

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

***Request to Approve Modifications to the Small Business Energy Efficiency Financing
Program under the Emergency Regulation Process***

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REQUEST

Staff requests approval to amend the regulations (“Regulations”) for the Small Business Energy Efficiency Financing Program (Article 6 (commencing with Section 10092.1) of Title 4 of the California Code of Regulations) (“SBF”) under the emergency rulemaking process.¹ The purpose of these proposed amendments is to create a Microloan pathway to simplify eligibility checks and enrollment for small projects; expand and modify the list of pre-approved energy-saving measures, including more options for self-installation; enable SBF to provide On-Bill Repayment (“OBR”) as an optional repayment mechanism; incorporate participant and stakeholder feedback; and implement learnings since the last amendments to the Regulations in 2019.

BACKGROUND

Program Background

On behalf of the California Public Utilities Commission (“CPUC”), the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA”) is the administrator of the California Hub for Energy Efficiency Financing (“CHEEF”) and responsible for launching several energy efficiency financing pilot programs (the “Pilots”). The Pilots were authorized through CPUC Decision 13-09-044 (“D.13-09-044”) to support the state’s broader energy efficiency and environmental policy goals, including:

- Leveraging third-party, private capital for building energy-efficiency retrofits;
- Achieving energy savings;
- Reaching underserved populations, including low- to moderate-income homeowners, small businesses, and affordable multifamily properties; and
- Testing whether finance as a strategy can yield more energy savings than traditional utility rebate and incentive programs.

SBF was the second of the Pilots developed by CAEATFA Staff (“Staff”) and targets the small business sector. SBF offers finance companies a credit enhancement in the form of a loss reserve contribution for every enrolled financing agreement. Staff worked diligently to create a program that is easy to use, is designed to attract and support a variety of finance companies offering a

¹ Sec. 26009, Public Resources Code

range of financial products, and fills a gap to facilitate a large number of energy efficiency projects. SBF has succeeded in some ways but has faced significant challenges.

SBF launched in July 2019 and was just starting to gain momentum in early 2020 with contractor and project developer enrollments when, due to the pandemic, small businesses shut down and investor-owned utilities (“IOUs”) paused energy efficiency program outreach. Businesses that remained open during the pandemic have prioritized financing for basic operations rather than energy efficiency, and many business owners have been hesitant to take on new financial obligations. Additionally, delays in the IOUs’ shifting of energy efficiency program delivery to third-party-implemented programs and the resulting delays in those programs launching has led to a very slow uptake of financing through SBF.

That said, the need for financing through SBF is increasing. Since February 2021, three projects were submitted for pre-approval and one project was enrolled in early June. Renew Energy Partners, a finance company providing a unique model of energy efficiency as a service, enrolled in January 2021. Staff is working with a newly enrolled SBF microlender and an IOU third-party program implementer to integrate financing through SBF into the San Diego Gas & Electric Company’s Small Commercial Program targeting very small businesses. Several enrolled contractors and project developers are currently working with the finance companies on potential projects. Thus far, SBF has been able to leverage \$12.69 in private capital for every \$1 of credit enhancement.

The amendments proposed in the attached Regulations respond to the challenges and lessons learned from implementing SBF over the last two years. Staff is streamlining certain aspects of SBF and adding new features that will help efforts to reach more small businesses.

Key Modifications:

Among various clarifications and updates, the modifications to the Regulations will:

1. Create a new Microloan pathway for loans \$10,000 and under, with streamlined and efficient requirements easing the enrollment process for finance companies.
2. Add new Energy Saving Measures, including appliances, HVAC, lighting, refrigeration, water heating, commercial laundry, and agricultural measures for greenhouses.
3. Expand measures allowed for self-installation to include certain HVAC, refrigeration, insulation, metering and monitoring equipment, controls, and several measures for data centers and agricultural properties. Measures were considered for self-installation with the requirement that installation can be performed safely and effectively without a licensed contractor.
4. Allow for On-Bill Repayment of financing payments through the customer’s IOU bill.
5. Streamline the loan enrollment and reporting process for existing finance companies to accommodate new business models and facilitate automation.

Microloan Product:

Staff has identified a need for the financing of very small projects, including to support distressed purchases of appliances and to fill a gap that exists within the market for small business financing. To accommodate this need, the proposed amendments include the addition of

a streamlined Microloan pathway for financing amounts of \$10,000 or less. In order for very small leases or loans to be economically viable, finance companies need streamlined eligibility checks and simple requirements for the provision of data and documentation at enrollment. The Microloan pathway allows for this simplification and reflects the smaller risks to borrowers, lenders, and ratepayers associated with these small financed amounts.

Self-Installation:

The proposed amendments allow for a greater number of Energy Saving Measures to qualify as self-installable by the customer. Self-installable measures are those that can be safely installed by the customer without risking diminished performance and energy savings. For Microloans, the requirement for a project developer to be active on self-installed projects has been removed; data and certifications for Microloans are provided by the finance company and the customer.

On-Bill Repayment:

The proposed amendments introduce rules by which a finance company can submit their financing agreement for repayment through their customer's utility bill. The Regulations describe the eligibility requirements of a financing agreement that will be repaid on-bill as well as the processes for repayment.

OBR is a mechanism by which a utility customer repays third-party private capital financing charges when they pay their monthly utility bill. OBR was authorized in CPUC Decision D.13.09.044 for small business, affordable multifamily, non-residential/public buildings, and a sub-pilot of the Residential Energy Efficiency Loan Program (Article 5 (commencing with Section 10091.1) of Title 14 of the California Code of Regulations) in Pacific Gas and Electric Company's territory. At this time, Staff is adding OBR as a feature of the existing SBF.

Development of OBR infrastructure has been ongoing for several years. OBR infrastructure provides the means to ensure the timely and successful routing of customer payments through an IOU to a finance company. Complicating the issue, however, is the fact that each of the four IOUs has their own unique billing system with varying requirements and interfaces. Hence, the buildout of the infrastructure needed to support OBR has been significant and the result of extensive coordination between Staff, its contracted master servicer, and the IOUs. To date, each of the IOUs has successfully performed data exchange testing, and Staff anticipates each IOU will likewise test the operation of cash flow systems prior to the OBR launch, which is anticipated in late July or early August 2021. Three of the four IOUs have updated their OBR Tariffs in anticipation of the OBR launch; Staff is working with the IOUs to finish updating their OBR Tariffs prior to the launch.

Key Design Considerations for OBR include:

1. *Statewide consistency for multiple finance companies:*

OBR is designed to provide private finance companies with a centralized hub to receive repayments through bills of all four of the IOUs. While other states have implemented OBR programs, Staff has developed the first-of-its-kind open-market approach to OBR, utilizing multiple finance companies and multiple utilities. The open-market nature of OBR in SBF, combined with the need to accommodate four unique IOU billing systems, requires a highly complex infrastructure to ensure

customer payments are processed and routed quickly and accurately.

2. *Non-residential utility service disconnection for non-payment:*

Utility service disconnection is possible for non-residential OBR customers. The effect of potential service disconnection on repayment consistency and the overall default rate of financing agreements repaid through OBR is one of the key learnings sought by the CPUC. Service disconnection for non-payment will be conducted in accordance with the rules governing disconnection approved by the CPUC for each IOU.

However, if at a future time OBR were to be added to the other CHEEF programs that serve residential customers, systems have already been designed to remove financing charges from the bill after missed payments, such that missed financing payments do not lead to disconnection.

3. *Balancing finance company and IOU risk tolerance:*

Some OBR design elements have taken a long time to work through to balance finance company business and operational needs and IOU risk management around customer billing. For example, Staff and the IOUs coordinated extensively to develop the rules around eligibility, documentation, and authorization required to connect a particular customer's financing agreement to their bill that would be acceptable to both IOUs and finance companies.

4. *Providing assurance with regard to the flow of funds:*

Rules related to the flow of funds, custody of funds, and timing of cash flows have been an area of concern for potential participating finance companies. As mentioned, Staff has been designing the first OBR program in the country that returns payments to multiple private finance companies via multiple IOUs through a centralized system. Some of these concerns have informed operational decisions in addition to the Regulations. The establishment of an Operational Reserve Fund helps mitigate some of the risks to finance companies with regard to the timing of repayments through OBR.

Outreach for Program Regulatory Action

Staff regularly solicits feedback from participating contractors, finance companies, and other industry stakeholders, and also interacts with customers and monitors project submissions to understand the customer experience. With regard to OBR, as mentioned above, Staff has been working on operational design, in consult with finance companies, for years in order to balance finance company and IOU risk tolerance. As part of our regulation amendment process, Staff recently held a contractor roundtable to solicit input and engaged key stakeholders for feedback. Further, Staff conducted a public workshop on May 21, 2021, where they presented key design considerations and the proposed amended Regulations, followed by a seven-day public comment period. Public comments were considered and additional changes were made and reflected in these proposed amended Regulations.

Pending approval of the Regulations by the CAEATFA Board, Staff will submit the Regulations to the Office of Administrative Law in late June/early July and anticipates an operative date by mid-July.

PROPOSED AMENDMENTS TO REGULATIONS

Below is a brief description of each of the most substantive changes to the Regulations. The specific amendments to the Regulations can be found in Attachment A, denoted in strikethrough and underlined text.

Universal Changes in Multiple Sections.

