental authorities having jurisdiction over its business;
  - (C) Must follow Program rules as set forth in the regulations within this Article including, but not limited to, the Project requirements set forth in Section 10092.7;
  - (D) Must hold and maintain a commercial general liability insurance policy or policies of not less than \$1 million per occurrence throughout its participation in the Program. The Eligible Contractor and Eligible Project Developer must submit proof of that insurance in its application to the Authority;
  - (E) Must permit an audit, by the Authority, of any of its records relating to the Projects financed by Enrolled Financing Agreements during normal business hours on its premises, and must supply any other information relating to those projects as requested by the Authority;
  - (F) Indemnifies and holds the Authority harmless from any and all damages resulting from its representations, savings estimates, sales, warranties, maintenance, any installed measure, product, and/or system, and service for all installed measures, products, and/or systems;
  - (G) Must not make false or misleading claims about any part of the Program or its performance, including energy performance savings, or engage in fraudulent or deceitful conduct in the sale or installation of measures;
  - (H) Has no outstanding judgments and/or liens; and
  - (I) Agrees that its employees and representatives are solely responsible for all representations made to Eligible Commercial Financing Customers regarding the Program or work performed for an Eligible Commercial Financing Customer under the Program, and are responsible for all savings estimates, sales, warranties, maintenance, and service for all products and systems installed.
- (8) Additional Certifications of the Eligible Project Developer. In addition to the certifications in Section 10092.4(c)(7), the application must include certifications of the Eligible Project Developer, signed by an individual authorized to legally bind the Eligible Project Developer, that for all forthcoming Projects that will be submitted for enrollment in the Program as a Participating Project Developer:
  - (A) Any developer services costs were for services related to the Project;
  - (B) It complied with all Program regulations, rules, and requirements;
  - (C) The Project complied with Program requirements; and

(D) Any ESMs reported as self-installed were installed and comply with Program requirements.

- (9) Upon receipt of a completed application, the Authority will, within 10 business days, review and determine whether additional information is required or whether the application meets the above requirements in a manner sufficient to permit the applicant to be a Participating Contractor or Participating Project Developer, or both. The Authority's decision regarding enrollment will be final. The Authority will notify the Eligible Contractor or Eligible Project Developer of its decision.

(d) Program Participation

- (1) The Authority will publish the names of Participating Contractors and Participating Project Developers on its website(s).
- (2) Participating Contractors must maintain a license free of active discipline and notify the Authority within 10 business days if disciplinary action has been taken against its license.
- (3) Participating Contractors and Participating Project Developers must maintain general liability insurance of at least \$1 million per occurrence throughout its enrollment with the Program.
- (4) On an annual basis, the Authority may request updated proof of insurance, pursuant to Section 10092.4(c)(7)(D).
- (5) Participating Contractors and Participating Project Developers must maintain, for a period of no less than 18 months following the Scope of Work Completion Date, all documentation they produced or relied upon in completing the Project, including, but not limited to, invoices, scope(s) of work, permitting documentation, and records conveying location of installed measures within each Eligible Property.

(A) If documents are requested by the Authority as part of a compliance verification pursuant to Section 10092.7(d), the Participating Contractor and/or Participating Project Developer must supply the documentation.

(e) Removal from the Program

- (1) If the Authority finds misrepresentation or failure to comply with the requirements set forth in the regulations within this Article on the part of a Participating Contractor or Participating Project Developer, the Executive Director may remove the Participating Contractor or Participating Project Developer from the Program. In addition, if a Participating Project Developer that qualified for the Program as an IOU, REN, or CCA Energy Efficiency or Demand Response implementer, as described in Section 10092.4(b)(2)(E), has an IOU, REN, or CCA contract terminated due to misconduct, the Executive Director may remove the Participating Project Developer from the Program. Upon the removal of a Participating Contractor or Participating Project Developer, the Executive Director will remove the contractor or project developer from the Authority's website and other promotional materials. The Authority may notify other governmental agencies and/or the IOUs.
- (2) Upon removal from the Program, the contractor or project developer must cease utilizing any Program or associated brand logos or promotional materials and must not represent themselves as affiliated with the Program.
- (3) The Executive Director will provide written notice of the removal, the basis for removal, and the right to appeal in accordance with the procedures set forth in this Section.



- (A) Any Participating Contractor or Participating Project Developer receiving a notice of removal has the right to submit information, in writing, to the Authority explaining the misrepresentation or failure to comply with Program requirements and asking that the Executive Director reconsider the removal. The Authority must receive that information within 15 business days of the date of the notice of removal.
  - (B) The Executive Director will have 10 business days to respond to any information submitted pursuant to Section 10092.4(e)(3)(A), either reversing or affirming the removal. The Executive Director must provide written notice of the decision and the right to appeal the decision to the Authority pursuant to Section 10092.4(e)(3)(C).
  - (C) Within 15 business days of the date of the notice from the Executive Director pursuant to Section 10092.4(e)(3)(B), the Participating Contractor or Participating Project Developer will have the right to seek an appeal to the Authority. The appeal must be in writing and must set forth the information the Participating Contractor or Participating Project Developer believes warrants a reversal of the Executive Director's decision. The Authority must consider the appeal at the first regularly scheduled board meeting occurring at least 20 business days after the appeal is received.
- (f) Withdrawal of Participating Project Developer and Participating Contractor
- (1) A Participating Project Developer or a Participating Contractor may withdraw from the Program after giving written notice to the Authority.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## **Section 10092.5**     Eligible Financial Products

- (a) Disclosure. For all financial products, the Finance Provider Entity must disclose to the Eligible Commercial Financing Customer either:
- (1) An annual percentage rate (APR) (inclusive of any fees) as well as any advance payments that the Eligible Commercial Financing Customer is required to pay; or
  - (2) The total cost of the Project for the Eligible Commercial Financing Customer comprised of monthly payments multiplied by the number of months in the agreement plus any fees [(monthly payments \* number of months in the agreement) + fees]. Monthly payments must be inclusive of, but not limited to, equipment and installation repayment, and any charges for financing, services, maintenance, or oversight of equipment.
  - (3) For the purposes of this Section, Savings-Based Payment Agreements will satisfy the requirements set forth in Section 10092.5(a)(2) with the FPE's provision of a good-faith estimate of the total cost of the project, based on industry-accepted methods and assumptions used to estimate energy savings, due to the fact that monthly payments will be variable under these agreements.
- (b) Other Provisions. In addition to meeting the specific definitions of either an Eligible Lease or Eligible Equipment Financing Agreement, Eligible Loan, Eligible Service Agreement, or Eligible Savings-Based Payment Agreement the following provisions apply to Eligible Financing Agreements:
- (1) Interest rates, if applicable, may be fixed or variable.
  - (2) The maximum Total Financed Amount is \$5 million.
  - (3) Refinancing agreements are acceptable only if both the original and refinancing agreements are for the same Project and the Eligible Financing Agreement is submitted for enrollment in the Program within 90 calendar days of the Scope of Work Completion Date pursuant to Section 10092.8(a)(2).
  - (4) The agreement must not be a revolving line of credit.
  - (5) Fees must be reasonable and in accordance with industry standards.
  - (6) FPEs must take a security interest in agreements with Total Financed Amounts greater than \$50,000.
  - (7) The security interest must not be real property except for a UCC-1 fixture filing.
  - (8) The Claim-Eligible Financed Amount of the Enrolled Financing Agreement must not be enrolled in a substantially similar program.
  - (9) In addition to the general requirements stated above, the terms and characteristics of the Eligible Financing Agreement must be consistent with the product(s) described by the FPE in its application to participate in the Program pursuant to Section 10092.2(c)(3) and approved by the Authority.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## **Section 10092.6**     Eligible Financing Customers

