CALIFORNIA PUBLIC UTILITIES COMMISSION

SOUTHERN CALIFORNIA EDISON COMPANY

Utilities Energy Procurement Transactions Audit

From January 1, 2005 through December 31, 2005

FINAL REPORT

Reported as of
May 31, 2007

****PUBLIC VERSION****

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LEGAL NOTICE

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EXECUTIVE SUMMARY

THE PURPOSE OF OUR REVIEW

Virchow Krause & Company (Virchow Krause) was retained by the California Public Utilities Commission (CPUC or Commission) to perform a compliance audit of Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) (the Utilities) energy procurement from January 1, 2005 through December 31, 2005. This audit was performed in accordance with the Commission's Request for Proposal (RFP) *Number 05PS5540*. The objective of the audit was to determine if the Utilities were in compliance with their procurement plans as approved by the CPUC and energy procurement standards as defined by numerous regulatory rulings, decisions and orders.

Five primary tasks were performed. These were:

1. Verification of procurement transaction policies and procedures, which included initial data collection and final refinement of a detailed audit work plan.

2. Verification of Quarterly Compliance Filings (Advice Letters).

3. Review and testing of quarterly transactions for consistency with Commission-adopted procurement plans.

4. Assess the effectiveness of accounting and compliance of procurement transactions.

5. Develop recommendations associated with procurement process to the Commission.

During its review for this report, Virchow Krause examined pertinent information including the following:

- Key CPUC procurement-related decisions and resolutions
- Utility presentations and background materials designed to familiarize Virchow Krause with the California energy market and procurement activities
- Utility Procurement Plans (STPPs and LTPPs)
- Advice letter submissions that revised or requested modifications to the Utility Procurement Plans
- Quarterly advice letter filings for 2005 procurement, applicable work papers and related correspondence with the CPUC
- Other information provided in response to Information Requests

AUDIT RESULTS

Virchow Krause began the audit in late 2006, and fieldwork concluded with the issuance of the first draft of this report on April 12, 2007. Approximate 242 information requests were issued during this time to the three Utilities. During the course of the audit, Virchow Krause teams performed over 660 tests and conducted numerous interviews with Utility staff.

Our activities were performed following the guidance and requirements of the American Institute of Certified Public Accountants (AICPA) and Generally Accepted Government Auditing Standards (GAGAS). However, the word “audit” that appears throughout this report is neither an audit in accordance with Generally Accepted Auditing Standards (GAAS) nor an audit under standards of the AICPA or GAGAS. AICPA and GAGAS principles were used in developing the audit’s work plans and statistical sampling methods. In testing for compliance with California’s standards, orders and the Utilities’ approved procurement plans, a straight forward ‘yes’ or ‘no’ evaluation was used. Results could only be “*in compliance*” or “*not in compliance*” for each test performed. One or more non-compliant items created findings, which are found in the section titled Findings of this report.

It is also important to recognize that this compliance “audit” was performed under very strict confidentiality requirements. Three teams performed the same work program independently; one Virchow Krause team was assigned only to one Utility. None of the three teams were allowed to share their findings or utility-specific knowledge with the other Virchow Krause teams. This, also, is the primary reason why this audit resulted in three separate, but similar reports, rather than one report on the three Utilities’ compliance.

Overall, Virchow Krause found no significant patterns of non-compliance in the transactions or processes sampled during this audit. Therefore, we recommend that no resolution be prepared for the Commission’s agenda.

AUDIT SCOPE

BACKGROUND

In Decision 03-12-062, the Commission directed that the Energy Division to select an outside auditor to review and verify that the quarterly compliance filings were in compliance with the Utilities' adopted procurement plans. Pursuant to that directive, the Energy Division issued a Request for Proposal (RFP) entitled Utilities Procurement Transactions Audit for 2004, 2005 and 2006 on October 20, 2005. It was reissued on February 9, 2006 to include supplemental and updated information deemed important and necessary by the Commission. The RFP defined the scope of the audit as a compliance audit of Utilities' quarterly procurement transactions for 2004, 2005, and 2006, including related expenditures and revenues supported by Energy Resources Recovery Account (ERRA) invoices and procurement transactions documents.

Under the direction of the Energy Division and the Audit and Compliance Branch of the Water Division, Virchow Krause undertook an audit of the quarterly compliance filings to determine whether the transactions recorded in the compliance filings demonstrated that the Utilities acted within their Commission approved procurement authority.

The quarterly compliance filings were ordered in Decision 02-10-062. For both the approved short-term and long-term procurement plans, the Utilities were required to file each quarter's procurement transactions that conform to the approved plan by advice letter. The Commission's Energy Division should review the transactions to ensure the prices, terms, types of products, transaction methods, and quantities of each product conform to the approved plan. Consistent with AB 57, any transaction submitted by advice letter that is found to not comport with the adopted procurement plan may be subject to further review.

Consequently, the major objective of this audit was to verify that the transactions entered into were in compliance with the upfront standards identified by the Commission including authorized contract term duration and volume limits, rules regarding affiliate transactions, cost-effectiveness testing for transactions and benchmarks that demonstrate procurement transaction transparency, given the restriction in Pub. Util. Code § 454.5(d)(2) on ex-post reasonableness reviews of a Utility's procurement activities and given the Legislative intent of AB 57 for the Commission to approve procurement plans that employ the use of competitive procurement processes.