- *Changed references to the word “per” to read “pursuant to”*
This change was made to be more accurate and clear.
- *Changed all instances of “a person” to read “an individual”*
This change was made to use a single term consistently throughout the Regulations.
- *Changed “CAEATFA” to read “the Authority”*
This change was made to use a single term consistently throughout the Regulations, except in Section 10092.13 “California Hub for Energy Efficiency Financing Privacy Rights Disclosure,” which includes language introducing CAEATFA to the reader.
- *Certification modified for Enrolled Finance Companies, Contractors, and Project Developers*
A requirement that all the information provided is true and accurate to the best of the signatory’s knowledge was removed. The Regulations already require these participants to sign Program applications by a person authorized to legally bind them.
- *Updated all references to statutory authority at the end of each Section*
This change was made to be more comprehensive and inclusive of the relevant sections of the Public Resources Code.
- *Made several clarifying changes in places where language was ambiguous or references were unclear*
These changes make the Regulations more cohesive and accessible to the reader.

§10092.1: Definitions.

Amendments were made to the following defined terms:

- *§10092.1(l): “Delayed Bill” added*
The definition was added to describe a delay of the date for when an IOU is expected to send a monthly bill to an OBR Customer. A delayed IOU bill is one of two events that can trigger the use of the Operational Reserve Fund as described in Section 10092.15(i)(1)(A).
- *§10092.1(u): “Eligible Property” updated*
The reference to “residential rentals” was changed to “residential housing” to be more inclusive of other residential housing business models, such as leasing.
- *§10092.1(qq): “Microloan” added*
A new type of loan, with a Total Financed Amount of \$10,000 or less, was defined as a Microloan. There is value in a more streamlined pathway for finance companies to offer smaller amounts of financing to customers. Smaller amounts of financing pose less risk to

customers, finance companies, and ratepayers. The Microloan product is, thus, subjected to slightly reduced requirements than larger financings.

- *§10092.1(uu): “OBR Approval Date” added*
This term was added to define the date that an IOU will confirm the OBR Total Charge will be added to the customer’s utility bill. Staff needed the ability to denote when financing charges are approved to appear on a customer’s bill.
- *§10092.1(vv): “OBR Customer” added*
This term was added to define an Eligible Commercial Financing Customer who has chosen to participate in OBR as described in Section 10092.15.
- *§10092.1(ww): “OBR Modified Charge Cutoff Date” added*
This term was added to define the date by which a finance company must inform CAEATFA that the charge amount appearing on the customer’s IOU bill needs to be updated. If a finance company needs to update the amount that appears on a customer’s bill, the finance company must provide the updated amount prior to this date in order for the updated amount to appear on the customer’s next IOU bill.
- *§10092.1(xx): “OBR Removal Date” added*
This term was added to define a date on which an OBR customer is removed from participation in OBR and the charges will no longer appear on the customer’s IOU Bill.
- *§10092.1(yy): “OBR Tariff” added*
This term was added to reference Rule No. 43 On-Bill Repayment Tariffs filed by each of the IOUs through advice letters approved by the CPUC.
- *§10092.1(zz): “OBR Total Charge” added*
This term was added to define the financing charges, including any applicable late fees, to appear on the customer’s IOU bill. CAEATFA needs to communicate this amount to the IOU in order for the correct charge amount to appear on the customer’s utility bill.
- *§10092.1(aaa): “On-Bill Repayment (OBR)” added*
This term was added to define the concept of OBR, a term used throughout the Regulations.
- *§10092.1(bbb): “Operational Reserve Fund (ORF)” added*
This term was added to support the creation of a reserve fund that will smooth the timings of repayments for finance companies. The ORF may be drawn upon to smooth repayment streams to finance companies participating in OBR in the event of a Delayed Bill or a Returned Item, as those terms are defined in the Regulations. The ORF is utilized when those disruptions occur and is repaid when normal payments resume. See 10092.15(i) for Regulations describing the operation of the ORF.
- *§10092.1(ccc): “ORF Balance” added*
This term was added to refer to money owed to the ORF by a finance company as a result of ORF utilization on behalf of that finance company.

- *§10092.1(kkk): “Returned Item” was added*
This term was added to define conditions under which a customer’s payment is not successful, resulting in a shortfall in OBR payments.
- *§10092.1(ooo): “Total Charge-Off” updated*
The language of subsection (2) was updated to match subsection (1) for consistency.

§10092.4. Contractor and Project Developer Participation

This section describes eligibility and the application process for participation in SBF by contractors and project developers. The project developer role allows for a party that is not directly involved in installation to direct projects to SBF. Examples of project developers include distributors, consultants, or IOU program implementers.

- *§10092.4(a)(3): Participating Project Developer role in self-installed projects updated*
For Microloans, Staff has eliminated the requirement for a Participating Project Developer to provide data and certify the project. Larger self-installed projects, over \$10,000, will still require a Participating Project Developer.

SBF allows a customer to install certain measures, as designated in the Energy Saving Measures list, without a licensed Participating Contractor. In these cases, the original Regulations intended for a Participating Project Developer to supply the Program with the required data and certify projects. Since SBF launched, Staff has identified the need for a streamlined approach for smaller financed amounts, particularly for those projects that will be self-installed. Business owners may opt to self-install measures to keep costs minimal. While Staff assumed that many utility program implementers would be playing the role of Project Developer on projects, several microlenders expressed the desire to offer financing through SBF directly to their existing customers without necessarily partnering with an IOU program. In that case, requiring a Participating Project Developer, who may charge the customer for their services to provide data and certify projects, adds unnecessary burdens to both the finance company and customer.

§10092.6. Eligible Financing Customers.

This section lists the requirements for customers to participate in SBF. These requirements are in addition to the Finance Provider Entity’s own underwriting requirements, which will often be the same or more stringent. The requirements in this section are intended to maintain a minimum standard of customer creditworthiness to protect ratepayer dollars from funding a loss reserve for a customer at high risk of default.

The contents of this section are largely the same as existing Regulations with two significant updates.

- First, this section was previously organized to include two paragraphs of global standards followed by two tiers of conditional standards. For readability, this section is now organized into three tiers (including a new tier for Microloans, see next paragraph). The description of each tier contains all of the standards for that tier, some of which are repeated between tiers.

- Second, a new tier based on a Total Financed Amount of up to \$10,000 is being added to allow a simplified approach to Microloan customers. SBF requires only a credit check for Microloans, removing the other previously required standards, including:
 1. No bankruptcies in the last five years.
 2. No outstanding judgments or liens.
 3. Either a positive operating profit for two years, a business history of five years, or a personal guarantee.

§10092.7 Project Eligibility.

- *§10092.7(c)(2): Project Developer requirement for Self-Installers updated*
The requirement to have a Participating Project Developer on a project with a Self-Installer was removed on a project financed with a Microloan. This change aligns with the changes made in §10092.4(a)(3).

§10092.8. Financing Submittal and Enrollment.

This section outlines the process, data, documentation, and certifications required for the submittal and enrollment of an eligible financing agreement.

- *§10092.8(b)(1)(A): Requirement to provide IOU bill updated*
Requirements that utility bills for each of the IOUs servicing the property be submitted to CAEATFA were changed to allow for the verification of electric or gas “delivery.” The word “delivery” has a broader meaning and reflects the fact that Community Choice Aggregators (“CCAs”) may be offering “service” of energy that is then delivered by an IOU. For Microloans, the verification of only one IOU is required. This modification allows Staff to accept methods of IOU delivery verification beyond providing CAEATFA a copy of a utility bill, such as digital authentication or proof that a Project Developer is implementing a program on behalf of an IOU to reach that IOU’s customers.
- *§10092.8(b)(2): New data table displays flexibility as to who supplies data points for enrollment; some data points have been removed or made conditional regarding Microloans*
Current Regulations are organized by the party or parties that are required to provide particular data points. Consolidating all data requirements into a single table allows a party, such as a contractor, to see which data points they are required to provide and allows the reader to easily see which data points are conditional, particularly in the case of data points that are waived for Microloans.

The following data points were removed for enrollment: “Any additional fees charged to the Eligible Commercial Financing Customer and/or contractor,” “Permit number” (will be sought during the post-enrollment quality assurance process), “The Scope of Work Completion Date for any work completed by a Self-Installer” (will be replaced by the finance company’s funding date). The “Exceptions” column lists conditions under which data points are required. New conditional language was added for many data points to streamline the Microloan process; other conditions listed in this column are present in the current Regulations.

§10092.10. Claims.

This section outlines the process and requirements for finance companies to file claims through SBF.

- *§10092.10(e)(1)(E): “Date of Charge-Off” added*
Staff needs to know the date that a finance company charged off a financing agreement when a claim is submitted.

§10092.12. Reporting.

- *§10092.12(b)(1): Monthly reporting data point “Loan ID” added*
A unique identifier, either the Finance Provider Entity’s or SBF’s, needs to be provided in order to efficiently reference each financing agreement.
- *§10092.12(b)(3) and (7) - (9): Monthly reporting data points removed*
Participating Finance Provider Entities have expressed a desire to automate monthly reports required by SBF. Staff is responding to this feedback by removing data points that would be difficult to automate or were not strictly necessary on a monthly basis, including changes to payment amounts and interest rates, dates and amounts recovered from charge-offs, whether any enforcement proceedings related to charge-offs had been commenced, anticipated losses, and acceleration notices.
- *§10092.12(c): Finance Provider Entity no longer needs to report monthly on charged-off financing agreements*
The Regulations were updated to clarify that after reporting the initial charge-off, finance companies do not have to report monthly on the status of a charged-off agreement. If a finance company receives a recovery, it will report on that recovery.
- *§10092.12(e), (f) (formerly): Monthly reporting requirements on new applications updated to “Upon Request”*
Previously subsection (f) required monthly reporting on the number of applications received and approved by the finance company for SBF. These data points were moved and others added to new subsection (e) to be supplied upon request, removing the burden of monthly reporting but allowing Staff to remain aware of the ongoing activities of finance companies.