- (a) If the Eligible Commercial Financing Customer is accessing a Total Financed Amount of less than or equal to \$10,000, the Finance Provider Entity performing the Underwriting role described in Section 10092.2(b)(1) must conduct a credit check of the Eligible Commercial Financing Customer utilizing a standard industry credit scoring service. Alternatively, the FPE may use 12 months of the Eligible Commercial Financing Customer's utility bill payment history from one of the IOUs to satisfy this requirement.
- (b) If the Eligible Commercial Financing Customer is accessing a Total Financed Amount of greater than \$10,000 and less than or equal to \$350,000, the following requirements apply:
  - (1) The Finance Provider Entity performing the Underwriting role described in Section 10092.2(b)(1) must conduct a credit check of the Eligible Commercial Financing Customer utilizing a standard industry credit scoring service. Alternatively, the FPE may use 12 months of the Eligible Commercial Financing Customer's utility bill payment history from one of the IOUs to satisfy this requirement.
  - (2) The Eligible Commercial Financing Customer must not have filed for bankruptcy within the last five years or have any outstanding judgments or liens.
  - (3) Eligible Commercial Financing Customer must meet any of the following criteria:
    - (A) The Eligible Commercial Financing Customer shows a positive operating profit utilizing either EBIT or EBITDA, or positive taxable income for the last two years;
    - (B) The Eligible Commercial Financing Customer has been in business at least five years; or
    - (C) The Eligible Commercial Financing Customer provides a personal guarantee.
- (c) If the Eligible Commercial Financing Customer is accessing a Total Financed Amount of greater than \$350,000, all of the following requirements apply:
  - (1) The Finance Provider Entity performing the Underwriting role described in Section 10092.2(b)(1) must conduct a credit check of the Eligible Commercial Financing Customer utilizing a standard industry credit scoring service. Alternatively, the FPE may use 12 months of the Eligible Commercial Financing Customer's utility bill payment history from one of the IOUs to satisfy this requirement;
  - (2) The Eligible Commercial Financing Customer must not have filed for bankruptcy within the last five years or have any outstanding judgments or liens;
  - (3) The Eligible Commercial Financing Customer must show a positive operating profit utilizing either EBIT or EBITDA, or positive taxable income for at least two out of the last five years; and
  - (4) The Eligible Commercial Financing Customer's debt service coverage ratio must be greater than 1.10 for at least two out of the last five years.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## **Section 10092.7** Project Eligibility

- (a) General Eligibility. Any Project receiving financing through the terms of the Program must comply with the following eligibility requirements:
  - (1) Each Participating Contractor must be enrolled in the Program prior to that Participating Contractor's Scope of Work Completion Date;
  - (2) The Eligible Commercial Financing Customer must be provided with a Bill Impact Estimate (BIE) by the Participating Contractor, Participating Project Developer, or the Primary Finance Provider Entity;
  - (3) The Project must have at least one ESM meeting the requirements described in Section 10092.7(b);
  - (4) The cost for non-lighting measures installed utilizing the ESM List Method, described in Section 10092.7(b)(1), must not exceed \$350,000;
  - (5) Each Participating Contractor must have the proper license(s) relevant to perform its Scope of Work;
  - (6) The Project must comply with all applicable local, state, and federal laws, rules, regulations, and ordinances, including, but not limited to, Title 24 of the California Code of Regulations;
  - (7) All permits and approvals required to install each Scope of Work must have been approved or must be in the process of being approved; and
  - (8) Any Participating Contractor or Participating Project Developer must not be an employee of the Eligible Financing Customer.
- (b) Measure Eligibility. There are three methods by which a measure may qualify as an Energy Saving Measure for Program purposes. Each ESM must satisfy at least one of the following methods:
  - (1) ESM List Method - The measure meets the criteria the Authority has specified on the ESM List as described in Section 10092.14, including that the fuel saving type (gas or electric) corresponds to IOU service to the Eligible Property.
    - (A) Any measure that qualifies for an IOU, REN, or CCA rebate is eligible for qualification through the ESM List Method.
  - (2) IOU Custom Measure Method - The measure has been approved for installation as part of an IOU Custom program with an IOU Custom approval date within the last 24 months.
  - (3) Professionally Certified Measure Method - An Energy Professional certifies that installation of the measure will result in energy savings compared to existing conditions.
- (c) Self-Installers
  - (1) An Eligible Commercial Financing Customer may install or have installed without a Participating Contractor:
    - (A) Energy Saving Measures which have been identified on the ESM List as eligible for self-installation; and
    - (B) Non-ESMs.
  - (2) A Project Developer must be active on any Project with a Self-Installer unless the Eligible Financing Agreement is a Microloan. On Projects with a Self-Installer where the Total Financed Amount is greater than \$10,000, the Project Developer must provide the relevant data points listed in Section 10092.8(b)(2).

(d) Quality Assurance/Quality Control

- (1) In order to verify that Scopes of Work were installed in accordance with the regulations within this Article, within one year of the Enrollment Date of an Eligible Financing Agreement, the Authority may conduct one or more of the following quality assurance/quality control reviews, which may require the Participating Contractor or Project Developer to submit project-related documentation as described in 10092.4(d)(5):
  - (A) A review of data and documentation (desktop review);
  - (B) A field verification at the Eligible Property(ies); or
  - (C) Photo verification.
- (2) For Projects with any IOU Custom measures, the Authority will not perform a field verification.
- (3) The Authority shall notify the Eligible Commercial Financing Customer at least 10 business days prior to conducting a field verification.
- (4) If the Authority finds that a Participating Contractor's Scope of Work was not installed in accordance with the regulations within this Article or that the Participating Contractor misrepresented information related to the work, the Authority may remove the Participating Contractor from Program participation pursuant to the processes described in Section 10092.4(e) and/or may notify other governmental entities and the IOUs.
- (5) If the Authority finds that a Self-Installer's Scope of Work was not installed in accordance with these requirements or that the Participating Project Developer misrepresented information related to any Project, the Authority may remove the Participating Project Developer from Program participation pursuant to the processes described in Section 10092.4(e) and/or may notify other governmental entities and the IOUs.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## **Section 10092.8**     Financing Submittal and Enrollment

### **(a) Timing of Submittal and Enrollment**

- (1) Once all Scopes of Work are completed and certified by all Participating Contractors, and, if applicable, the Participating Project Developer, and the FPE has closed the agreement with the Eligible Commercial Financing Customer, a complete financing submittal may be submitted to the Authority for enrollment as described in Section 10092.8(b).
- (2) The Eligible Financing Agreement must be submitted within 90 calendar days of the last Scope of Work Completion Date on the Project.
- (3) Within 10 business days of receipt of a complete set of data elements, documentation, and certifications as described in Section 10092.8(b), for an Eligible Financing Agreement, the Authority will enroll or deny the Eligible Financing Agreement in the Program and communicate this decision to the Finance Provider Entity.

### **(b) Complete Financing Submittal Requirements**

- (1) Documentation. A complete financing submittal must include the following documentation provided to the Authority by the Participating Contractor, Project Developer, and/or Finance Provider Entity:
  - (A) IOU delivery confirmation: Verification of fuel delivery by each IOU providing electric or gas fuel to the Eligible Property. For a Microloan, the verification of fuel delivery to the Eligible Property must be provided for at least one IOU.
  - (B) IOU Custom incentive documentation: A copy of the IOU Custom incentive approval letter or notice to proceed must be provided to the Authority for all Projects with ESMs that include an IOU Custom rebate or incentive.
  - (C) Eligible Commercial Financing Customer data authorizations: A signed CHEEF Privacy Rights Disclosure Form, as described in Section 10092.13.
  - (D) Invoice(s): The Participating Contractor must supply the Program with a copy of the final invoice for the contractor's Scope of Work.
- (2) Data. A completed submittal includes the following data provided to the Authority in a format approved by the Authority:

	<b>Data Points</b>	<b>Data Must be Provided by One of These Parties:</b>	<b>Exceptions</b>
<b>Eligible Small Business Financing Customer Information</b>			
(A)	Customer name, e-mail address, and phone number	Contractor, Project Developer (PD), FPE	
(B)	North American Industry Classification System (NAICS) Code applicable to the type of business	FPE	
(C)	Method by which the customer qualifies as an Eligible Small Business Financing Customer pursuant to Section 10092.1(x)	FPE	Not required for Microloans
(D)	The number of years in business	FPE	
(E)	An indication of how the entity is organized, e.g., sole proprietorship, corporation, or LLC	FPE	Not required for Microloans