The audit reviewed the Utilities' procurement transactions as reported on a quarterly basis by advice letter filings in 2005. The 2004 audits were completed in February 2007 and the 2006 audits will be completed later in 2007.

APPLICABLE REGULATIONS

In 2001, the Commission established necessary operating procedures and ratemaking mechanisms for the Utilities to resume full procurement responsibilities. The purpose of the procedures and mechanisms was to enable the three major electric Utilities to resume purchasing electric energy, capacity, ancillary services and related hedging instruments to fulfill their obligation to serve and meet the needs of their customers and ensure a reliable and cost-effective electric supply.

Based upon opening briefs, reply briefs, discussions and the parties' positions and Utility recommendations, several orders, rulings, decisions and conclusions of law were concluded. Upon conclusion of law, the orders became effective and provided implementation requirements for the Utilities. If a conclusion was not made, the decision was postponed and other future proceedings continued to address the policy and procedure requirements until the Commission came to a full decision.

The Commission initiated Ruling 01-10-024 to support its efforts in enabling the three utilities to fulfill their obligation to serve and meet the needs of their customers and ensure a reliable and cost-effective electric supply. In R.01-10-024, the Commission adopted the short-term procurement plans of the three investor owned utilities, Pacific Gas and Electric Company, San Diego Gas and Electric Company and Southern California Edison Company. The short-term procurement plans are the framework for an integrated and enterprise approach to the policies and procedures recommended and adopted by the Commission. The objectives of the short term procurement plan and the procurement processes should be (1) to ensure sufficient and reliable energy supply at reasonable and stable rates and (2) to optimize the value of its overall supply portfolio for the benefit of customers.

The short-term procurement plans for 2005 included information on the short-term reserve levels, the target level of spot market purchases, risk management issues and customer risk tolerance, contract term duration and volume limits, standards for procurement products and transactions, and accounting requirements. Additional issues related to these areas include the Procurement Review Group (PRG), the Qualifying Facilities (QFs), affiliate transactions, bilaterally negotiated transactions, energy efficiency programs, demand response and short term renewables.

The Commission established Ruling 04-04-003, a successor to Ruling 01-10-024, on April 1, 2004 to ensure that the Utilities have available the broadest range of appropriate resources. The Commission adopted the long-term resource plans and expands on its efforts to integrate Utility resource planning.

Major decisions related to R.01-10-024

A subsequent series of decisions were produced from R.01-10-24. These included: D.02-08-071, D.02-10-032, D.02-12-074, D.03-06-071, D.03-06-076, D.03-12-062 and D.04-01-050. These Decisions are discussed below.

D.02-08-071

The Commission approved Decision 02-08-071 on August 22, 2002. This decision, applicable to this audit, authorized the use of multi-year procurement contracts, capacity contracts, forward energy products, SO1 contracts for QFs, and other contracts; established the filing of advice letters for nonstandard contract review and approval; and set requirements for competitive bids for renewable resources during the transition procurement process. This Decision also established the PRG for guidance and recommendations for each IOU.

D.02-10-062
The Commission approved Decision 02-10-062 on October 24, 2002. This Decision expanded the requirements for the advice letter filings and approved the filing by Utilities of each quarter's procurement transactions and the Appendix B requirements within 15 days of the end of the quarter. The Commission will review the transactions to ensure the prices, terms, types of products, transaction methods, and quantities of each product conform to the approved plan. Consistent with AB 57, any transaction submitted by advice letter that is found to not comport with the adopted procurement plan may be subject to further review. The Commission also set the minimum standards of conduct.

This Decision also recommended that the Commission establish a balancing account for the three Utilities to track energy costs, excluding existing California Department of Water Resources (DWR) contracts that include Utility Retained Generation (URG) fuels, QF contracts, inter-utility contracts, Independent System Operator (ISO) charges less reliability must-run revenues, irrigation district contracts, bilateral and forward market purchases, credit and collateral for procurement purchases, and ancillary services. This Decision also recommends the filing of long term procurement plans.

D.02-12-074
The Commission approved Decision 02-12-074 on December 19, 2002. This Decision expanded the requirements for the Energy Resource Recovery Account (ERRA) balancing account, and required the Utility to file with the Energy Division each month a report showing the activity in the ERRA balancing account with copies of original source documents supporting each entry over $100.00 recorded in the account. This report shall be filed not later than the 20th day following the end of the month.

D.03-06-071
Decision 03-06-071 was approved on June 19, 2003 and focused on renewable energy procurement. It provides guidance the renewable procurement should be guided by the annual approved renewable procurement plans of the Utilities and required annual procurement targets. It sets a required one percent increase in minimum annual procurement with 20% of retail sales to be procured from eligible resources no later than December 31, 2017.