§10092.13. California Hub for Energy Efficiency Financing Privacy Rights Disclosure.

- *§10092.13(g): Language defining the effective term of the Privacy Rights Disclosure added*
This language informs the customer that the term of the Privacy Rights Disclosure lasts through the term of their financing agreement. This is required because data may need to be accessed through the term of the financing obligation.

§10092.14. Energy Saving Measure List.

This section lists pre-qualified Energy Saving Measures (“ESMs”) by category, including requirements, fuel type, and whether the measure is eligible for self-installation.

Twenty-seven measures are being added to the list in response to input from contractors, distributors, and other interested parties in the energy efficiency marketplace.

As a result of conversations with IOU program implementers and others, Staff is expanding the number of ESMs that are eligible for self-installation to include insulation, hotel occupancy controls, and metering and monitoring equipment. These ESMs are being added as eligible for self-installation because concerns about safety and reductions in energy savings performance are minimal if not installed by a licensed contractor. Additionally, several ESMs have been allowed for self-installation in the categories of agriculture and data centers because these types of businesses likely have specialists on their staff who are capable of these installations. Finally, several ESMs have been updated to expand the measure category to include other common installations, to clarify the language, or to bring the measures more in line with industry standards.

§10092.15. On-Bill Repayment.

This new section added to the Regulations describes the mechanisms of On-Bill Repayment, eligibility requirements for the customers and financing agreements, functions of the Operational Reserve Fund, and requirements of Finance Provider Entities to participate in OBR.

- *§10092.15(a)(1): OBR charges are placed on IOU bill with greatest installation costs*
This requirement comes from the IOU OBR Tariffs. This was identified as the simplest method for determining on which utility bill financing charges should appear when multiple IOUs deliver service to a customer. The costs of ESMs that utilize a particular fuel is relatively simple to ascertain and, therefore, for a given project, the total cost of the ESM utilizing a particular fuel is also easily calculated. This requirement was identified as the best of several options for determining on which bill OBR charges will appear.
- *§10092.15(a)(2): IOU account and billing requirements*
These Regulations ensures that OBR will have a clear set of eligibility requirements. Customers who are having difficulty keeping current with their normal IOU charges are not permitted to apply because the additional financing charges will increase the likelihood of missing a payment that could result in a service disconnection. At this time, OBR is intended for commercial customers and, therefore, single family residential customers are not permitted. Some IOU customers do not receive monthly utility bills; to participate in OBR, the customer's bill must be issued on a monthly basis so that the finance company has a bill on which to place monthly finance charges. Installations at multiple properties are allowed to be combined in a single financing agreement, but to qualify for OBR, a single monthly payment for all properties reduces complexity and ensures that financing charges are received in one payment from the customer.
- *§10092.15(a)(3)(A): The IOU customer named on the bill must be a party on the financing agreement*
The OBR tariffs provide for the IOUs to collect financing charges on the bills of their customers. By requiring the IOU customer to be named as a party on the financing agreement, the Regulations ensure the IOU customer is tied to the financing and its repayment through OBR. This becomes relevant in the case in which the IOU customer may be a different legal entity than that which the finance company would otherwise choose as its counterparty.

- *§10092.15(a)(3)(B): Non-energy charges to be paid through OBR are limited*
CPUC D.13-09-044 requires that the Claim-Eligible Financed Amount be eligible for repayment through OBR, including allowing up to 30% of this amount to be for non-energy measures. The Decision also indicates that charges repaid through OBR be sufficiently related to energy savings. Therefore, Staff is proposing that the Claim-Eligible Financed Amount and any additional ESMs be eligible for repayment through OBR since additional ESMs will increase the potential for energy savings – thus fulfilling the CPUC requirement that financing charges be sufficiently related to energy savings. Additionally, CPUC Decisions state that costs for Distributed Generation are eligible to be repaid through OBR.
- *§10092.15(b): OBR data points required*
The required data points listed in the Regulations are needed so that CAEATFA can communicate to the relevant IOU the costs to be placed on the customer's utility bill.
- *§10092.15(c)(1-2): Authorization to add charges to the IOU bill*
This section references a required Authorization Form. The need for the Form comes from the IOU OBR Tariffs. This Form needs to be signed by the IOU customer prior to an IOU permitting charges to appear on a utility bill. The form also makes the IOU customer aware of the possibility of utility service disconnection due to the non-payment or partial payment of their utility bill.
- *§10092.15(d): Obligations of CAEATFA*
This subsection defines CAEATFA's obligations relating to OBR and the steps necessary to place charges on the bill. This subsection also defines CAEATFA's obligations with regard to communications to finance companies relating to customer payments.
- *§10092.15(e)(1): Time interval for charges to appear on the bill*
Due to factors including variations in IOU billing cycle intervals, there will be a period of time between the OBR Approval Date and financing charges appearing on the customer's bill. Here, the Regulations acknowledge this period of time may be multiple utility billing cycles.
- *§10092.15(e)(2): A Finance Provider Entity may not require payment from a customer off-bill after an OBR Approval Date*
While it may take multiple billing cycles for charges to appear on a customer's bill, it is likely that charges will appear on the customer's next bill after the finance company submits the financing agreement to SBF. Prohibiting direct payment from a customer after charges are approved to go on the bill prevents double billing.
- *§10092.15(e)(3): OBR participation limited to 15 years*
Staff received feedback from stakeholders that indicated customer payments for energy efficiency retrofits may be spread over a period of up to 15 years. Longer payback periods make monthly payments lower for customers and, thus, more affordable. Allowing on-bill repayment for 15 years will accommodate those longer repayment terms. Credit support for Enrolled Financing Agreements remains limited to 10 years.
- *§10092.15(e)(4): A Finance Provider Entity may not accelerate charges through OBR*
OBR is intended to facilitate the monthly billing of energy efficiency financing charges. If a finance company needs to accelerate repayment, the customer will first need to be removed from OBR.

- *§10092.15(f)(1): Removal from OBR*
This section describes the conditions under which an OBR Customer may be removed from participation in OBR. In order to reduce risk to finance companies, a finance company may elect to remove a financing agreement from participation in OBR at will.
- *§10092.15(g)(1): Service disconnection for non-payment*
This section explains that failure to pay all the charges that appear on an OBR Customer's utility bill could result in utility service disconnection. Disconnection is initiated by the relevant IOU; this section informs the reader of the disconnection possibility.
- *§10092.15(g)(2): Partial payments*
Each IOU has its own methodology of calculating how partial payments are applied to charges due. This subsection refers the reader to the relevant OBR Tariff to learn the exact methodology for the relevant IOU serving its customers.
- *§10092.15(h): Changes to OBR Total Charge*
Finance companies can adjust the charge amount that appears on the utility bill on a monthly basis. If a finance company needs to update the monthly payment, they need to communicate the updated amount that is to appear on the customer's next bill to CAEATFA by the OBR Modified Charge Cutoff Date.
- *§10092.15(i): Operational Reserve Fund ("ORF")*
Staff has identified challenges in the IOU billing and OBR operational mechanisms that could negatively affect the flow of funds from the customer to a finance company. These challenges can arise when two types of events occur: Delayed Bills and Returned Items.

The ORF is an account administered by CAEATFA that may be drawn upon if there is a Delayed Bill or Returned Item that creates a shortfall in a payment to a finance company when it is due to no fault of the finance company. The use of the ORF constitutes a short-term advance of funds that smoothes the payment stream to a finance company. Use of the ORF creates an ORF Balance that must be repaid by the finance company.
- *§10092.15(i)(2)(A): Reimbursement of the ORF through redirected payments*
Payments made from the ORF are an advance of funds to a finance company but not yet collected from the customer. To repay the advance and replenish the ORF, Staff may redirect incoming remittances from any of that finance company's OBR customers to the ORF until the ORF Balance is zero.
- *§10092.15(i)(2)(B): ORF Balance in the absence of OBR payments*
If a finance company has an ORF Balance and no customers participating in OBR, the outstanding ORF Balance becomes due from the finance company within 30 days.
- *§10092.15(i)(2)(C): ORF Balance repaid from claims*
This subsection creates a requirement that claims submitted by a finance company will be repaid net of any ORF Balance owed by that finance company.
- *§10092.15(i)(2)(D): Unresolved delayed bill payments*
An ORF Balance resulting from a Delayed Bill that is not repaid becomes due within 90 calendar days if the OBR Customer who received the Delayed Bill is removed from OBR prior to that ORF Balance being repaid.

- *§10092.15(i)(3): Replenishment of the ORF*
This subsection defines Staff’s obligation to communicate with the IOUs if ORF funds become depleted and to request additional funds within five business days.
- *§10092.15(j): Finance entity enrollment in OBR*
This subsection expands on Section 10092.2 to provide additional requirements for a Finance Provider Applicant that is applying to participate in OBR.
- *§10092.15(j)(2): Claims submitted with an outstanding ORF Balance*
This subsection creates a requirement that claims submitted by a finance company will be repaid net of any ORF Balance owed by that finance company.