(F)	The customer's credit score	FPE	
(G)	Credit scoring or reporting service relied upon to calculate the customer's credit score	FPE	
(H)	The customer's annual revenue	FPE	Only for Eligible Financing Agreements greater than \$350,000
(I)	Special business characteristics if known, e.g. woman-owned, veteran-owned, or minority-owned	FPE	
(J)	Whether the customer owns the Eligible Property(ies) or is a tenant occupant	Contractor, PD, FPE	
<b>Property Information</b>			
(K)	Number of units or spaces at the Eligible Property for which ESMs were installed	Contractor, PD, FPE	Not required for Microloans
(L)	The street address, city, and ZIP code	Contractor, PD, FPE	
(M)	IOU names and account numbers for all IOU gas and electric providers at each Eligible Property	Contractor, PD, FPE	For Microloans, name and account number for at least one IOU
<b>Project Information (for each contractor or Self-Installer's scope of work)</b>			
(N)	The method by which each ESM qualifies for the Program	Contractor, PD, FPE	
(O)	The ESM category, e.g. "Lighting" or "Refrigeration"	Contractor, PD, FPE	
(P)	The ESM measure name	Contractor, PD, FPE	
(Q)	A brief description including size, efficiency performance, standard material descriptions, and/or specifications	Contractor, PD, FPE	Not required for Microloans
(R)	The quantity installed for each ESM	Contractor, PD, FPE	
(S)	An indication of whether the ESM is replacing existing equipment or is a new installation	Contractor, PD, FPE	Not required for Microloans
(T)	An indication of whether the installation resulted in a fuel substitution for that measure	Contractor, PD, FPE	Not required for Microloans
(U)	The fuel for which there is expected savings as a result of installing the ESM	Contractor, PD, FPE	Not required for Microloans unless being repaid through OBR
(V)	Total cost of all ESMs installed as part of a Scope of Work	Contractor, PD, FPE	
(W)	Total cost and brief description of improvements that were legally and practically required to complete a Scope of Work not accounted for in the total cost of ESMs, if applicable	Contractor, PD, FPE	
(X)	Description of all Non-ESMs installed as part of a Scope of Work	Contractor, PD, FPE	Not Required for Microloans
(Y)	Total cost of all Non-ESMs installed as part of a Scope of Work	Contractor, PD, FPE	

(Z)	The Scope of Work Completion Date for any work performed by a Participating Contractor	Contractor	
(AA)	Any fees charged by the Participating Project Developer and, if there are fees, a brief description of the services provided	PD	Not required for Microloans
(BB)	The amount of any Capitalized Interest included in the Total Financed Amount	FPE	Not required for Microloans
(CC)	An indication of whether the Participating Contractor or Eligible Commercial Financing Customer is seeking or has received a rebate or incentive from an IOU, REN, or CCA for a Scope of Work	Contractor, PD, FPE	
(DD)	The amount of any IOU, REN, or CCA rebate or incentive sought for a Scope of Work	Contractor, PD, FPE	Only for projects with rebates or incentives  Not required for Microloans
(EE)	The name of the IOU, REN, or CCA issuing a rebate or incentive sought for a Scope of Work, the rebate or incentive name, and, if known, the project identification code	Contractor, PD, FPE	Only for projects with rebates or incentives  Not required for Microloans
(FF)	Date that the IOU, REN, or CCA approved the Eligible Commercial Financing Customer's custom measure(s), if applicable	Contractor, PD, FPE	Only for projects with a custom IOU, REN, or CCA incentive.
(GG)	A description of any Non-ESMs installed by contractors not enrolled with the Program or by Self-Installers	PD, FPE	Only for projects with installations by non-participating contractors  Not required for Microloans
(HH)	The total cost of any Non-ESMs installed by contractors not enrolled with the Program or by Self-Installers	PD, FPE	
(II)	The name and CSLB number of the non-participating contractor company who installed Non-ESMs	PD, FPE	Only for projects with installations by non-participating contractors
(JJ)	A description for the Distributed Generation measure(s) installed	PD, FPE	Only for projects with Distributed Generation installations  Not required for Microloans
(KK)	The total cost for the Distributed Generation measure(s) installed	PD, FPE	



(LL)	The name and CSLB number of the contractor company who installed the Distributed Generation	PD, FPE	Only for projects with Distributed Generation installations
<b>Data Related to Measures Qualifying through the Professionally Certified Measure Method pursuant to Section 10092.7(b)(3). For each measure:</b>			
(MM)	Whether the reported savings result from Energy Efficiency or Demand Response measures	Energy Professional	
(NN)	Energy Professional's estimate of the electric savings of each EE or DR measure certified by the Energy Professional. Savings must be reported in annual kWh for EE and peak kW for DR	Energy Professional	
(OO)	Energy Professional's estimate of the gas savings of each EE or DR measure certified by the Energy Professional. Savings must be reported as annual therms for EE and peak therms for DR	Energy Professional	
(PP)	The Energy Professional's name, business name, city, e-mail address, and phone number	Contractor, PD, FPE	
(QQ)	An indication of whether the Energy Professional is a PE or CEM	Contractor, PD, FPE	
(RR)	The Energy Professional's certification ID or license number, as applicable	Contractor, PD, FPE	
<b>Financing Data</b>			
(SS)	The Finance Provider Entity's internal financing agreement number	FPE	
(TT)	An indication as to whether the financing agreement is an Eligible Loan, Eligible Lease or Eligible Equipment Finance Agreement, Eligible Energy Service Agreement, or an Eligible Savings-Based Payment Agreement	FPE	
(UU)	Total Financed Amount	FPE	
(VV)	Whether a security interest was taken against the financing agreement, and, if so, an indication of the type of security interest taken	FPE	Not required for Microloans
(WW)	Date the financing agreement funded or is anticipated to fund	FPE	
(XX)	Repayment term of the financing agreement and its maturity date or its contractual end date	FPE	
(YY)	Interest rate applied to the financing agreement	FPE	Only for Loans, Leases and Equipment Financing Agreements
(ZZ)	Whether the interest rate is fixed or variable	FPE	Not required for Microloans
(AAA)	Amount of the interest rate bought down by the contractor, if applicable	FPE	Only for Loans, Leases and Equipment Financing Agreements

			Not required for Microloans
(BBB)	Monthly charges for ongoing service and maintenance related to the upkeep or performance of all installed measures	FPE	Only for Eligible Service Agreements and Eligible Savings-Based Payment Agreements

(3) Certifications. A completed financing submittal includes the following certifications provided to the Authority:

(A) Participating Contractor Certifications. Certification, signed by an individual authorized to legally bind the Participating Contractor, of the following:

- (i) The Participating Contractor who completed the Scope of Work holds the relevant license(s) to perform the installation;
- (ii) All ESMs and Non-ESMs listed on the Scope of Work were installed and comply with Program requirements;
- (iii) The installation of the ESMs and Non-ESMs complies with all applicable California building standards including, but not limited to, Title 24 of the California Code of Regulations. The installation also complies with all laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred;
- (iv) All permits and approvals required to install the Scope of Work have been approved or are in the process of being approved;
- (v) It has reported to the Authority any Distributed Generation that was installed at the Eligible Property(ies); and
- (vi) It complied with all Program regulations, rules, and requirements.

(B) Project Developer Certification. Certification from an individual authorized to legally bind the Participating Project Developer of the following:

- (i) All of the information provided by the Project Developer and Participating Contractor is true and correct to the best of the Participating Project Developer's knowledge.

(C) Finance Provider Entity Certifications. Certification from the Primary Finance Provider Entity of the following:

- (i) All data provided by the Primary Finance Provider Entity is true and correct to the best of its knowledge.

(D) Eligible Commercial Financing Customer Certification. Certification, signed by an individual authorized to legally bind the Eligible Commercial Financing Customer of the following:

- (i) All Scopes of Work have been installed and completed to its satisfaction;

- (ii) It understands that the Authority and its directors, officers, and agents, and the IOUs and its directors, officers and agents, do not guarantee the performance, quality, or workmanship of any installation in the Project;
- (iii) The Eligible Financing Agreement funds were, or will be, used to pay for the eligible Project;
- (iv) All permits and approvals required to complete the Project have been approved or are in the process of being approved;
- (v) The Participating Contractor, Participating Project Developer, or the Finance Provider Entity has provided the Eligible Commercial Financing Customer with a Bill Impact Estimate; and
- (vi) Acknowledgement and agreement to be subject to post-project verifications, as described in Section 10092.7(d).