D.03-12-062
The Commission approved Decision 03-12-062 on December 18, 2003. This Decision addresses additional issues related to the short term procurement plans, the short-term reserve levels, and provides guidance on a target level of spot market purchases. In addition, this decision expands on the risk reporting requirements, procurement products and transactions requirements, the role of the PRG and the advice letter updates for the short-term procurement plan. For the risk reporting requirements, the Decision extends unsecured credit limits to non-investment grade counterparties with the use of credit mechanisms such as parent company or third party guarantees, letters of credit, surety bonds and similar mechanisms. In addition, the Decision addresses requirements for relying on master agreements with special parent or guarantor provisions for posting collateral and for assuming continuity of service for non-investment grade counterparty transactions.

D.04-10-024

The Commission approved Decision 04-10-024 on January 22, 2004, which adopts the long-term regulatory framework under which the three Utilities will plan for and procure for the energy resources and demand-side investments necessary to ensure their customers receive reliable service at low and stable prices. The long-term procurement plan is required to be updated to include forecasts of percentage of retail sales met each year by renewables, QFs with existing contracts, and other long-term plan forecast information.

Major Decisions Related to R.04-04-003

A subsequent series of decisions were produced from Ruling 04-04-003. Applicable to the audit was Decision 04-07-028. The Commission approved D.04-07-028 on July 8, 2004. This Decision outlined requirements when the Utilities make resource scheduling and procurement decisions to meet customer needs and to permit the California ISO to maintain reliable grid operations. When making scheduling and procurement decisions, each Utility should incorporate all CAISO-related forward commitment costs. In addition, the Utilities were allowed to include transactions above the 5% guideline in the spot market to enhance local area reliability or reduce costs.

In December 2004, the Commission adopted Decision 04-12-048 which approved the IOU's long-term procurement plans, clarified some of the procurement rules adopted in prior Commission decisions, and ordered the Utilities to propose a way to reformat the submission of Quarterly Transaction Reports to streamline their review.

D.04-12-048

Decision 04-12-048, issued December 16, 2004, sets the requirements for long term planning and provides other procurement guidelines. The overall goal of the decision was to give the three Utilities authorization to plan and procure the necessary resources to provide reliable service for 2005-2014.

This 246 decision provides much guidance, including:

- It requires the use of the Energy Action Plan loading order when soliciting resources. The loading order is as follows:
    - Energy Efficiency and Demand Response
    - Renewables (including renewable distributed generation)
    - Clean fossil-fueled distributed generation
    - Clean fossil-fueled central station generation
- Procurement plan should include procurement of the maximum amount of cost effective energy efficiency and demand-side resources, maximum cost-effective renewable resources via all-source RFO's and justification of fossil over renewable resources
- Requires employment of GHG adder when evaluating fossil bids
- Contracts five years or longer require Commission preapproval
- Procurement authority is on a rolling 10-year basis for long term contracts
- Lifts ban on affiliate transactions if through an open and transparent process
- Authorized use of electronic auctions and use of negotiated bilateral contracts for transactions up to three calendar months
- Sets requirements for all-source solicitations
- Adopts FERC guidelines for use of Independent Evaluators
- Provides MW targets for Demand Response

Other Rulings

Decision 04-10-035, issued October 28, 2004 focuses on resource adequacy. This Decision required the Utilities to submit compliance filings on September 30th of each year demonstrating forward commitments of 90% for the following May to September period.

AUDIT APPROACH

OVERALL APPROACH

The Virchow Krause approach to completing this engagement closely followed the tasks outlined by the California Public Utilities Commission in the revised Request for Proposal.

The work plan was organized into five primary tasks which correspond to the five tasks outlined in the Request for Proposal. They are:

1. Verification of procurement transaction policies and procedures, which includes initial data collection and final refinement of a detailed audit work plan.

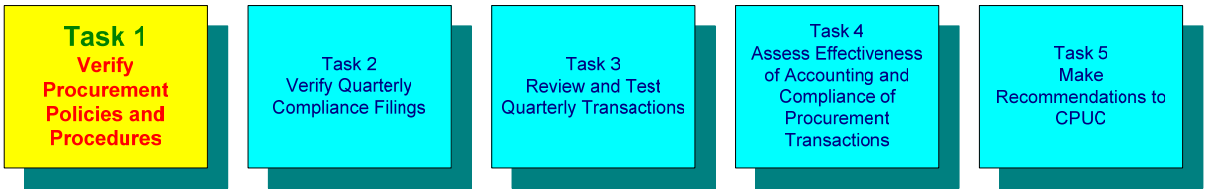
2. Verification of Quarterly Advice Letters.

3. Review and testing of quarterly transactions for consistency with Commission-approved procurement plans.

4. Assessing the effectiveness of accounting and compliance of procurement transactions.

5. Development of recommendations associated with procurement process to the Commission.

TASK 1: VERIFY PROCUREMENT POLICIES & PROCEDURES



Overall Task Goal

The goal of this first task was to determine the applicable rulings, decisions and orders that became the foundation for the final detailed work program which was executed at each Utility. For the 2004 audit, the Virchow Krause teams were introduced to the Utilities' procurement processes. Also, program work rules related to field execution, confidentiality, communications with the Utilities and other important protocols were established.