REGULATORY PROCESS TIMELINE

All of the future dates below are tentative and subject to change.

May 21, 2021	Staff conducted a public workshop where they presented key design considerations and the proposed amended Regulations, followed by a seven-day public comment period.
June 15, 2021	CAEATFA Board reviews and approves proposed amended Regulations.
End of June 2021	Staff posts the Finding of Emergency and begins the 5-day notice period.
Beginning of July 2021	Emergency regulations are submitted to Office of Administrative Law (OAL) for review. OAL has 10 calendar days to review the emergency regulations.
Mid-July 2021	OAL decision for approval of emergency regulations. Emergency regulations become effective for 180 days upon filing with the Secretary of State.

RECOMMENDATION

Staff recommends the adoption of Resolution No. 21-06-4.D to authorize the Chair and the Executive Director to adopt the emergency regulations for the Small Business Energy Efficiency Financing Program.

Attachment: Attachment A: Proposed Amended Regulations. Modifications for Board consideration are shown with strikethrough and underlined text.

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED
TRANSPORTATION FINANCING AUTHORITY APPROVING MODIFICATIONS TO
REGULATIONS AND OTHER RELATED ACTIONS TO IMPLEMENT THE SMALL
BUSINESS ENERGY EFFICIENCY FINANCING PROGRAM**

June 15, 2021

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (“Authority”) is authorized by Section 26009 of the Public Resources Code to adopt emergency regulations to implement and make specific the statutory provisions governing the Authority; and

WHEREAS, the Authority has determined that, under its Memorandum of Agreement with the Public Utilities Commission and its contract with the investor-owned utilities to serve as the manager of the California Hub for Energy Efficiency Financing, it is necessary to adopt modifications to the current program regulations (the “Regulations”) to implement the Small Business Energy Efficiency Financing Program (Article 6 (commencing with Section 10092.1) of Title 4 of the California Code of Regulations).

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority as follows:

Section 1. The proposed modified Regulations, on file with the Authority, are hereby approved. The Chair and Executive Director are hereby authorized to file the Regulations, with the supporting documentation required by law, with the Office of Administrative Law as regulations in the form currently on file with the Authority.

Section 2. The Chair and Executive Director are hereby authorized to proceed with the public notice and comment procedures required by the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) prior to submitting emergency and regular regulations to the Office of Administrative Law and completing the rulemaking process.

Section 3. The Chair and Executive Director are hereby authorized to take the actions necessary for the adoption of the Regulations, including making any necessary changes to the Regulations to secure approval by the Office of Administrative Law, and to execute and deliver any documents and take any steps the Chair and Executive Director may deem necessary or advisable to effectuate the purposes of this resolution.

Section 4. This resolution shall take effect immediately upon its approval.

Attachment A: Proposed Modified Regulations

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

DRAFT FOR BOARD APPROVAL

Table of Contents

ARTICLE 6. Commercial Energy Efficiency Financing Program

Section 10092.1	Definitions.....	2
Section 10092.2	Finance Entity Enrollment	9
Section 10092.3	Additional Requirements for Entities that are not Financial Institutions.....	17
Section 10092.4	Contractor and Project Developer Participation.....	20
Section 10092.5	Eligible Financial Products	26
Section 10092.6	Eligible Financing Customers.....	27
Section 10092.7	Project Eligibility	29
Section 10092.8	Financing Submittal and Enrollment	31
Section 10092.9	Credit Enhancement.....	41
Section 10092.10	Claims	43
Section 10092.11	Sale and Transfer of Enrolled Financings and Transfer of Program Roles.....	45
Section 10092.12	Reporting.....	46
Section 10092.13	California Hub for Energy Efficiency Financing Privacy Rights Disclosure	48
Section 10092.14	Energy Saving Measure List	50
Section 10092.15	On-Bill Repayment	61

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 any 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 ~~California~~ 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 ~~California~~ Public Utilities Code.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (k) “CSLB”: The ~~California~~ Contractors State License Board established pursuant to ~~Article 1 the~~ Contractors State License Law (Chapter 9 (commencing with Section 7000) of Chapter 9 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.
- ~~(h)~~(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.
- ~~(m)~~(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.
- ~~(n)~~(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.
- ~~(o)~~(p) “Eligible Contractor”: An individual or entity that meets the requirements specified in Section 10092.4(b)(1).
- ~~(p)~~(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).
- ~~(q)~~(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. ~~Such~~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.
- ~~(r)~~(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. ~~Such~~Those payments must result in full satisfaction of the obligation. ~~Such~~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.
- ~~(s)~~(t) “Eligible Project Developer”: An individual or entity that meets the requirements specified in Section 10092.4(b)(2).

~~(t)~~(u) “Eligible Property”: A property that is both of the following:

- (1) Supplied with gas and/or electric service by one or more ~~Investor-Owned Utility(ies), IOU,~~ Electric Service Provider(s) (ESPs) as ~~described~~defined in California Section 394(a) of the Public Utilities Code ~~Section 394(a),~~ or Community Choice Aggregator(s); and
- (2) Used for business activities. If the purpose of the business is residential ~~rentals~~ housing, the property must meet the definition of Multifamily Property.

~~(u)~~(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 ~~each~~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.

~~(v)~~(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.

~~(w)~~(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 Commercial 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.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- ~~(x)~~(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.
- ~~(y)~~(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.
- ~~(z)~~(aa) “Energy Saving Measure” (ESM): Any Energy Efficiency or Demand Response measure, ~~as defined,~~ 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.
- ~~(aa)~~(bb) “Energy Saving Measure Identifier” or “ESM ID”: A unique identifier assigned by the Authority to each measure contained within the ESM List.
- ~~(bb)~~(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.
- ~~(cc)~~(dd) “Energy Service Provider” (ESP): An Electric Service Provider as defined in Section 218.3 of the ~~California~~ Public Utilities Code.
- ~~(dd)~~(ee) “Enrolled Financing Agreement”: An Eligible Financing Agreement approved for enrollment in the Program pursuant to Section 10092.8(b).
- ~~(ee)~~(ff) “Enrollment Date”: The date that the Trustee has funded the Finance Provider Entity's Loss Reserve Account for the Enrolled Financing Agreement.
- ~~(ff)~~(gg) “Executive Director” (ED): The Executive Director of the Authority or ~~its~~their designee.
- ~~(gg)~~(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).
- ~~(hh)~~(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).

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- ~~(ii)~~(jj) “Financial Institution”: Any insured depository institution, insured credit union, or Community Development Financial Institution (CDFI), as those terms are each defined in Section ~~1034~~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 ~~California Section 14003(f) of the~~ Corporations Code ~~§14003(f)~~, or any non-bank entity supervised by the Federal Reserve.
- (kk) “GoGreen Small Business Financing”: The public-facing name to be used in informational and marketing materials about the Program.
- ~~(jj)~~(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”;
- ~~(kk)~~(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.
- ~~(ll)~~(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.
- ~~(mm)~~(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.
- ~~(nn)~~(pp) “Loss Reserve Account Representative”: As described in Section 10092.2(b)(6).
- ~~(oo)~~(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).
- ~~(pp)~~(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.
- ~~(qq)~~(tt) “Multifamily Property”: A residential ~~rental~~ building with five or more units.
- ~~(rr)~~(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.
- ~~(ss)~~(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.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (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.
- ~~(tt)~~(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).
- ~~(uu)~~(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).
- ~~(vv)~~(hhh) “Program”: The Commercial Energy Efficiency Financing Program described in the regulations within this Article.
- ~~(ww)~~(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.
- ~~(xx)~~(jjj) “Program Identifier” or “Program ID”: A number assigned by the Authority or its agent(s) that represents a program administered by the Authority.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

~~(yy)~~(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.

~~(zz)~~(lll) “Regional Energy Network” (REN): Regional Energy Network granted authorization by the California Public Utilities 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.

~~(aaa)~~(nnn) “Scope of Work”: The Energy Saving Measures and/or Non-ESMs installed and certified ~~per~~ 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.

~~(bbb)~~(ooo) “Scope of Work Completion Date”: Date that a Participating Contractor or Self-Installer completes installation of its Scope of Work.

~~(eee)~~(ppp) “Self-Installer”: An Eligible Commercial Financing Customer who installs any measures pursuant to the requirements in Section 10092.7(c).

~~(ddd)~~(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.

~~(eee)~~(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.

~~(fff)~~(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 ~~which 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 ~~per 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 ~~per 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”

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (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).

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (c) Application to Participate in the Program. A Primary Finance Provider Applicant must submit a complete enrollment application to the Authority signed by ~~a person~~ 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 ~~a person~~ 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. ~~All applications must include a certification that all of the information provided is true and correct to the best of the signatory's knowledge.~~ 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:

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (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 ~~program~~ 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 ~~a person~~ 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 ~~a person~~ 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 ~~under~~ 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.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (5) Certifications of the Finance Provider Applicant and Marketing Representative. The application must include the FPA's certifications of this Section, signed by ~~a person~~ 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 ~~a person~~ 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, ~~which~~ that would impair its ability to participate in the Program.
 - (B) The person 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 ~~herein~~ 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 ~~such~~ 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 ~~a person~~ 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.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (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 ~~a person~~ 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 ~~a person~~ 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 ~~CAEATFA~~ 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 ~~such~~ 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) ~~The Finance Provider Entity~~ 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);

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (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) ~~CAEATFA's~~The Authority's educational and outreach activities.