(E) Energy Professional Certification

- (i) The Energy Professional certifies that each Energy Saving Measure qualifying by the Professionally Certified Measure Method, as described in Section 10092.7(b)(3), will save energy and its estimates of savings are true and correct to the best of its knowledge.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## **Section 10092.9**      Credit Enhancement

- (a) Establishment of Accounts. Upon the Authority's acceptance of an application from a Finance Provider Applicant to be a Finance Provider Entity, the Authority shall instruct the Trustee to establish a Loss Reserve Account(s) for the Finance Provider Entity. The Loss Reserve Account(s) will be held by the Trustee and will be used to:
  - (1) Receive and hold Loss Reserve Contributions deposited by the Authority for the benefit of a Finance Provider Entity; and
  - (2) Pay claims pursuant to Section 10092.10.
- (b) At the Loss Reserve Account Representative's request, the Authority will establish up to three Loss Reserve Accounts for the Finance Provider Entity.
- (c) Contributions to Loss Reserve Accounts
  - (1) For each of the Finance Provider Entity's Enrolled Financing Agreements, the Authority shall direct the Trustee to transfer a Loss Reserve Contribution from the Program Holding Account to the Loss Reserve Account of that Finance Provider Entity.
  - (2) The Loss Reserve Contribution for each Enrolled Financing Agreement will be calculated in the following manner: 20% of the first \$50,000 of claim-eligible financing and then 5% of the next \$950,000.
  - (3) If the Primary Finance Provider Entity notifies the Authority pursuant to Section 10092.2(c)(6)(F) that it determined not to fund the Enrolled Financing Agreement, the Authority will recover the Loss Reserve Contribution for that Enrolled Financing Agreement by transferring the funds back to the Program Holding Account and the financing agreement will be removed from the Program.
  - (4) If the Primary Finance Provider Entity notifies the Authority pursuant to Section 10092.2(c)(6)(F) that it determined to fund less than the Claim-Eligible Financing Amount as reported at the time of submittal, the Authority will recover any excess contribution to the Loss Reserve Account by transferring the funds back to the Program Holding Account.
- (d) Annual Rebalance. Once per fiscal year ending June 30, the Authority will instruct the Trustee to rebalance a Finance Provider Entity's Loss Reserve Account, if necessary, and move funds from the FPE's Loss Reserve Account into the Program Holding Account.
- (e) Methodology. The initial rebalance amount will be the sum of the original Loss Reserve Contributions associated with Enrolled Financing Agreements that were paid off in full during the fiscal year.
  - (1) If the FPE did not make any claims pursuant to Section 10092.10 during the fiscal year, the initial rebalance amount will not be changed and the funds will be transferred from the FPE's Loss Reserve Account to the Program Holding Account.
  - (2) If the FPE made one or more claims pursuant to Section 10092.10 during the fiscal year, and the total claim amount is less than the initial rebalance amount, the final rebalance amount will equal the initial rebalance amount less the claim(s) amount.
  - (3) If the FPE made one or more claims pursuant to Section 10092.10 during the fiscal year, and the total claim amount is more than the initial rebalance amount, there will be no rebalance.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## **Section 10092.10**     Claims

- (a) An FPE may submit a claim for an Enrolled Financing Agreement when all of the following conditions are met:
  - (1) The claim is submitted within 10 years from the Enrollment Date;
  - (2) The Eligible Commercial Financing Customer has defaulted on the Enrolled Financing Agreement and the FPE has charged off some or all of the outstanding Claim-Eligible Financed Amount;
  - (3) The FPE has taken reasonable steps in accordance with industry standards to seek recoveries through the liquidation of collateral and any personal guarantees, if applicable; and
  - (4) The FPE is in compliance with Program regulations, including, but not limited to, the reporting requirements in Section 10092.12.
- (b) In the event of a charge-off, the FPE may submit a claim for up to 90% of the Claim-Eligible Charge-Off Amount.
- (c) Claims will be paid net of any recovery and proceeds that the Finance Provider Entity has obtained prior to the filing of the claim such that the Finance Provider Entity will recoup no more than 100% of the Claim-Eligible Charge-Off Amount. Unless as described in Section 10092.10(d), a payment for a particular claim is limited to the funds in the Finance Provider Entity's Loss Reserve Account(s) at the time that the claim is approved by the Authority.
- (d) If there are not sufficient funds in the FPE's Loss Reserve Account to cover 90% of the Claim-Eligible Charge-Off Amount at the time of a claim, the Loss Reserve Account Representative may ask that future contributions to the Loss Reserve Account (when new financings are enrolled) be paid out as part of the original claim until the end of the next annual rebalancing.
- (e) Claim Applications. Claim applications must be submitted by the Loss Reserve Account Representative to the Authority within 180 calendar days of the date of charge-off of an Enrolled Financing Agreement. To make a claim, an FPE must be in compliance with the Program regulations, including, but not limited to, the reporting requirements in Section 10092.12. The claim application must include the following information provided by the Finance Provider Entity in a format to be determined by the Authority:
  - (1) The following data:
    - (A) Total Charge-Off Amount and claim amount requested;
    - (B) If the Enrolled Financing Agreement is secured, a statement of whether or not enforcement proceedings have commenced;
    - (C) Trustee account number(s) from which the claim payment will be made;
    - (D) The loss reserve payee; and
    - (E) The date of the Charge-Off.
  - (2) Certification that the claim was submitted as required by Section 10092.10(a) and certification that the charge-off was made in a manner consistent with the FPE's usual methods for taking action on financing agreements that are not Enrolled Financing Agreements under the Program;
  - (3) Certification that the FPE will comply with reporting requirements on recoveries and proceeds, as specified in Section 10092.12(g)(2); and

- (4) The claim application must be signed by the Loss Reserve Account Representative and will include the signatory's printed name, title, and date.
- (f) The Authority will approve claims within 30 calendar days of the Authority's receipt of a completed and qualified claim request, provided, however, that the Executive Director shall be authorized to reject a claim if they determine that any of the acknowledgements, certifications, representations, and warranties provided by the FPE pursuant to Section 10092.2(c)(4) - (7) and Section 10092.3(g) and (h) at the time of application to the Program were false, or if the Eligible Financing Agreement claimed upon does not conform to financing product(s) submitted in the application to participate in the Program pursuant to Section 10092.2(c)(3) or a subsequent update pursuant to Section 10092.12(f), or if the FPE is not in compliance with its obligations, including reporting obligations, under the regulations within this Article. The Authority, upon providing written notice to the FPE, may defer approval of claims up to an additional 30 calendar days if the Authority requires more information to determine if the claim will be paid. Prior to authorizing a disbursement from a Loss Reserve Account, the Authority may request documentation relating to the original Enrolled Financing Agreement, the servicing file, and the default.
- (g) Upon the approval of a claim, the Authority will direct the Trustee to disburse the approved claim amount from the FPE's Loss Reserve Account to the Loss Reserve Account Representative within five business days.
- (h) The Loss Reserve Representative may request that the Trustee disburse funds to a third party of its choosing. That request to disburse funds to a third party must be made by the Loss Reserve Account Representative to the Authority, in writing, at the time of the submission of the claim application.
- (i) If, subsequent to the payment of a claim by the Authority the FPE recovers from the Eligible Small Business Financing Customer, the liquidation of collateral, personal guarantees, or any other source amounts for which the FPE applied to have recouped from the Authority, the FPE must promptly pay to the Authority or its agent for deposit in the Program Holding Account the amount received, net of reasonable and customary costs of collection, that in the aggregate exceeds the amount needed to fully cover the FPE's loss on the Claim-Eligible Charge-Off Amount.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

**Section 10092.11** Sale and Transfer of Enrolled Financings and Transfer of Program Roles

- (a) A Finance Provider Entity may sell, transfer, or assign an Enrolled Financing Agreement or the associated repayments of an Enrolled Financing Agreement, in whole or in part, or a portfolio of Enrolled Financing Agreements, in whole or in part. The sale must be reported to the Authority pursuant to Section 10092.12.
- (b) The Primary Finance Provider Entity and Affiliate Finance Provider Entity may transfer between themselves the roles of Monthly Reporting, Loss Reserve Account Representative, and Financing Submittal by notifying the Authority in writing. If the Financing Submittal role transfers, the entity performing the Financing Submittal role will become the new Primary Finance Provider Entity.
- (c) If the Primary Finance Provider Entity or Affiliate Finance Provider Entity wish to transfer any of the roles it has been approved to perform, and/or disclosed that it will perform, to a new entity, the new entity must apply to the Program as a Primary Finance Provider Applicant or Affiliate Finance Provider Applicant and be approved by the Authority for enrollment in the Program. At any time, no more than one entity may serve as Primary Finance Provider Entity and, at any time, no more than one entity may serve as Affiliate Finance Provider Entity for any Finance Provider Entity. Once approved, the new entity must assume all of the roles filled by the departing Finance Provider Entity.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code