The following table summarizes the key work activities executed during Task 1:

Task 1: Verify Procurement Policies and Procedures	
1.01	Reviewed applicable regulatory decisions, orders, resolutions and the Commission-approved procurement plans
1.02	Identified and extracted portions of the applicable decisions, orders, resolutions, and Commission approved procurement plans which provided the regulatory framework under which the Utility operates in performing its short-term procurement responsibilities
1.03	Summarized the results of the regulatory review to develop a regulatory framework for the compliance review
1.04	Developed a work program to be executed at all three Utilities using a regulatory compliance checklist as a foundation
1.05	Obtained copies of each Utility's review processes, policies, and procedures used to implement and perform under the Commission adopted procurement plan and regulatory standards
1.06	Conducted interviews (if needed) with Utility's procurement managers who oversee the implementation of the procurement plan including but not limited to, forecasting, energy planning, contracts and trading, and settlements (if needed)
1.07	Obtained and reviewed presentations (and/or meeting minutes) made by the Utility to its PRG regarding its procurement plans. Presentations included information provided to the PRG (as directed by the Commission) about the Utility's procurement plans. Contents will include, but were not limited to, information on the Utility's procurement portfolio open position; changes in market conditions from previous quarter, including gas and electric prices; hedging strategies going forward and whether an updated plan is required to be filed.

Planning, Project Management and Orientations
During Task 1, project initiating activities began with a project kickoff. The kickoff meeting was used to establish benchmarks for completion of project segments, review 2004 work program and modify it for 2005 regulations and to discuss various project issues and approaches. This was particularly important as it was the last time the total program team could meet together. The Virchow Krause team also discussed the project work plan, schedule and other processes (information gathering, interviewing, issue escalation, etc.) at this kickoff. They also reviewed the accountability framework at each Utility in order to effectively implement our escalation procedures if necessary.

Applicable Regulatory Documents
The Virchow Krause team researched and identified the applicable procurement orders, rulings and decisions for 2005 and reviewed these with the CPUC Energy Division to determine whether the particular decisions were in scope for this audit. The pertinent regulatory documents began in 2001 when the CPUC has issued a series of orders and decisions regarding the procurement process to be followed by PG&E, SCE and SDG&E. These regulatory documents provided the foundation for this review and provided the specific requirements which were tested during the audit. Following is a summary of the major decisions which were determined to be applicable to this audit.

Summary of Major CPUC Procurement Rulemakings & Decisions

Document No.	Date	Description
R.01-10-024	10/25/01	Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development • Establishes ratemaking mechanisms enabling PG&E, SCE and SDG&E to resume purchasing electric energy, capacity, ancillary services & related hedging instruments to fulfill obligation to serve their customers • Requires that renewable resources be included in the mix of new generation • Provides requirements for Quarterly Advice Letter filings in Master Data Request
D.02-08-071	8/22/02	Rulemaking for interim procurement • Establishes PRGs • Requires that all products procured must be through a competitive process • Re-institutes Utility obligation to enter into SO1 contracts with QFs • Sets requirements for renewable resources

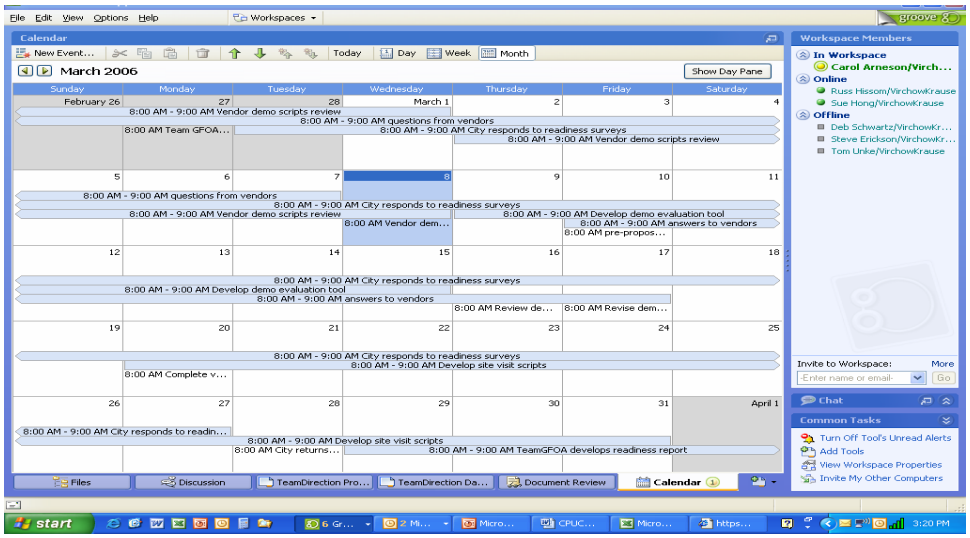
Document No.	Date	Description
D.02-10-062	10/24/02	Decision adopted the regulatory framework under which SCE, PG&E and SDG&E resumed full procurement activities on January 1, 2003 • Contains requirements for updating short-term Utility procurement plans • Provided expedited review procedures • Continued the PRG process • Provided direction for long-term planning and required filing of long-term plans on April 1, 2003 • After approval of short-term procurement plan, all transactions in compliance should be filed for tracking purposes in quarterly advice letter (Master Data Request)
D.02-12-074	12/19/02	Decision approved the short-term procurement plans for Year 2003 • Modified and clarified cost recovery mechanisms and standards of behavior adopted in D.02-10-062 • Provided further guidance on long-term planning process
D.03-06-071	6/19/03	Decision sets requirements for renewable procurement including: • Sets a required 1% increase per year in renewable procurement • Requires 20% of retail sales to be procured from eligible resources no later than December 31, 2017
D.03-06-076	6/19/03	Decision denied rehearing of D.02-10-062 and D.02-12-074 and modifies some requirements • Permits transactions through ISO (Independent System Operator) that can be demonstrated to include multiple and anonymous bidders • Modifies standards of conduct
D.03-12-062	12/18/03	Decision adopted short-term procurement plans for Year 2004 • Requires short-term operating reserve levels • Sets target level of spot market purchases • Addresses risk management issues • Authorizes contract term duration and volume limits • Sets standards for procurement products and transactions • Provides process for modification and approval of short-term plans • Addresses affiliate transaction prohibition, continues PRG and other QF, energy efficiency and renewable issues