(d) Application Process

- (1) Upon receipt of a completed application, the Authority will, within ~~fifteen~~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 ~~a person~~an individual authorized to legally bind the FPE to the Authority. ~~Such~~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 ~~such~~that notice, and the reason for the Finance Provider Entity's withdrawal from the Program.
- (2) For any ~~such~~ 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;

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (D) Failure of the Finance Provider Entity to report to the Authority pursuant to Section 10092.12 for ~~sixty~~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 ~~such 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 ~~sixty~~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 a person an individual authorized to legally bind the Finance Provider Applicant, ~~and must be true and correct to the best of the signatory's knowledge.~~

- (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, ~~in writing~~, with underwriting commercial financing;
 - (2) Demonstrated experience, ~~in writing~~, with equipment financing and the coordination of ~~such that~~ financing with contractors and businesses;
 - (3) ~~Written description~~ Description of its underwriting process; and
 - (4) Demonstrated qualifications, ~~in writing~~, 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 ~~such 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:

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (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) Motor vehicle liability with limits of not less than \$1 million per accident. ~~Such~~This insurance must cover liability arising out of owned, hired, and non-owned motor vehicles.
 - (3) 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.
 - (4) 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 ~~ten~~10 business days prior to the expiration of the insurance. The new insurance coverage must meet the terms required in this Section.
 - (5) The Finance Provider Entity is responsible for ensuring that insurance coverage will not be cancelled without ~~thirty~~30 days' prior written notice to the Authority.
 - (6) The Finance Provider Entity is responsible for any deductible or self-insured retention contained within the insurance policy.
 - (7) 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.
 - (8) 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 a ~~person~~ 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 ~~such~~those properties are currently owned and ~~such~~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 ~~such~~those qualifications.
 - (3) The Finance Provider Applicant has the power and authority to execute and to carry out the terms of the Program.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (4) There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency ~~nor~~ 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 ~~a person~~ 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 ~~is referred to~~ has the same definition as defined in the Section 7026 of the California Business and Professions Code, Division 3 of Chapter 9 of Article 2 of Section 7026. The Participating Contractor provides data according to Section 10092.8(b)(2)(A) ~~and (F)~~ and certifications for Projects according 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 ~~according to~~ pursuant to Section 10092.8(b)(2)(B), (E), ~~and (F)~~, and certifications for Projects according 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 ~~not~~ required to certify a Project ~~unless~~ 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 ~~in accordance with~~ 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 ~~twenty-four~~ 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 in accordance with 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 ~~ten~~ 10 projects in a project developer role. Any organization with a verifiable contract as an IOU, REN, or CCA

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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 ~~which~~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 ~~which~~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 ~~ten~~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 ~~a person~~ 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) ~~CAEATFA's~~ 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 ~~a person~~ 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

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (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) ~~CAEATFA's~~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 ~~a person~~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 ~~such~~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 ~~such~~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, ~~nor~~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; and
 - ~~(J) That all of the information provided is true and correct to the best of the signatory's knowledge.~~
- (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 ~~a person~~an individual authorized to legally bind the Eligible Project

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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 ~~ten~~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 ~~ten~~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, 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 ~~per~~ pursuant to Section 10092.7(d), the Participating Contractor and/or Participating Project Developer must supply the documentation.

(e) Removal from the Program

- (1) ~~In the event that~~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 ~~of the Authority~~ may remove the Participating Contractor or Participating Project Developer from the Program. In addition, if a Participating Project Developer ~~which 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 ~~of the Authority~~ will remove the contractor or project developer from the Authority's website and other promotional materials. The Authority may notify other ~~government~~governmental agencies and/or the IOUs.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (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 ~~such~~that information within ~~fifteen~~15 business days of the date of the notice of removal.
 - (B) The Executive Director will have ~~ten~~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 ~~fifteen~~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 ~~twenty~~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 ~~which 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 ~~should~~ 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 ~~per~~ 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.

To participate in the Program, the following requirements apply to the Eligible Commercial Financing Customer:

- ~~(a) The Eligible Commercial Financing Customer must not have filed for bankruptcy within the last five years or have any outstanding judgments or liens.~~
- ~~(b) 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 twelve months of the Eligible~~

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

~~Commercial Financing Customer's utility bill pay history from one of the IOUs to satisfy this requirement.~~

- ~~(c) In addition to an FPE's underwriting criteria and the requirements described in Sections 10092.6(a)-(b), an Eligible Commercial Financing Customer accessing a Total Financed Amount of less than or equal to \$350,000 must meet one of the following criteria:~~
- ~~(1) The Eligible Commercial Financing Customer's business or organization shows a positive operating profit utilizing either EBIT or EBITDA, or positive taxable income for the last two years; or~~
 - ~~(2) The Eligible Commercial Financing Customer has been in business at least 5 years; or~~
 - ~~(3) The Eligible Commercial Financing Customer provides a personal guarantee.~~
- ~~(d) In addition to an FPE's Underwriting criteria and the requirements described Sections 10092.6(a)-(b), an Eligible Commercial Financing Customer accessing a Total Financed Amount of more than \$350,000, must meet both of the following criteria:~~
- ~~(1) The business or organization shows a positive operating profit utilizing either EBIT or EBITDA, or positive taxable income for at least two out of the last five years; and~~
 - ~~(2) The debt service coverage ratio is 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~~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; and
 - (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.
- (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 ~~method~~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 ~~twenty four~~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

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

~~points listed in Section 10092.8(b)(2). For any Scope of Work installed by a Self-Installer, a Project Developer must provide:~~

~~(A) The data required in Section 10092.8(b)(2)(B), (E), and (F).~~

(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:
 - (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 ~~ten~~ 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 ~~government~~ 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 ~~government~~ 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), ~~to the Authority.~~
- (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 ~~ten~~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 ~~information~~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 ~~service~~delivery confirmation: ~~The utility bills for any gas or electric service provided by any of the Investor Owned Utilities at the Eligible Property(ies). 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 ~~which~~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:

	<u>Data Points</u>	<u>Data Must be Provided by One of These Parties:</u>	<u>Exceptions</u>
<u>Eligible Small Business Customer Information</u>			
	<u>Customer name, e-mail address, and phone number</u>	<u>Contractor, Project Developer (PD), FPE</u>	
	<u>North American Industry Classification System (NAICS) Code applicable to the type of business</u>	<u>FPE</u>	
	<u>Method by which the customer qualifies as an Eligible Small Business Customer pursuant to Section 10092.1(x)</u>	<u>FPE</u>	<u>Not required for Microloans</u>
	<u>The number of years in business</u>	<u>FPE</u>	

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

	<u>An indication of how the entity is organized, e.g., sole proprietorship, corporation, or LLC</u>	<u>FPE</u>	<u>Not required for Microloans</u>
	<u>The customer's credit score</u>	<u>FPE</u>	
	<u>Credit scoring or reporting service relied upon to calculate the customer's credit score</u>	<u>FPE</u>	
	<u>The customer's annual revenue</u>	<u>FPE</u>	<u>Only for Eligible Financing Agreements greater than \$350,000</u>
	<u>Special business characteristics if known, e.g. woman-owned, veteran-owned, or minority-owned</u>	<u>FPE</u>	
	<u>Number of units or spaces at the Eligible Property for which ESMs were installed</u>	<u>Contractor, PD, FPE</u>	<u>Not required for Microloans</u>
	<u>Whether the customer owns the Eligible Property(ies) or is a tenant occupant</u>	<u>Contractor, PD, FPE</u>	
<u>Property Information</u>			
	<u>The street address, city, and ZIP code</u>	<u>Contractor, PD, FPE</u>	
	<u>IOU names and account numbers for all IOU gas and electric providers at each Eligible Property</u>	<u>Contractor, PD, FPE</u>	<u>For Microloans, name and account number for at least one IOU</u>
<u>Project Information (for each contractor or Self-Installer's scope of work)</u>			
	<u>The method by which each ESM qualifies for the Program</u>	<u>Contractor, PD, FPE</u>	
	<u>The ESM category, e.g. "Lighting" or "Refrigeration"</u>	<u>Contractor, PD, FPE</u>	
	<u>The ESM measure name</u>	<u>Contractor, PD, FPE</u>	
	<u>A brief description including size, efficiency performance, standard material descriptions, and/or specifications</u>	<u>Contractor, PD, FPE</u>	<u>Not required for Microloans</u>
	<u>The quantity installed for each ESM</u>	<u>Contractor, PD, FPE</u>	
	<u>An indication of whether the ESM is replacing existing equipment or is a new installation</u>	<u>Contractor, PD, FPE</u>	<u>Not required for Microloans</u>
	<u>An indication of whether the installation resulted in a fuel substitution for that measure</u>	<u>Contractor, PD, FPE</u>	<u>Not required for Microloans</u>
	<u>The fuel for which there is expected savings as a result of installing the ESM</u>	<u>Contractor, PD, FPE</u>	<u>Not required for Microloans unless being repaid through OBR</u>
	<u>Total cost of all ESMs installed as part of a Scope of Work</u>	<u>Contractor, PD, FPE</u>	
	<u>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</u>	<u>Contractor, PD, FPE</u>	