## **Section 10092.12** Reporting

- (a) The Finance Provider Entity must report to the Authority, on a monthly basis, on the status of each Enrolled Financing Agreement as well as on financing applications and decisions for the Program. The report is due to the Authority on the 5th day of the month, except the report will be due on the 6th day of the month if a bank holiday falls in the first week of the month.
- (b) The report must include the following data points in a format approved by the Authority for Enrolled Financing Agreements:
  - (1) Financing ID;
  - (2) Whether the financing agreement is current, 30 days, 60 days, or 90 days past due, fully satisfied, or charged off;
  - (3) The current outstanding financed amount;
  - (4) Whether the financing agreement was sold, transferred, or assigned to a third party and the date of that sale, transfer, or assignment; and
  - (5) If the financing agreement was sold, transferred, or assigned, the name of the purchaser, transferee, or assignee and whether the transaction was in whole or in part.
- (c) Once an FPE has reported an Enrolled Financing Agreement as having a zero balance or it is charged off, the FPE does not need to continue reporting on that agreement in future reports.
- (d) For Savings-Based Payment Agreements where the payment amount fluctuates monthly, the Finance Provider Entity must report changes to the monthly payment amount annually, and no later than February 6 for the January monthly report.
- (e) Upon request from the Authority, but not more than monthly, the FPE must make a good faith effort to provide the following marketing and activity information:
  - (1) Number of financing applications received during the reporting period;
  - (2) Number of applications approved during the reporting period;
  - (3) Description of any promotions or other noteworthy patterns or activities; and
  - (4) Changes in interest rates for the appropriate comparable non-Program products of the FPE for the purpose of helping the Authority determine ongoing benefits to borrowers that result from the loss reserve.
- (f) No later than January 15th of each year:
  - (1) The FPE must provide a report to the Authority on any material changes to information or certifications provided in the initial application to participate or indicating that all statements made in the application remain materially unchanged.
  - (2) FPEs that are not Financial Institutions must also provide written evidence of current licenses and insurance.
- (g) The FPE must report to the Authority when the FPE:
  - (1) Becomes subject to a cease and desist order or other regulatory sanction from an appropriate federal or state regulatory body. The FPE must inform the Authority in writing within 10 business days of that action; or
  - (2) Recovers any proceeds of a charged-off Enrolled Financing Agreement. The report must be submitted within 180 calendar days and include gross amounts recovered through collection activities and the net amount remitted by the Loss Reserve Account.

Authority: Section 26006 and 26009, Public Resources Code  
Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

**Section 10092.13** California Hub for Energy Efficiency Financing Privacy Rights Disclosure

- (a) An authorized representative of the Eligible Commercial Financing Customer will be required to affirm that it has read and acknowledges all of the following subsections (b) – (g) in a format specified by the Authority:
- (b) As a result of your participation in an energy efficiency financing program, as approved by the California Public Utilities Commission (CPUC) and administered by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), CAEATFA may come into possession of some or all of the following information:
  - (1) Information disclosing the fact that you are a customer of the finance company.
  - (2) Your financing agreement or the account number associated with your financing agreement.
  - (3) Your name, address, social security number, and contact information.
  - (4) Your financial status and underwriting criteria, including, but not limited to, credit scores.
  - (5) The amount of and terms for repayment of your financing agreement.
  - (6) Information regarding your financing agreement payment history.
  - (7) The equipment or improvements funded with the proceeds of your financing agreement.
  - (8) Utility rebate and/or incentive data, including, but not limited to, rebate or incentive amount, program project name and identifier, and approval date.
  - (9) The account and service agreement number on your utility bill, monthly energy use, and utility account payment history.
  - (10) Energy savings data from your project.
- (c) The information may be provided to CAEATFA by the CPUC or your utility(ies) or your finance company or a contractor or project developer acting on their behalf. The information may be combined with energy usage information provided by your utility(ies) to the CPUC, who may then provide that information to CAEATFA.
- (d) The information provided to CAEATFA may be released to the Investor-Owned Utilities (IOUs), other state agencies, and the federal government pursuant to contracts, interagency agreements, or if required by law. The information provided to CAEATFA will be released in an anonymized form, aggregated with information from other financing recipients throughout the state to make both financing and energy efficiency project performance available to the public. The information released to the public will be anonymized and aggregated to reduce (but may not eliminate) the risk of anyone viewing the data making an association between specific information and the provider of that information. Information that cannot be anonymized and aggregated will not be released to the public.
- (e) In addition to the anonymized and aggregated release of information contemplated above, CAEATFA may contact financing customers or may release individual financing customer names, addresses, and phone numbers that will enable the IOUs or the CPUC or individuals acting on their behalf to contact financing customers. The purpose of the release and contact will be limited to inviting financing customers to participate in surveys or to arrange visits to financing customers' business to evaluate various aspects of the program.
- (f) The officials responsible for maintaining the information provided regarding your financing agreement are program personnel at CAEATFA or its contractors. You have the right of access to

records established from the information provided to CAEATFA as it pertains to you. This Privacy Rights Disclosure will remain effective through the end of the repayment term of your financing agreement.

- (g) By your affirmation to this Privacy Rights Disclosure, you represent and warrant that you are a duly authorized representative of the financing customer and that you have the authority to agree to the terms of this Privacy Rights Disclosure on behalf of the financing customer.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## Section 10092.14 Energy Saving Measure List

The following table designates the Energy Saving Measure (ESM) List for the Program and the corresponding requirements for each measure. In any situation in which the Title 20 of the California Code of Regulations, Title 24 of the California Code of Regulations, or any other legal requirement exceeds the requirement specified in the table, the ESM must be installed to meet the legal requirement(s). Where a measure is removed from the ESM list or its requirements are revised, that measure and requirements will continue to be eligible for inclusion in an Eligible Financing Agreement that is submitted to the Program for enrollment within 365 calendar days of the removal or revision of the ESM.

Measure Category	Measure	Requirements	IOU Fuel Source Eligibility	Eligible for Self-Install
Agriculture	Automatic Pump Shut-off Sensor		Electric	Yes
Agriculture	Dehumidification System using Solid or Liquid Desiccant		Electric	No
Agriculture	Dehumidification System with On-site Heat Recovery		Electric	No
Agriculture	Greenhouse Energy Curtain		Electric Gas	Yes
Agriculture	Heat Recovery		Electric Gas	Yes
Agriculture	High Efficiency Booster or Well Pump		Electric	Yes
Agriculture	High Efficiency Irrigation Pump		Electric	Yes
Agriculture	High Efficiency Ventilation Fan		Electric	Yes
Agriculture	Irrigation Pump Performance Testing and Optimization		Electric	No
Agriculture	Plate Cooler		Electric	Yes
Agriculture	Sprinkler-to-Drip Irrigation		Electric	Yes
Agriculture	VFD on Booster or Well Pump Motor		Electric	Yes
Agriculture	VFD on Pump or Fan Motor		Electric	Yes
Appliances	Air Cleaner/Purifier	Energy Star	Electric	Yes
Appliances	Convection Electric Oven		Electric	Yes
Appliances	Convection Gas Oven		Gas	No
Appliances	Induction Range or Cooktop		Electric	Yes
Appliances	Range Hood	Energy Star	Electric	No
Appliances	Residential In-Unit Clothes Dryer (Electric)	Energy Star	Electric	Yes
Appliances	Residential In-Unit Clothes Dryer (Gas)	Energy Star	Gas	No

Appliances	Residential In-Unit Clothes Washer	Energy Star	Electric Gas	Yes
Appliances	Residential In-Unit Dishwasher	Energy Star	Electric Gas	Yes
Appliances	Residential In-Unit Freezer	Energy Star	Electric	Yes
Appliances	Residential In-Unit Refrigerator	Energy Star	Electric	Yes
Building Envelope	Air Sealing		Electric Gas	No
Building Envelope	Attic Insulation		Electric Gas	No
Building Envelope	Cool Roof		Electric	No
Building Envelope	Floor Insulation		Electric Gas	No
Building Envelope	Heat Reflective Coating	Product must have solar reflectance $\geq 0.5$ as tested to ASTM C1549-16	Electric	No
Building Envelope	Radiant Barrier		Electric Gas	No
Building Envelope	Wall Insulation		Electric Gas	No
Building Envelope	Window Film		Electric Gas	Yes
Building Envelope	Windows/Glass Doors		Electric Gas	No
Data Centers	Airflow Management Device		Electric	No
Data Centers	Aisle Containment		Electric	Yes
Data Centers	Aisle Layout Optimization	Separate hot and cold aisles	Electric	Yes
Data Centers	Efficient Network Equipment	Energy Star	Electric	Yes
Data Centers	Efficient Server	Energy Star	Electric	Yes
Data Centers	Efficient UPS	Energy Star	Electric	Yes
Data Centers	Server Consolidation		Electric	Yes
Data Centers	Server Virtualization		Electric	Yes
Demand Response	Automated Demand Response Equipment (Electric)		Electric	No
Demand Response	Automated Demand Response Equipment (Gas)		Gas	No
Demand Response	Mechanical Energy Storage (MES) System	Must be used for the purpose of permanent load shifting (PLS)	Electric	No
Demand Response	Thermal Energy Storage (TES) System	Must be used for the purpose of permanent load shifting (PLS)	Electric	No
Food Service	Commercial Cooking Equipment (Electric)	Energy Star electric griddles, ovens, steam cookers, or fryers	Electric	Yes