Document No.	Date	Description
D.04-01-050	1/22/04	Decision adopts long-term regulatory framework • Provides framework for energy resource procurement and demand-side investments to ensure reliable service and low and stable prices • Sets reserve margin standards • Revises many other areas of short-term procurement plans • Sets permanent ban on affiliate transactions for procurement (with some exceptions) • Sets credit policies for both investment and non-investment grade counterparties • Permits Utilities to procure for 2005 needs through short-term contracts of one year or less • Clarifies requirements related to qualified facilities
D.04-07-028		Decision provides guidance on electric utility resource planning • Allows spot transactions to enhance local area reliability, • Relaxes restrictions on negotiated bilateral contracts for capacity and energy to enhance local area reliability
D.04-10-035	10/28/04	This Decision required the Utilities to submit compliance filings on September 30th of each year demonstrating forward commitments of 90% for the following May to September period
D.04-12-048	12/16/04	Decision adopts long-term procurement plans • Requires use of Energy Action Plan loading order when soliciting resources • Procurement plan should include procurement of maximum amount of cost effective energy efficiency and demand-side resources, maximum cost-effective renewable resources via all-source RFO's and justification of fossil over renewable resources • Requires employment of GHG adder when evaluating fossil bids • Contracts five years or longer require Commission preapproval • Procurement authority is on a rolling 10-year basis for long term contracts • Lifts ban on affiliate transactions if through an open and transparent process • Authorizes use of electronic auctions and use of negotiated bilateral contracts for transactions up to three calendar months • Sets requirements for all-source solicitations • Adopts FERC guidelines for use of Independent Evaluators • Provides MW targets for demand response

Confidentiality

Confidentiality was and remains extraordinarily important to the success of this audit. Confidentiality was emphasized in the audits of the Utilities' procurement transactions, among *and between* the three distinct Virchow Krause teams. This means that in addition to confidentiality conditions identified in the CPUC RFP (see attachment), each individual audit team assigned to audit a particular Utility could not share, trade or exchange information with the audit teams auditing the other Utilities. Virchow Krause's program manager overseeing the audit of the Utilities had to maintain the highest confidentiality among the auditors performing the audits of PG&E, SCE, and SDG&E.

To this end, Virchow Krause established separate and distinct project teams for each Utility. Once the initial engagement planning had been completed, Virchow Krause imposed strict segregation between the three project teams to maintain confidentiality. The firm utilized a special software tool for this engagement to preserve security and confidentiality. This project management tool, called Groove, allowed for the establishment of completely separate files and databases for each project. This gave Virchow Krause the ability to deny access of individuals to data, allowing access to files by only specifically-identified project team members. We also executed numerous non-disclosure agreements with our project partner, Miers and Miers, CPAs, as well as with the CPUC.



Groove, shown above, allows separate security firewalls to be established for each Utility's project, allowing only specifically identified team members to access each project space. In cases where it was necessary to review or compile hardcopy documents, Virchow Krause designated separate printers in secure areas where only designated team members had access to printed documents for their specific team.

Specific Confidentiality Requirements

1. Virchow Krause acknowledges that it received a copy and read Public Utilities Code Sections 454.5(g) and 583 and General Order 66-C, and agrees to be subject to and to fully comply, with the legal provisions in discharging its responsibilities. Such compliance include abiding by the terms that prohibit public disclosure of confidential information and submitting to the jurisdiction of the Commission for the purposes of enforcing Public Utilities Code Sections 454.5(g) and 583. Virchow Krause acknowledges that it received and read Public Utilities Code Section 2111, which provides that anyone who knowingly fails to comply with a Commission order, decision, rule, direction, demand or requirement is subject to penalties as set forth in that section.

2. Virchow Krause further recognizes that much of the information obtained from the Commission during the course of its work for the Commission may be subject to other privileges that preclude disclosure, and may not be disclosed without the consent of the Commission, or it's Staff. These privileges include, but are not limited to, attorney work product privilege, the official information privilege, the attorney-client privilege, and other prohibitions precluding disclosure of confidential information.