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

	<u>Total cost and description of all Non-ESMs installed as part of a Scope of Work</u>	<u>Contractor, PD, FPE</u>	
	<u>The Scope of Work Completion Date for any work performed by a Participating Contractor</u>	<u>Contractor</u>	
	<u>Any fees charged by the Participating Project Developer and, if there are fees, a brief description of the services provided</u>	<u>PD</u>	<u>Not required for Microloans</u>
	<u>The amount of any Capitalized Interest included in the Total Financed Amount</u>	<u>FPE</u>	<u>Not required for Microloans</u>
	<u>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</u>	<u>Contractor, PD, FPE</u>	
	<u>The amount of any IOU, REN, or CCA rebate or incentive sought for a Scope of Work</u>	<u>Contractor, PD, FPE</u>	<u>Only for projects with rebates or incentives</u> <u>Not required for Microloans</u>
	<u>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</u>	<u>Contractor, PD, FPE</u>	<u>Only for projects with rebates or incentives</u> <u>Not required for Microloans</u>
	<u>Date that the IOU, REN, or CCA approved the Eligible Commercial Financing Customer's custom measure(s), if applicable</u>	<u>Contractor, PD, FPE</u>	<u>Only for projects with a custom IOU, REN, or CCA incentive.</u>
	<u>A description and associated cost for any Non-ESMs installed by contractors not enrolled with the Program or by Self-Installers</u>	<u>PD, FPE</u>	<u>Only for projects with installations by non-participating contractors</u> <u>Not required for Microloans</u>
	<u>The name and CSLB number of the non-participating contractor company who installed Non-ESMs</u>	<u>PD, FPE</u>	<u>Only for projects with installations by non-participating contractors</u>
	<u>A description and associated cost for the Distributed Generation measure(s) installed</u>	<u>PD, FPE</u>	<u>Only for projects with Distributed Generation installations</u> <u>Not required for Microloans</u>

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

	<u>The name and CSLB number of the contractor company who installed the Distributed Generation</u>	<u>PD, FPE</u>	<u>Only for projects with Distributed Generation installations</u>
<u>Data Related to Measures Qualifying Through the Professionally Certified Measure Method pursuant to Section 10092.7(b)(3). For each measure:</u>			
	<u>Whether the reported savings result from Energy Efficiency or Demand Response measures</u>	<u>Energy Professional</u>	
	<u>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</u>	<u>Energy Professional</u>	
	<u>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</u>	<u>Energy Professional</u>	
	<u>The Energy Professional's name, business name, city, e-mail address, and phone number</u>	<u>Contractor, PD, FPE</u>	
	<u>An indication of whether the Energy Professional is a PE or CEM</u>	<u>Contractor, PD, FPE</u>	
	<u>The Energy Professional's certification ID or license number, as applicable</u>	<u>Contractor, PD, FPE</u>	
<u>Financing Data</u>			
	<u>The Finance Provider Entity's internal financing agreement number</u>	<u>FPE</u>	
	<u>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</u>	<u>FPE</u>	
	<u>The name of the representative of the Finance Provider Entity who submitted the agreement to the Authority</u>	<u>FPE</u>	
	<u>Total Financed Amount</u>	<u>FPE</u>	
	<u>Whether an advance payment was required of the Eligible Commercial Financing Customer, and, if so, the number of months covered by the payment</u>	<u>FPE</u>	<u>Not required for Microloans</u>
	<u>Whether a security interest was taken against the financing agreement, and, if so, an indication of the type of security interest taken</u>	<u>FPE</u>	<u>Not required for Microloans</u>
	<u>Date the financing agreement funded or is anticipated to fund</u>	<u>FPE</u>	
	<u>Repayment term of the financing agreement and its maturity date or its contractual end date</u>	<u>FPE</u>	
	<u>Monthly finance agreement payment amount, including principal, interest if applicable, and any maintenance, oversight, and service charges</u>	<u>FPE</u>	<u>Not required for Microloans</u>
	<u>Interest rate applied to the financing agreement and whether the rate is fixed or variable</u>	<u>FPE</u>	<u>Only for Loans, Leases and Equipment Financing Agreements.</u>

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

	<u>Amount of the interest rate bought down by the contractor, if applicable</u>	<u>FPE</u>	<u>Only for Loans, Leases and Equipment Financing Agreements.</u> <u>Not required for Microloans</u>
	<u>Monthly charges for ongoing service and maintenance related to the upkeep or performance of all installed measures</u>	<u>FPE</u>	<u>Only for Eligible Service Agreements and Eligible Savings-Based Payment Agreements</u>

~~(A) Data provided solely by Participating Contractor:~~

- ~~(i) The Scope of Work Completion Date for any work performed by the Participating Contractor.~~

~~(B) Data provided solely by Participating Project Developer:~~

- ~~(i) Any fees charged by the Participating Project Developer and, if there are fees, a brief description of the services provided.~~
- ~~(ii) The Scope of Work Completion Date for any work completed by a Self-Installer.~~

~~(C) Data provided solely by the Energy Professional:~~

- ~~(i) For each ESM qualifying through the Professionally Certified Measure Method per Section 10092.7(b)(3), the Energy Professional must provide:~~
 - ~~a. Whether the reported savings result from Energy Efficiency or Demand Response measures.~~
 - ~~b. 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.~~
 - ~~c. 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.~~

~~(D) Data provided solely by the Finance Provider Entity:~~

- ~~(i) The following data related to the Project:~~
 - ~~a. The amount of any Capitalized Interest included in the Total Financed Amount.~~

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

~~(ii) The following data related to the Eligible Commercial Financing Customer:~~

- ~~a. North American Industry Classification System (NAICS) Code applicable to the business.~~
- ~~b. Method by which the customer qualifies as an Eligible Small Business Financing Customer per Section 10092.1(w).~~
- ~~c. The number of years in business.~~
- ~~d. An indication of how the entity is organized, e.g., sole proprietorship, corporation, or LLC.~~
- ~~e. The credit score.~~
- ~~f. Credit scoring or reporting service relied upon to calculate the credit score.~~
- ~~g. For Eligible Financing Agreements greater than \$350,000, the Eligible Small Business Financing Customer's annual revenue.~~
- ~~h. Special business characteristics if known, e.g. woman owned, veteran owned, or minority owned.~~

~~(iii) The following data related to all Eligible Financing Agreements:~~

- ~~a. The Finance Provider Entity's internal financing agreement number.~~
- ~~b. 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.~~
- ~~c. The name of the representative of the Finance Provider Entity who submitted the agreement to the Authority.~~
- ~~d. The Total Financed Amount.~~
- ~~e. Whether an advance payment was required of the Eligible Commercial Financing Customer, and if so, the number of months covered by the payment.~~
- ~~f. Whether a security interest was taken against the financing agreement, and if so, an indication of the type of security interest taken.~~
- ~~g. Date the financing agreement funded, or is anticipated to fund.~~
- ~~h. Term of the financing agreement and its maturity date or its contractual end date.~~
- ~~i. Monthly finance agreement payment amount including principal, interest if applicable, and any maintenance, oversight, and service charges.~~

~~(iv) The following data relating to Eligible Loans and Eligible Leases or Eligible Equipment Financing Agreements:~~

- ~~a. Interest rate applied to the financing agreement and whether the rate is fixed or variable.~~
- ~~b. _____ Amount of the interest rate bought down by the contractor, if applicable.~~
- ~~c. _____ Any additional fees charged to the Eligible Commercial Financing Customer and/or contractor.~~

~~(v) The following data related only to Eligible Service Agreements and Eligible Savings-Based Payment Agreements:~~

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- ~~a. Monthly charges for ongoing service and maintenance related to the upkeep or performance of all installed measures.~~

~~(E) Data provided by either the Participating Project Developer or Finance Provider Entity:~~

~~(i) For Projects with Ancillary Elements that are Non-ESMs:~~

- ~~a. A description and associated cost for any Non-ESMs installed by contractors not enrolled with the Program, or by Self-Installers.~~
- ~~b. The name and CSLB number of the non-enrolled contractor company who installed the Non-ESMs.~~

~~(ii) For Projects which include Distributed Generation:~~

- ~~a. A description and associated cost for the Distributed Generation measure(s) installed.~~
- ~~b. The name and CSLB number of the contractor company who installed the Distributed Generation.~~

~~(F) Data provided by either the Participating Contractor, Participating Project Developer, or Finance Provider Entity:~~

~~(i) The following data related to the Eligible Commercial Financing Customer:~~

- ~~a. Name, e-mail address, and phone number.~~
- ~~b. Whether the customer owns the Eligible Property(ies) or is a tenant occupant.~~
- ~~c. IOU names and account numbers for all IOU gas and/or electric service at each Eligible Property.~~

~~(ii) The following data related to each Eligible Property:~~

- ~~a. The street address, city, and ZIP code.~~
- ~~b. Number of units or spaces at the Eligible Property for which ESMs were installed.~~

~~(iii) The following data relating to all Energy Saving Measures (ESMs):~~

- ~~a. The method by which each ESM qualified for the Program.~~
- ~~b. The ESM category e.g. "Lighting" or "Refrigeration".~~
- ~~c. The ESM measure name.~~
- ~~d. A brief description including size, efficiency performance, standard material descriptions, and/or specifications.~~
- ~~e. The quantity installed.~~
- ~~f. An indication of whether the ESM is replacing existing equipment or a new installation.~~
- ~~g. An indication of whether the installation resulted in a fuel switch substitution for that measure.~~