Food Service	Commercial Cooking Equipment (Gas)	Energy Star gas griddles, ovens, steam cookers, or fryers	Gas	No
Food Service	Commercial Dishwashing Equipment (Electric Hot Water)	Energy Star	Electric	No
Food Service	Commercial Dishwashing Equipment (Gas Hot Water)		Gas	No
Food Service	Hot Holding Cabinet	Energy Star	Electric	Yes
Food Service	Low Flow Pre-Rinse Spray Valve (Electric Hot Water)		Electric	Yes
Food Service	Low Flow Pre-Rinse Spray Valve (Gas Hot Water)		Gas	Yes
Food Service	On-demand Hand Wrap Machine		Electric	Yes
Food Service	Ventilation Hood Control		Electric Gas	No
HVAC	Air Filter Alarm or Sensor		Electric Gas	No
HVAC	Air Filter Upgrade - HEPA	HEPA filter upgrade. Must be installed with an ECM fan motor and a filter sensor or alarm.	Electric Gas	No
HVAC	Air Filter Upgrade - MERV	MERV 13-16 air filter upgrade. Must be installed with an ECM fan motor and a filter sensor or alarm.	Electric Gas	No
HVAC	Air-Side or Water-Side Economizer		Electric	No
HVAC	Air-Source or Ground-Source Heat Pump		Electric	No
HVAC	Automatic Filter Replacement		Electric	Yes
HVAC	Automatic Temperature Setpoint Control		Electric	No
HVAC	Chilled Water Outdoor Temperature Reset		Electric	No
HVAC	Chiller Optimization Control		Electric	No
HVAC	Chiller Upgrade, Retrofit, or Replacement		Electric	No
HVAC	Cold Water Booster Pump	Variable speed pump with ECM motor	Electric	No
HVAC	Compressor or Condenser		Electric	No
HVAC	Condensate Recovery		Gas	No
HVAC	Cooling Tower Upgrade, Retrofit, or Replacement		Electric	No
HVAC	Dedicated Outside Air System (DOAS)		Electric Gas	No

HVAC	Demand Controlled Ventilation		Electric Gas	No
HVAC	Diagnostic or Fault Detection Alert Systems		Electric Gas	No
HVAC	Dual Enthalpy Control		Electric	No
HVAC	Duct Insulation		Electric Gas	Yes
HVAC	Duct Sealing		Electric Gas	No
HVAC	Duct Sizing or Optimization		Electric Gas	No
HVAC	ECM Furnace Fan Motor		Electric	No
HVAC	Evaporative Cooling		Electric	No
HVAC	Fan or Motor Control		Electric	No
HVAC	Furnace - Commercial		Gas	No
HVAC	Furnace - Residential In-Unit		Gas	No
HVAC	Gas Boiler - Residential In-Unit		Gas	No
HVAC	Gas Hydronic Boiler - Commercial		Gas	No
HVAC	Gas Steam Boiler - Commercial		Gas	No
HVAC	Heat Recovery		Electric Gas	No
HVAC	Heat/Energy Recovery Ventilator		Electric Gas	No
HVAC	High Efficiency HVAC Fan		Electric	No
HVAC	High Efficiency HVAC Pump		Electric	No
HVAC	High Performance Circulator Pump	Variable speed pump with ECM motor	Electric	No
HVAC	Hotel Guest Room Occupancy Temperature Control		Electric Gas	Yes
HVAC	HVAC Pipe Insulation		Electric Gas	Yes
HVAC	HVAC Tune-up and Optimization		Electric Gas	No
HVAC	Infrared Heater (Electric)		Electric	No
HVAC	Infrared Heater (Gas)		Gas	No
HVAC	Notched or Synchronous Drive Belt		Electric	Yes
HVAC	Outside Air Reduction		Electric Gas	No
HVAC	Packaged Terminal Air Conditioner (PTAC)		Electric	No
HVAC	Radiative Cooling		Electric	No



HVAC	Residential In-Unit Wall Furnace		Gas	No
HVAC	Rooftop Unit Control	Must include VFD control of RTU supply fan speed	Electric Gas	No
HVAC	Rooftop Units or Packaged HVAC System		Electric Gas	No
HVAC	Smart Thermostat	Programmable and communicating thermostat	Electric Gas	Yes
HVAC	Split/Mini Split Air Conditioning Unit - Commercial		Electric	No
HVAC	Split/Mini Split Air Conditioning Unit - Residential In-Unit	18 SEER or above	Electric	No
HVAC	Static Pressure Reset		Electric Gas	No
HVAC	Steam Trap Audit/Replacement		Gas	No
HVAC	Variable Air Volume (VAV)		Electric Gas	No
HVAC	Variable Refrigerant Flow (VRF)		Electric Gas	No
HVAC	Ventilation Fan	Energy Star	Electric	No
HVAC	VFD on Compressor Motor		Electric	No
HVAC	VFD on Pump or Fan Motor		Electric	No
Industrial	Air Receiver Tanks for Load/No Load Compressor		Electric	No
Industrial	All-Electric Injection Molding Machine		Electric	No
Industrial	Compressed Air Cycling, Desiccant, or Heat Pump Dryer		Electric	No
Industrial	Compressed Air Leak Audit and Repair		Electric	No
Industrial	Compressed Air No-Loss Drain		Electric	No
Industrial	Compressed Air Pressure Reduction		Electric	Yes
Industrial	Energy Recovery Pressure Reducing Valve		Electric	No
Industrial	Exhaust Hood Control		Electric Gas	No
Industrial	High Performance Circulator Pump	Variable speed pump with ECM motor	Electric	No
Industrial	Notched or Synchronous Drive Belt		Electric	Yes
Industrial	Premium Efficiency Motor	NEMA Premium® rated motor	Electric	No
Industrial	Process Heat Recovery		Electric Gas	No

Industrial	Process Pump		Electric	No
Industrial	SCADA System		Electric Gas	No
Industrial	VFD on Compressor Motor		Electric	No
Industrial	VFD on Process Pump or Fan Motor		Electric	No
Lighting	Controls: Indoor Daylight Sensor	Wall or ceiling mount	Electric	No
Lighting	Controls: Indoor Networked Lighting System	DLC qualified Networked Lighting Control	Electric	No
Lighting	Controls: Indoor Vacancy Sensor	Wall or ceiling mount	Electric	No
Lighting	Controls: Integrated Networked Lighting System	DLC qualified Networked Lighting Control with Luminaire Level Lighting Control (LLLC)	Electric	No
Lighting	Controls: Integrated Vacancy and Daylight Sensor	Sensors are integral to the light fixture	Electric	No
Lighting	Controls: Integrated Vacancy Sensor	Sensors are integral to the light fixture	Electric	No
Lighting	Controls: Outdoor Networked Lighting System	DLC qualified Networked Lighting Control	Electric	No
Lighting	Controls: Outdoor Occupancy Sensor		Electric	No
Lighting	LED Accent/Track Light Fixture	Energy Star	Electric	No
Lighting	LED Case Light Fixture	DLC qualified display case, horizontal refrigerated case, or vertical refrigerated case	Electric	No
Lighting	LED Ceiling Mount or Pendant Fixture	Energy Star	Electric	No
Lighting	LED Decorative Screw-base Lamp	Energy Star	Electric	Yes
Lighting	LED Directional Screw-base Lamp	Energy Star	Electric	Yes
Lighting	LED Downlight Fixture	Energy Star hard-wired recessed, surface, or pendant mount	Electric	No
Lighting	LED Downlight Screw-base Retrofit Kit	Energy Star recessed or surface mount; screw base retrofit	Electric	Yes
Lighting	LED Four-Pin Replacement Lamp	DLC qualified vertical or horizontal lamps; UL type A	Electric	Yes
Lighting	LED General Service Screw-base Lamp	Energy Star	Electric	Yes
Lighting	LED High/Low-Bay Fixture or Retrofit Kit	DLC qualified high-bay, low-bay, or high-bay aisle	Electric	No
Lighting	LED Horticultural Hard-wired Light Fixture	DLC qualified horticultural light fixture (hard-wired)	Electric	No