3. Virchow Krause agreed not to disclose any confidential Utility information regarding its work except upon order of the Commission, or the assigned Commissioner during the course of a hearing. Virchow Krause agreed not to disclose any other confidential information regarding its work except with the Commission Staff's express written consent, and to return all documents obtained during the course of the Agreement within 30 days of the conclusion of the assignment upon request. Virchow Krause agreed to notify the Commission Staff and the Utility that furnished the information of any inquiries and/or request for disclosure from any such third parties.

4. Virchow Krause further agreed not to use any of the confidential information obtained as a result of performing work under this Agreement for <u>any</u> purpose other than performing its obligations under this Agreement. Accordingly, Virchow Krause agrees (1) not to use confidential information obtained as a result of performing work under this Agreement to engage, directly or indirectly, in: (a) the purchase, sale, or marketing of electrical energy or capacity or natural gas; (b) the bidding on or purchasing of power plants; (c) advising or consulting others regarding the purchase, sale or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants; (d) the development of electric transmission lines and/or gas pipelines; (e) advising or consulting others regarding the development of electric transmission lines and/or gas pipelines; and (2) not to use confidential information obtained as a result of performing work under this Agreement for any competitive, commercial, business, or personal benefit, or any other purpose unrelated to its obligations under this Agreement.

5. Commencing with their contract, and for a period of two years following the completion of its work under this agreement, Virchow Krause agreed to notify the Director of the Energy Division and the appropriate Utility or Utilities within five business days of beginning work for an entity or individual that (1) purchases, sells or markets electrical energy or capacity or natural gas; (2) bids on or purchases power plants; (3) advises or consults regarding the purchase, sale, or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants; (4) develops electric transmission lines and/or gas pipelines; (5) advises or consults others regarding the development of electric transmission lines and/or gas pipelines. This obligation applies to all entities and individuals that review confidential Utility information pursuant to this Agreement.

6. Virchow Krause agreed not to permit the exchange of confidential information between its audit teams or to any other individuals who are not performing work under this Agreement. This means that members of an audit team assigned to one particular Utility must not share, trade, or exchange confidential information with the teams auditing the other Utilities, or with any other person outside the audit teams, except subcontractors or Commission personnel assigned to the same audit. The restriction on the exchange of confidential information between the teams auditing each Utility does not prevent designated members of the contracting team from reviewing and overseeing each of the audits.

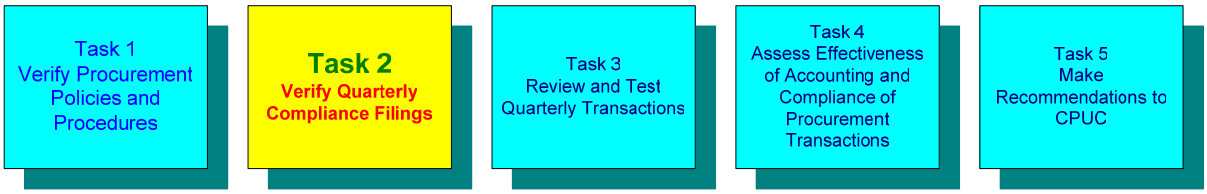
7. Virchow Krause shall not comment publicly to the press or any other media regarding its work, or the Commission's action on the same, except at a public hearing, or in response to questions from a legislative committee.

8. Virchow Krause, prior to commencement of work associated with this Agreement, (1) provided a copy of this section of the Agreement, including Attachments X, and Y, and Public Utilities Code Sections 454.5(g), 583, 2111 and General Order 66-C to all individuals (including any subcontractors) who were selected to perform tasks under this Agreement; (2) informed all those working under this Agreement that they are subject to these legal provisions and must comply with the Confidentiality of Data Agreement/Nondisclosure Sections of the Agreement; and (3) became be fully responsible for the failure of these individuals (including any subcontractors) to abide by the terms of this Agreement.

9. Each individual performing work under this Agreement signed a copy of the Attachment X and Y forms before obtaining access to confidential Utility data (sample provided in **Appendix C**).

10. Ninety days after any document submitted to the Commission has become a part of the public records of the State, Virchow Krause may at its own expense, publish or utilize only the redacted, public version of the same, but not any confidential material subject to this Agreement.

TASK 2: VERIFY QUARTERLY COMPLIANCE FILINGS



Overall Task Goal

The overarching goal of this task was to review the procurement transactions entered into against the quarterly compliance filings to ensure that the Utilities are meeting the specifics of CPUC orders and decisions regarding procurement reporting.

The detailed steps in this task are as follows:

Task 2: Verify Quarterly Compliance Filings	
2.01	Reviewed and verified quarterly advice letter filings including supporting documentation
2.02	Identified and verified Utility's authorized decision-makers up to the Board level that approved the procurement transactions. Identified the position(s) held by each individual. Identified the authorizing staff members, including the Utilities' risk management committees that review and approve all Utility transactions
2.03	Obtained and verified description of, and justification for, the procurement processes used to select the transactions (e.g., Requests for Offers, Electronic Trading Exchanges, and ISO Spot Markets). Checked that the procurement transactions were consistent with the Commission approved procurement products (and policies)
2.04	For competitive solicitations, reviewed and described the process used to rank offers and select winning bid(s). Reviewed whether the process is consistent with Commission orders related to competitive solicitations
2.05	For all other procurement transactional methods, checked if the Utility provided documentation supporting the selection of the chosen products. Reviewed whether the transactions are consistent with Commission orders related to competitive solicitations
2.06	Reviewed whether the Utility explained/justified the timing of transactions (i.e. product term and rate of procurement)
2.07	Verify that the Utility discussed the system load requirements/conditions underlying the need for the month's (later quarter's) transactions
2.08	Verified that the Utility discussed how the month's transactions meet the goals of the risk management strategy reflected in the Commission approved procurement plan (i.e., achieving lowest stable rates)
2.09	Obtained a copy of each sampled procurement contract
2.10	Verified that the Utility determined the break-even spot price equivalent to the contract(s)
2.11	Obtained copy of any data of forecasts used by the Utility to analyze sampled transactions