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- ~~h. The fuel for which there is expected savings as a result of installing the ESM.~~
- ~~(iv) In addition to the requirements in Section 10092.8(b)(2)(F)(iii), the following data related to each ESM installed via the Professionally Certified Measure Method:~~
- ~~a. The Energy Professional's name, business name, city, e-mail address, and phone number.~~
 - ~~b. An indication of whether the Energy Professional is a PE or CEM.~~
 - ~~c. The Energy Professional's certification ID or license number, as applicable.~~
- ~~(v) The following data related to each Scope of Work:~~
- ~~a. Total cost of all ESMs installed.~~
 - ~~b. Total cost and brief description of improvements which were legally and practically required to complete the Scope of Work not accounted for in the total cost of ESMs, if applicable.~~
 - ~~c. Total cost and description of all Non-ESMs installed.~~
 - ~~d. All permit number(s) issued by governmental body(ies), if applicable.~~
 - ~~e. 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 the Scope of Work.~~
 - ~~f. The date the Scope of Work was completed, if not already provided.~~
- ~~(vi) The following data related to Projects for which the Participating Contractor or Eligible Commercial Financing Customer is seeking an IOU, REN, or CCA rebate or incentive:~~
- ~~a. The rebate or incentive amount.~~
 - ~~b. The name of the IOU, REN, or CCA issuing the rebate or incentive, the rebate or incentive name, and if known, the project identification code.~~
 - ~~c. Date that the IOU, REN, or CCA approved the Eligible Commercial Financing Customer's custom measure(s), if applicable.~~
- (3) Certifications. A completed financing submittal includes the following certifications provided to the Authority:
- (A) Participating Contractor Certifications. Certification, signed by a person 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,

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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; ~~and~~
 - ~~(vii) All of the information provided by the Participating Contractor is true and correct to the best of the signatory's knowledge.~~
- (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 ~~a person~~ 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 ~~random~~ post-project verifications, as described in Section 10092.7(d); ~~and~~
 - ~~(vii) Certification that all of the information provided by the Eligible Commercial Financing Customer is true and correct to the best of its knowledge.~~
- (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.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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

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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 in accordance with 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 ~~per~~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 ~~per~~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 ~~shall~~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 as provided under 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 as provided under 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 as provided under 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

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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

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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 ~~specified~~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~~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) If the Enrolled Financing Agreement is secured, a statement of whether the FPE has commenced enforcement proceedings;~~
 - ~~(3)~~(2) Certification that the claim was submitted as required by Section 10092.10(a) and certification that ~~such~~the charge-off was made in a manner consistent with the FPE's usual methods for taking action on financing agreements ~~which~~that are not Enrolled Financing Agreements under the Program;

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- ~~(4)(3)~~ Certification that the FPE will comply with reporting requirements on recoveries and proceeds, as ~~laid out~~specified in Section 10092.12(b)(8)(g)(2); and
- ~~(5)~~ Certification that all of the information provided is true and correct to the best of the signatory's knowledge; and
- ~~(6)(4)~~ The claim application must be signed by the Loss Reserve Account Representative and shall~~will~~ include the signatory's printed name, title, and date.
- (f) The Authority will approve claims within ~~thirty~~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 ~~it is determined~~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 ~~per~~pursuant to Section 10092.2(c)(3) or a subsequent update ~~per~~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 ~~thirty~~30 calendar days if the Authority requires more information ~~in order to determine~~ if the claim ~~shall~~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. ~~Such~~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, ~~from~~the liquidation of collateral, personal guarantees, or ~~from~~ 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 ~~per~~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) Loan ID;
 - ~~(1)(2)~~ Whether the financing agreement is current, 30 days, 60 days, or 90 days past due, fully satisfied, or charged off;
 - ~~(2) Any changes to the maturity date or contractual end date, payment amount, and/or interest rate.~~
 - (3) The current outstanding financed amount;
 - (4) Whether the financing agreement was sold, transferred, or assigned to a third party and the date of such 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.
 - ~~(6) Date(s) and amount(s) of any charge off(s) and whether enforcement proceedings have begun.~~
 - ~~(7) Any anticipated losses and whether acceleration notices have been sent.~~
 - ~~(8) Amount of any recoveries or proceeds from charged off financings.~~
- (c) Once an FPE has reported an Enrolled Financing Agreement as having a zero balance, it 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-SBF products of the FPE for the purpose of helping the Authority determine ongoing benefits to borrowers that result from the loss reserve.~~
- ~~(e) The report must also include the number of completed applications received and the number approved for the Program during the prior month.~~
- (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.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

~~(g) If an FPE 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 ten business days of such action.~~

(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

~~The Eligible Commercial Financing Customer authorizes the Participating Contractor(s), Participating Project Developer, IOU(s), and Finance Provider Entity(ies) to share information with the Authority, as required by the regulations within this Article, including contact information, data on work performed and improvements installed on the Project, any and all IOU rebate data, information regarding the Eligible Financing Agreement, and other information relating to or arising from participation in the Program.~~

- (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 ~~privacy rights disclosure~~ in a format ~~to be~~ 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 ~~such 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

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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 ~~the agency~~ CAEATFA or its contractors. You have the right of access to records established from the information provided to ~~the agency~~ 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 ~~which~~ 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	No <u>Yes</u>
<u>Agriculture</u>	<u>Dehumidification System using Solid or Liquid Desiccant</u>		<u>Electric</u>	<u>No</u>
<u>Agriculture</u>	<u>Dehumidification System with On-site Heat Recovery</u>		<u>Electric</u>	<u>No</u>
<u>Agriculture</u>	<u>Greenhouse Energy Curtain</u>		<u>Electric</u> <u>Gas</u>	<u>Yes</u>
Agriculture	Heat Recovery		Electric Gas	No <u>Yes</u>
Agriculture	High Efficiency Booster or Well Pump		Electric	No <u>Yes</u>
Agriculture	High Efficiency Irrigation Pump		Electric	No <u>Yes</u>
Agriculture	High Efficiency Ventilation Fan		Electric	Yes
Agriculture	Irrigation Pump Performance Testing and Optimization		Electric	No
Agriculture	Plate Cooler		Electric	No <u>Yes</u>
Agriculture	Sprinkler-to-Drip Irrigation		Electric	No <u>Yes</u>
Agriculture	VFD on Booster or Well Pump Motor		Electric	No <u>Yes</u>
Agriculture	VFD on Pump or Fan Motor		Electric	No <u>Yes</u>
Appliances	Air Cleaner/Purifier	Energy Star	Electric	Yes
<u>Appliances</u>	<u>Convection Electric Oven</u>		<u>Electric</u>	<u>Yes</u>
<u>Appliances</u>	<u>Convection Gas Oven</u>		<u>Gas</u>	<u>No</u>
<u>Appliances</u>	<u>Induction Range or Cooktop</u>		<u>Electric</u>	<u>Yes</u>
<u>Appliances</u>	<u>Range Hood</u>	<u>Energy Star</u>	<u>Electric</u>	<u>No</u>
Appliances	Residential In-Unit Clothes Dryer (Electric)	Energy Star	Electric	Yes
Appliances	Residential In-Unit Clothes Dryer (Gas)	Energy Star	Gas	No

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

Appliances	Residential In-Unit Clothes Washer (Electric Hot Water)	Energy Star	Electric	Yes
Appliances	Residential In-Unit Clothes Washer (Gas Hot Water)	Energy Star	Gas	Yes
Appliances	Residential In-Unit Clothes Washer	Energy Star	Electric Gas	Yes
Appliances	Residential In-Unit Dishwasher (Electric Hot Water)	Energy Star	Electric	Yes
Appliances	Residential In-Unit Dishwasher (Gas Hot Water)	Energy Star	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	Must be certified by Cool Roof Rating Council (CRRCC)	Electric	No
Building Envelope	Floor Insulation		Electric Gas	No
Building Envelope	Heat Reflective Coating	Product must have solar reflectance ≥ 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	No Yes
Data Centers	Aisle Layout Optimization	Separate hot and cold aisles	Electric	No 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	No Yes
Data Centers	Server Virtualization		Electric	No Yes
Demand Response	Automated Demand Response Equipment (Electric)		Electric	No
Demand Response	Automated Demand Response Equipment (Gas)		Gas	No

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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
<u>HVAC</u>	<u>Air Filter Alarm or Sensor</u>		<u>Electric Gas</u>	<u>No</u>
<u>HVAC</u>	<u>Air Filter Upgrade - HEPA</u>	<u>HEPA filter upgrade. Must be installed with an ECM fan motor and a filter sensor or alarm.</u>	<u>Electric Gas</u>	<u>No</u>
<u>HVAC</u>	<u>Air Filter Upgrade - MERV</u>	<u>MERV 13-16 air filter upgrade. Must be installed with an ECM fan motor and a filter sensor or alarm.</u>	<u>Electric Gas</u>	<u>No</u>
HVAC	Air-Side or Water-Side Economizer		Electric	No
HVAC	Air-Source or Ground-Source Heat Pump		Electric Gas	No
HVAC	Automatic Filter Replacement		Electric	No <u>Yes</u>
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