Lighting	LED Horticultural Plug-in Light Fixture or Replacement Lamp	DLC qualified horticultural light fixture (plug-in) or replacement lamp	Electric	Yes
Lighting	LED Interior Directional Fixture	DLC qualified wall wash or track	Electric	No
Lighting	LED Linear Ambient Fixture or Retrofit Kit	DLC qualified direct or indirect linear	Electric	No
Lighting	LED Linear Replacement Lamp (TLED) - Type A	DLC qualified T8 or T5 linear replacement lamps (all dimensions); UL type A	Electric	Yes
Lighting	LED Linear Replacement Lamp (TLED) - Type B and C	DLC qualified T8 or T5 linear replacement lamps (all dimensions); UL types B and C	Electric	No
Lighting	LED Mogul Screw-base Replacement Lamp - Indoor	DLC qualified high- or low-bay; UL types B or C	Electric	No
Lighting	LED Mogul Screw-base Replacement Lamp - Outdoor	DLC qualified UL types B or C	Electric	No
Lighting	LED Outdoor Area Light Fixture or Retrofit Kit	DLC qualified pole/arm-mounted area, decorative, wall-mounted, bollards, parking garage, canopy, flood, spot, stairwell	Electric	No
Lighting	LED Residential-style Outdoor Wall, Porch, Post, or Security Light Fixture	Energy Star	Electric	No
Lighting	LED Street Light Fixture or Retrofit Kit	DLC qualified pole/arm-mounted roadway	Electric	No
Lighting	LED Tape Lighting		Electric	Yes
Lighting	LED Troffer Fixture or Retrofit Kit	DLC qualified 2x2, 1x4, or 2x4	Electric	No
Lighting	LED Under-Cabinet or Cove Fixture	Energy Star	Electric	No
Other	Building Management System (BMS)		Electric Gas	No
Other	Commercial Laundry - Clothes Washer (Electric Hot Water)	Energy Star	Electric	No
Other	Commercial Laundry - Clothes Washer (Gas Hot Water)	Energy Star	Gas	No
Other	Commercial Laundry - Dryer Moisture Sensor Retrofit (Electric)		Electric	No
Other	Commercial Laundry - Dryer Moisture Sensor Retrofit (Gas)		Gas	No
Other	Commercial Laundry - Modulating Gas Valve		Gas	No

Other	Commercial Laundry - Ozone System (Electric Hot Water)		Electric	No
Other	Commercial Laundry - Ozone System (Gas Hot Water)		Gas	No
Other	Energy Audit		Electric Gas	No
Other	Energy Management System (EMS)		Electric Gas	No
Other	Energy Measurement, Metering, or Monitoring Equipment	Must be installed with at least one other non-lighting Energy Savings Measure on this list	Electric Gas	Yes
Other	Generator Circulating Block Heater		Electric	No
Other	High Efficiency Distribution Transformer		Electric	No
Other	Other Measures Qualifying Through IOU/REN/CCA Programs	Measure not elsewhere on this list that qualifies for an IOU/REN/CCA energy efficiency or demand response program.	Electric Gas	No
Other	Other Measures Qualifying Through IOU/REN/CCA Programs - Self-Install	Measure not elsewhere on this list that qualifies for an IOU/REN/CCA energy efficiency or demand response program and for which the IOU/REN/CCA program allows self-install.	Electric Gas	Yes
Other	Plug Load Control		Electric	Yes
Pool Products	Gas Pool Water Heater		Gas	No
Pool Products	Heat Pump Pool Water Heater		Electric	No
Pool Products	Pool Cover (Electric Heater)		Electric	Yes
Pool Products	Pool Cover (Gas Heater)		Gas	Yes
Pool Products	Pool Pump Motor	Energy Star	Electric	No
Pool Products	VFD on Pool Pump Motor		Electric	No
Refrigeration	Add Doors to Open Case		Electric	Yes
Refrigeration	Add Insulation to Refrigerant Lines or Storage Tanks		Electric	Yes
Refrigeration	Air Curtain		Electric	No
Refrigeration	Anti-Condensation Door/Frame Heater Control		Electric	No
Refrigeration	Auto-Close Doors for Walk-in Cooler or Freezer		Electric	No
Refrigeration	Commercial Ice Machine	Energy Star	Electric	Yes
Refrigeration	Commercial Refrigerator or Freezer	Energy Star	Electric	Yes

Refrigeration	Compressor Unit		Electric	No
Refrigeration	Condensing Unit		Electric	No
Refrigeration	Evaporator Defrost Control for Freezer		Electric	No
Refrigeration	Evaporator Fan Brushless DC Motor		Electric	No
Refrigeration	Evaporator Fan Motor Control		Electric	No
Refrigeration	Evaporator Fan Permanent Magnet Synchronous Motor (PMSM)		Electric	No
Refrigeration	Floating Head Pressure Control		Electric	No
Refrigeration	Laboratory Grade Refrigerator or Freezer	Energy Star	Electric	No
Refrigeration	Low Charge Ammonia		Electric	No
Refrigeration	Low Energy Anti-Condensation Door		Electric	No
Refrigeration	Phase Change Material for Refrigerated or Freezer Storage		Electric	Yes
Refrigeration	Rapid Close Doors for Refrigerated Warehouse		Electric	No
Refrigeration	Reach-in Refrigerator or Freezer	Energy Star	Electric	No
Refrigeration	Refrigerated Case Door Strip		Electric	Yes
Refrigeration	Refrigerated Case Night Cover		Electric	Yes
Refrigeration	Refrigeration Tune-up and Optimization		Electric	No
Refrigeration	Vending Machines	Energy Star	Electric	Yes
Refrigeration	VFD on Refrigeration Pump or Fan Motor		Electric	No
Water Heating	Central Gas Domestic Water Heater or Boiler		Gas	No
Water Heating	Faucet Aerator		Electric Gas	Yes
Water Heating	Faucet Laminar Flow Restrictor		Electric Gas	Yes
Water Heating	Heat Pump Water Heater	Energy Star	Electric	No
Water Heating	Recirculating Hot Water Pump Control	Temperature sensor or time clock control	Electric	No
Water Heating	Shower Head - Low Flow		Electric Gas	Yes
Water Heating	Shower Thermostatic Valve		Electric Gas	No
Water Heating	Tank Insulation		Electric Gas	Yes
Water Heating	Tank Water Heater (Gas)	Energy Star	Gas	No

Water Heating	Tankless Water Heater (Electric)		Electric	No
Water Heating	Tankless Water Heater (Gas)	Energy Star	Gas	No
Water Heating	Water Pipe Insulation		Electric Gas	Yes

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code

## **Section 10092.15 On-Bill Repayment**

- (a) OBR Requirements. In addition to all of the requirements in this Article, the following additional requirements apply for an Enrolled Financing Agreement to be eligible to be repaid through OBR:
  - (1) If an OBR Customer receives fuel delivery from more than one IOU, charges will be placed on the bill of the IOU whose fuel is related to the ESM(s) with the greatest installed costs.
  - (2) IOU Account and Bill Requirements. The IOU account through which an Enrolled Financing Agreement is repaid must meet all of the following requirements:
    - (A) The IOU account must not be past due;
    - (B) The IOU account must not be in a payment arrangement for past due payments;
    - (C) The IOU account must be for a non-residential IOU customer or a residential multifamily IOU customer;
    - (D) The IOU account must be billed monthly; and
    - (E) The IOU account, if the Project includes installations at more than one service address, must receive a single bill for service to all the addresses.
  - (3) Enrolled Financing Agreement Requirements. An Enrolled Financing Agreement must meet all of the following requirements:
    - (A) The individual or entity named on the IOU bill on which the OBR Total Charge will appear must also be named on the financing agreement that is to be repaid through OBR.
    - (B) The Total Financed Amount of the Enrolled Financing Agreement must only be comprised of the Claim-Eligible Financed Amount and any of the following costs, if applicable:
      - (i) The costs of any additional ESMs in excess of those included in the Claim-Eligible Financed Amount.
      - (ii) The costs of any Distributed Generation.
  - (4) Customer Authorization. The individual or entity named on the utility bill on which the OBR Total Charge will appear, or their authorized representative or agent, must complete an Authorization to Add Charges to the Utility Bill, in a form developed by the appropriate IOU.
- (b) Required Data Points. The following data points must be provided to the Authority by the FPE:
  - (1) An indication by the FPE of their intent to have the Enrolled Financing Agreement repaid through OBR;
  - (2) All service account numbers for the IOUs providing service to the Eligible Property(ies);
  - (3) The OBR Total Charge; and
  - (4) The fuel type that accrued the greatest ESM installed costs.
- (c) Obligations of the Authority.
  - (1) Within 10 business days of the Enrollment Date of an Enrolled Financing Agreement submitted for repayment through OBR, the Authority will either communicate the necessary data required to place financing charges on the IOU bill to the relevant IOU or will communicate the reason for rejection to the FPE.