Task 2: Verify Quarterly Compliance Filings	
2.12	Reviewed whether the Utility provided a reasonable number of analyses requested by the Commission or the PRG, and provided the resulting outputs. Utilities should also have provided documentation on the model and how it operates
2.13	Verified that the product types and transaction processes used for procurement of Residual Net Short (RNS) and sales of Residual Net Long (RNL) during the quarter are those that are in the Utility's Commission approved procurement plan
2.14	Validated that an approved method was used. Approved methods were competitive solicitations (RFO/RFP), electronic exchanges, voice and online-brokers, ISO transactions, energy exchanges, negotiated Bilateral Contracts, and OASIS sites for transmission
2.15	Verified that the Utility did not transact with its affiliates
2.16	Verified that the Utility acted in accordance with its approved procurement plan and did not violate any laws or Commission adopted rules

To perform Tasks 2 and 3, Virchow Krause identified the populations of data pertinent to each test and utilized sampling methodologies to identify data to be tested.

Details on Virchow Krause Sampling Methods
Audit sampling is the application of an audit procedure to less than 100% of the items within an account balance or class of transaction for the purpose of evaluating some characteristic of the balance or class. The purpose of audit sampling procedures is to determine how many items to which a procedure should be applied. Audit sampling applies when the auditor intends to project results of a sample to an entire population.

Authoritative Literature
The authoritative pronouncements that establish requirements or provide suggestions that most directly affect use of audit sampling are:

- SAS No. 39 (AU 350), *Audit Sampling*. This establishes several specific requirements that apply whenever an auditor uses statistical on non-statistical audit sampling.

- The AICPA Audit Guide, *Audit Sampling* (the AICPA Sampling Guide) explains how to apply SAS No. 39. The AICPA Sampling Guide revises the 1999 Auditing Practice Release, *Audit Sampling*, and the 1983 AICPA Audit and Accounting Guide, *Audit Sampling*.

Important Sampling Definitions and Guidelines

Tolerable Error Rate
The maximum population rate of deviations from a prescribed control procedure that the auditor will tolerate without modifying the planned reliance on internal accounting control.

Tolerable Misstatement
Tolerable misstatement is a planning concept and is related to the auditor's preliminary judgment about materiality levels in such a way that tolerable misstatement, combined for the entire audit plan, does not exceed those estimates. Tolerable misstatement is an estimate of the maximum monetary error that may exist in an account balance or class of transactions, when combined with error in other accounts, without causing the financial statements to be materially misstated.

Risk of Over Reliance
The risk that the sample supports the auditor's planned degree of reliance on the control when the true compliance rate does not justify such reliance. This is usually 5% or 10%.

Expected Population Error Rate
An anticipation of the deviation rate in the entire population. It is used in determining an appropriate sample size for an attributes sample.

Computed Error Rate
The actual deviation rate of the population based upon the number of errors detected in the sample.

Relation of Types of Audit Tests to Audit Sampling
There are four distinct types of audit tests that may involve the use of sampling:

- Substantive test of details of balance sheet account balances
- Substantive tests of details of transactions
- Tests of controls
- Tests of compliance with laws and regulations

The samples selected during this project centered on tests of compliance with laws and regulations, focusing on details of transactions and tests of controls.

Benefits of Sampling Methods Used
The related benefits of the sampling methods used during this project can be summarized as follows:

Method	Objective/Related Benefits
Substantive Tests of Transactions	To ensure that the transaction is supported by documentation – this allows independent verification of the appropriateness of the transaction
Test of Controls	To ensure that procedures are in place to obtain evidential matter about the effectiveness of the operation of a control – Allows the auditor to make an assertion that the related transactions are executed in accordance with stated controls
Tests of Compliance with Laws and Regulations	To determine whether there have been instances of non-compliance that may cast doubt on the overall compliance with laws and regulations by the Utility in the specific area being tested – Allows the auditor to make an assertion and a conclusion in a specific area – not an overall conclusion; This assertion is also based on the controls established

We feel that our approach and use of sampling methods gave adequate coverage in the specific areas tested to conclude as to the effectiveness of the Utility's compliance with laws and regulations and to the effectiveness of controls in the particular areas tested.