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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
<u>HVAC</u>	<u>Dedicated Outside Air System (DOAS)</u>		<u>Electric Gas</u>	<u>No</u>
HVAC	Demand Controlled Ventilation		Electric Gas	No
<u>HVAC</u>	<u>Diagnostic or Fault Detection Alert Systems</u>		<u>Electric Gas</u>	<u>No</u>
HVAC	Dual Enthalpy Control		Electric	No
HVAC	Duct Insulation		Electric Gas	No <u>Yes</u>
HVAC	Duct Sealing (Existing)		Electric Gas	No
HVAC	Duct Sealing (New)		Electric Gas	No
<u>HVAC</u>	<u>Duct Sealing</u>		<u>Electric Gas</u>	<u>No</u>
<u>HVAC</u>	<u>Duct Sizing or Optimization</u>		<u>Electric Gas</u>	<u>No</u>
HVAC	Furnace Fan Brushless DC Motor <u>ECM Furnace Fan Motor</u>	Brushless Permanent Magnet (BPM) or Electronically Commutated Motors (ECM) motors	Electric	No
HVAC	Evaporative Cooling		Electric	No
HVAC	Fan or Motor Control		Electric	No
HVAC	Furnace - Commercial		Gas	No
HVAC	Furnace - Residential In-Unit	Energy Star	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	No <u>Yes</u>

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

HVAC	HVAC Pipe Insulation		Electric Gas	No <u>Yes</u>
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
<u>HVAC</u>	<u>Radiative Cooling</u>		<u>Electric</u>	<u>No</u>
HVAC	Residential In-Unit Wall Furnace (Fan type)		Gas	No
HVAC	Residential In-Unit Wall Furnace (Gravity)		Gas	No
<u>HVAC</u>	<u>Residential In-Unit Wall Furnace</u>		<u>Gas</u>	<u>No</u>
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

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

Industrial	Compressed Air Leak Audit and Repair		Electric	No
Industrial	Compressed Air No-Loss Drain		Electric	No
Industrial	Compressed Air Pressure Reduction		Electric	No <u>Yes</u>
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	Exceed EISA 2007	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

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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 <u>Hard-wired</u> Light Fixture	DLC qualified horticultural light fixture (<u>hard-wired</u>)	Electric	No
<u>Lighting</u>	<u>LED Horticultural Plug-in Light Fixture or Replacement Lamp</u>	<u>DLC qualified horticultural light fixture (plug-in) or replacement lamp</u>	<u>Electric</u>	<u>Yes</u>
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 or 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
<u>Lighting</u>	<u>LED Tape Lighting</u>		<u>Electric</u>	<u>Yes</u>
Lighting	LED Troffer Fixture or Retrofit Kit	DLC qualified 2x2, 1x4, or 2x4	Electric	No

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

Lighting	LED Under-Cabinet or Cove Fixture	Energy Star	Electric	No
Other	Building Management System (BMS)		Electric Gas	No
<u>Other</u>	<u>Commercial Laundry - Clothes Washer (Electric Hot Water)</u>	<u>Energy Star</u>	<u>Electric</u>	<u>No</u>
<u>Other</u>	<u>Commercial Laundry - Clothes Washer (Gas Hot Water)</u>	<u>Energy Star</u>	<u>Gas</u>	<u>No</u>
<u>Other</u>	<u>Commercial Laundry - Dryer Moisture Sensor Retrofit (Electric)</u>		<u>Electric</u>	<u>No</u>
<u>Other</u>	<u>Commercial Laundry - Dryer Moisture Sensor Retrofit (Gas)</u>		<u>Gas</u>	<u>No</u>
<u>Other</u>	<u>Commercial Laundry - Modulating Gas Valve</u>		<u>Gas</u>	<u>No</u>
Water Heating <u>Other</u>	Commercial Laundry - Ozone System (Electric Hot Water)		Electric	No
Water Heating <u>Other</u>	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	No <u>Yes</u>
Other	Generator Circulating Block Heater		Electric	No
Other	High Efficiency Distribution Transformer		Electric	No
Other	IOU/REN/CCA Deemed Rebate - Other <u>Other Measures Qualifying Through IOU/REN/CCA Programs</u>	Measure not elsewhere on this list for which Participating Contractor or Eligible Finance Customer seeks an IOU/REN/CCA rebate or incentive. <u>Measure not elsewhere on this list that qualifies for an IOU/REN/CCA energy efficiency or demand response program.</u>	Electric Gas	No

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

<u>Other</u>	<u>Other Measures Qualifying Through IOU/REN/CCA Programs - Self-Install</u>	<u>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.</u>	<u>Electric Gas</u>	<u>Yes</u>
Other	Plug Load Control		Electric	Yes
Pool Products	Gas Pool Water Heater	Energy Star	Gas	No
Pool Products	Heat Pump Pool Water Heater	Energy Star	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	No <u>Yes</u>
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	Brushless Permanent Magnet (BPM) or Electronically Commutated Motors (ECM) motors	Electric	No
Refrigeration	Evaporator Fan Motor Control		Electric	No
<u>Refrigeration</u>	<u>Evaporator Fan Permanent Magnet Synchronous Motor (PMSM)</u>		<u>Electric</u>	<u>No</u>
Refrigeration	Floating Head Pressure Control		Electric	No
<u>Refrigeration</u>	<u>Laboratory Grade Refrigerator or Freezer</u>	<u>Energy Star</u>	<u>Electric</u>	<u>No</u>
Refrigeration	Low Charge Ammonia		Electric	No
Refrigeration	Low Energy Anti-Condensation Door		Electric	No

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

Refrigeration	Phase Change Material for Refrigerated or Freezer Storage		Electric	Yes <u>No</u>
Refrigeration	Rapid Close Doors for Refrigerated Warehouse		Electric	No
Refrigeration	Reach-in Refrigerator or Freezer	Energy Star	Electric	Yes
Refrigeration	Refrigerated Case Door Strip		Electric	Yes
Refrigeration	Refrigerated Case Night Cover		Electric	Yes
<u>Refrigeration</u>	<u>Refrigeration Tune-up and Optimization</u>		<u>Electric</u>	<u>No</u>
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 Hot Water)		Electric	Yes
Water Heating	Faucet Aerator (Gas Hot Water)		Gas	Yes
<u>Water Heating</u>	<u>Faucet Aerator</u>		<u>Electric</u> <u>Gas</u>	<u>Yes</u>
Water Heating	Faucet Laminar Flow Restrictor (Electric Hot Water)		Electric	Yes
Water Heating	Faucet Laminar Flow Restrictor (Gas Hot Water)		Gas	Yes
<u>Water Heating</u>	<u>Faucet Laminar Flow Restrictor</u>		<u>Electric</u> <u>Gas</u>	<u>Yes</u>
Water Heating	Heat Pump Water Heater	Energy Star	Electric	No
<u>Water Heating</u>	<u>Recirculating Hot Water Pump Control</u>	<u>Temperature sensor or time clock control</u>	<u>Electric</u>	<u>No</u>
Water Heating	Shower Head—Low Flow (Electric Hot Water)		Electric	Yes
Water Heating	Shower Head—Low Flow (Gas Hot Water)		Gas	Yes
<u>Water Heating</u>	<u>Shower Head - Low Flow</u>		<u>Electric</u> <u>Gas</u>	<u>Yes</u>
Water Heating	Shower Thermostatic Valve (Electric Hot Water)		Electric	No
Water Heating	Shower Thermostatic Valve (Gas Hot Water)		Gas	No
<u>Water Heating</u>	<u>Shower Thermostatic Valve</u>		<u>Electric</u> <u>Gas</u>	<u>No</u>
Water Heating	Tank Insulation (Electric Hot Water)		Electric	Yes
Water Heating	Tank Insulation (Gas Hot Water)		Gas	Yes

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

<u>Water Heating</u>	<u>Tank Insulation</u>		<u>Electric</u> <u>Gas</u>	<u>Yes</u>
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
<u>Water Heating</u>	<u>Water Pipe Insulation</u>		<u>Electric</u> <u>Gas</u>	<u>Yes</u>

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 installation 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 OBR Customer's 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 appears must also be named on the financing agreement that is to be repaid through OBR.
 - (B) 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;
 - (3) The OBR Total Charge; and
 - (4) The fuel type that accrued the greatest ESM installation 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 an OBR Customer from participation in 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 OBR charges to first appear on the OBR Customer's IOU bill due to variations in IOU billing cycle intervals.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (2) After the OBR Approval Date, the FPE must not require any direct payment from the OBR Customer until the customer's OBR Removal Date. The customer may still make voluntary payments, in addition to the payments required to be made through OBR directly to the FPE.
- (3) An Eligible Financing Agreement may be repaid through OBR for up to 15 years from the OBR Approval Date.
- (4) 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 charges appear. 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 of those changes 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.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

- (3) Replenishment of the ORF. If there are no 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 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) Include, in addition to the certifications described in Section 10092.2(c)(5), the application and signed by an individual authorized to legally bind the FPA, all of the following certifications:
- (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;
- (iv) It agrees that, as of the OBR Approval Date, it must not directly bill or require any direct payment from the OBR Customer until the customer's OBR Removal Date;
- (v) 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; and
- (vi) It must not require any direct payments on an Enrolled Financing Agreement that is currently being repaid through OBR prior to the OBR Removal Date.
- (F) Contain, in addition to the representations described in Section 10092.2(c)(7)(E) and signed by an individual authorized to legally bind the FPA, the FPA's representation, warranty, and covenant 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.

Agenda Item – 4.D
Resolution No. 21-06-4.D
Attachment A

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

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