- (2) Upon receipt of a written request from an FPE to remove charges for an Enrolled Financing Agreement being repaid through OBR, the Authority will communicate the request to the relevant IOU within five business days.
  - (3) The Authority will report to an FPE, in a format determined by the Authority, all OBR remittances deposited to an FPE's account within three business days from the remittance deposit.
  - (4) The Authority must communicate the OBR Modified Charge Cutoff Date to the FPE, in a format determined by the Authority, within 10 calendar days of the OBR Approval Date.
- (d) Restrictions on the FPE.
- (1) It may take multiple IOU billing cycles after the OBR Approval Date for the OBR Total Charge to first appear on the OBR Customer's IOU bill due to variations in IOU billing cycle intervals.
  - (2) An Enrolled Financing Agreement may be repaid through OBR for up to 15 years from the OBR Approval Date.
  - (3) The FPE must not accelerate repayment of an Enrolled Financing Agreement while it is being repaid through OBR, consistent with the relevant OBR Tariff.
- (e) Removal from OBR. The OBR Customer may be removed from participation in OBR for any of the following reasons:
- (1) Failure to comply with the regulations within this Article.
  - (2) At the request of the FPE whose Enrolled Financing Agreement is being repaid through OBR, communicated in a format determined by the Authority.
  - (3) At the request of the IOU on whose bill the OBR Total Charge appears. The IOUs will only remove a customer from OBR at the direction of the Authority.
- (f) Failure to Pay and Partial Payments.
- (1) Failure to pay in full all charges listed on the IOU bill, including any financing charges, may result in the disconnection of utility service.
  - (2) Any partial payment of the OBR Customer's IOU bill, including financing charges, will be processed by the IOUs, consistent with the partial payment provisions in the relevant OBR Tariff.
- (g) FPE Change Requests to OBR Total Charge. An FPE may update the OBR Total Charge monthly and must communicate any change to the Authority in a format determined by the Authority. Changes to the OBR Total Charge communicated to the Authority prior to the OBR Modified Charge Cutoff Date in a calendar month will appear on the OBR Customer's next IOU bill.
- (h) Operational Reserve Fund. The Authority must utilize the ORF to prevent a shortfall in a payment to an FPE when it is due to no fault of the FPE, unless the ORF is depleted of funds. Payments made from the ORF on behalf of an FPE must be reimbursed pursuant to Section 10092.15(h)(2).
- (1) Use of the ORF.
    - (A) If there is a Delayed Bill on an OBR Customer's account, the Authority will direct funds equal to the amount of the OBR Total Charge to be transferred from the ORF to the affected FPE. The funds transferred become an ORF Balance due from the FPE. Additional funds must not be transferred for subsequent Delayed Bills for the same OBR Customer until the funds that were transferred as a result of the previous Delayed Bill are repaid to the ORF.
    - (B) If a Returned Item by an FPE's OBR Customer reduces the funds available for the Authority to forward an outgoing remittance to a different FPE, the Authority will direct funds equal to



the amount of the shortfall to be transferred from the ORF to the affected FPE. The funds transferred become an ORF Balance due from the FPE whose OBR Customer caused the Returned Item. The Authority will not direct a transfer from the ORF to an FPE for a Returned Item caused by the FPE's own OBR Customer.

- (C) The ORF will not be utilized for an Enrolled Financing Agreement after 15 years from its Enrollment Date.

(2) Reimbursement of the ORF.

- (A) The Authority may redirect remittances received from any of an FPE's OBR Customers to reimburse the ORF for an ORF Balance due from that FPE.
- (B) If an FPE no longer has any Enrolled Financing Agreements being repaid through OBR, the FPE's outstanding ORF Balance becomes due to the Authority within 30 days.
- (C) Claims paid to an FPE will be net of any ORF Balance due from the FPE.
- (D) If an OBR Customer whose account initiated an ORF transfer based on a Delayed Bill is removed from participation in OBR prior to the ORF Balance associated with that Delayed Bill being repaid, the ORF Balance associated with that Delayed Bill becomes due within 90 days of that customer's OBR Removal Date, except as provided in Section 10092.15(h)(2)(B).

- (3) Replenishment of the ORF. If there are insufficient funds in the ORF, within five business days the Authority will communicate to the IOUs the deficiency and request additional funds.

(i) Finance Entity Enrollment as an OBR Participant.

- (1) To participate in OBR, the Finance Provider Applicant's application for enrollment in the program must contain, in addition to those described in Section 10092.2, all of the following information, disclosures, and acknowledgements:

- (A) An indication that the FPA intends to participate in OBR.
- (B) An indication of which applicant will perform the role of OBR Representative, in addition to all other Finance Provider Entity roles described in Section 10092.2(b). The OBR Representative role must do all of the following:
  - (i) Supply the Authority with the required data related to Enrolled Financing Agreements being repaid through OBR, as described in Section 10092.15(b).
  - (ii) Be the FPE point of contact for communications and reports to and from the Authority related to the status of OBR participation and data related to the FPE's financings repaid through OBR. Communications to and from the Authority must occur in a manner determined by the Authority.
  - (iii) Be performed by either the Primary Finance Provider Entity or the Affiliate Finance Provider Entity.
- (C) A similar explanation of the benefits to OBR Customers due to the FPA's participation in OBR, if any, in addition to the explanation of how the Loss Reserve Contribution will be utilized to provide benefits to Eligible Small Business Customers compared to the FPA's typical product offerings required by Section 10092.2(c)(3)(C).
- (D) The FPA's acknowledgements, in addition to the acknowledgements described in Section 10092.2(c)(4), signed by an individual authorized to legally bind the FPA, of all of the following:

- (i) The Authority has made no representations, promises, or guarantees pertaining to the functionality or reliability of IOU billing systems.
    - (ii) The ORF exists as a tool to address interruptions in OBR payment streams to the FPE, and funds from the ORF do not constitute a loan or a line of credit to the FPE.
  - (E) The FPA's certifications, in addition to the certifications described in Section 10092.2(c)(5), signed by an individual authorized to legally bind the FPA, of all of the following:
    - (i) It must comply with each IOU's OBR Tariff;
    - (ii) It agrees to repay any ORF Balance owed pursuant to Section 10092.15(h);
    - (iii) It understands that multiple IOU billing cycles may elapse after the OBR Approval date and before the Total OBR Charge appears on the OBR Customer's IOU bill; and
    - (iv) It must not accelerate the repayment of an Enrolled Financing Agreement that is being repaid through OBR until the OBR Customer's OBR Removal Date.
  - (F) The FPA's representation, warranty, and covenant, in addition to the representations described in Section 10092.2(c)(7)(E), signed by an individual authorized to legally bind the FPA, that it agrees that the IOUs are not responsible for, and must have no liability for, the payment of Program funds or OBR Customer payments to the FPE after those amounts are transmitted from the IOUs to the accounts designated by the Authority.
- (2) Claims made by FPEs Participating in OBR. In addition to the requirements for claim applications described in Section 10092.10(e), a claim application submitted by an FPE participating in OBR must include whether an outstanding ORF Balance is owed at the time of a claim submittal and the amount owed, if known.

Authority: Section 26006 and 26009, Public Resources Code

Reference: Sections 26002, 26002.5, 26003, 26006, 26011 and 26040, Public Resources Code