Sampling Approaches
The two possible approaches to audit sampling are nonstatistical and statistical. SAS No. 39 indicates that both of these approaches are capable of producing sufficient evidential matter, if properly applied. The types of procedures that Virchow Krause applies are not determined by the sampling approach used. Either approach may be used to apply whatever tests of details the firm deems necessary in the circumstances. The importance of professional judgment cannot be overemphasized as it applies to the evaluation of the adequacy of evidential matter generated by the sampling approach! Regardless of the sampling approach selected, Virchow Krause properly plans, performs, and evaluates the results of the sample. Professional judgment is needed to relate the sample results to other evidential matter when the firm forms a conclusion about a particular account balance or class of transactions. The general approach to sampling follows this methodology:

The above method is widely utilized in the accounting and auditing industry and the correct application of sampling methods is tested when firms undergo the industry required peer review process, as has Virchow Krause.

The Basic Requirements
The basic requirements that relate to all audit samples — statistical and non-statistical — are as follows:

- *Defining.* The auditor relates the population (account balance or transaction class or portion of balance or class) to the objective of the audit test; i.e., defining the population and sampling unit.
- *Selection.* The auditor selects items that can be expected to be representative of the population.
- *Evaluation.* The auditor needs to project sample results to the population and consider sampling risk.

Relating Population to Test Objectives

Defining the Population
In a sampling application, the population is defined as all items that constitute the account balance or class of transactions or the portion of the balance or class, being tested. The population usually is the account balance or class of transactions excluding those items selected for testing because of individual significance. Sampling results can be projected only to the population from which the sample is drawn.

Defining the Sampling Unit
The sampling units are the individual items that are subjected to tests and that represent the components of the population. It is important to properly identify the sampling unit before the sample is selected to produce an efficient and effective sampling application. Examples used in this project included energy transaction documentation, bilateral contracts, trading logs, among others... The determination of the specific sampling unit is influenced by the following considerations.

- *The sampling unit should produce an efficient sampling plan.*
- *The sampling plan must be effective to accomplish its objectives.*
- *The nature of the audit procedures can determine the sampling unit to be used.*

Representative Selection

Selecting Sample Items

SAS No. 39 requires a "representative sample"; i.e., the sample items should be selected in such a manner that all items should have an opportunity to be selected. There are several commonly used methods of selecting samples that meet the criteria of representativeness stipulated by SAS No. 39. The following are some of those methods.

- ***Random Selection.*** Regardless of the method of sampling used, statistical or nonstatistical, a random selection can be the most efficient, while providing each item in the population an equal chance of being selected. The AICPA Sampling Guide mentions the use of random numbers generated by computer or selected from a random number table as methods that may be used.
- ***Systematic Sampling.*** This method can be used with nonstatistical or statistical sampling to give every item in the population an equal chance of being selected if a random start is used. However, it does not produce an equal opportunity for all combinations of sampling units to be selected unless numerous random starts are made. The population is divided by the number of sample items to determine the sampling interval to use.
- ***Haphazard Selection.*** Under this method, sample items are selected in no specific pattern without bias for or against any items in the population. This could be done by selecting a sample of items from the paid invoices for the year if there were no bias for or against large ones. Virchow Krause may use this method provided care is taken to be sure no conscious bias is added to the selection process.

All of the above sampling methods were utilized in this project.

The Population Proportionate to Size (PPS) Sampling Technique

For the CPUC engagement, Virchow Krause also utilized the PPS sampling technique. The following steps occurred for the CPUC sampling activities:

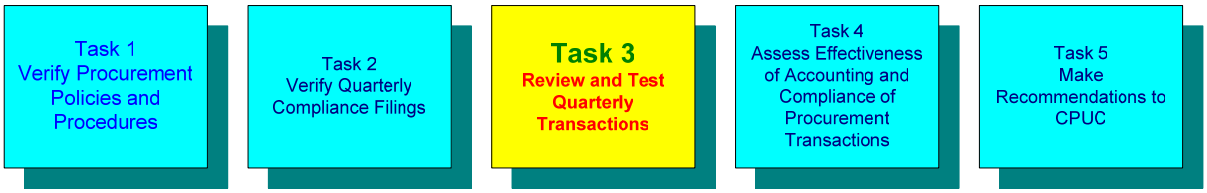
1. We defined the objectives of the test.
2. We determined and described what we considered to be a misstatement.
3. We calculated the tolerable misstatement.
4. We calculated an individually significant item cutoff level, using a predetermined risk factor.
5. We determined the total population amount.
6. We determined the total of individually significant items.
7. We subtracted the individually significant items from the total population to determine the remaining balance.
8. We divided the remaining balance by the tolerable misstatement.
9. We multiplied the above amount by the appropriate risk factor used above, rounding our result up to the nearest whole number to determine the number or remaining items to be tested.
10. We determined the average value in the remaining population.
11. We stratified the remaining population into amounts above and below the average value of the remaining population.

12. Of the remaining items to be tested, we drew 2/3 of the items from the higher dollar strata, and 1/3 from the lower dollar value strata.
13. We determined the projected error rate and carried that amount forward to the summary of passed adjusting journal entries.

Why not sample 100% of the transactions?
While some have said that sampling "100% of the transactions" will result in better coverage and a better basis to give an opinion on Utility compliance, statistical studies show that pure statistical sampling gives equal results in a cost effective manner. The logistics of performing a 100% sample are not practical to do economically and may not be physically possible given the volume of transactions. Under the 100% approach, the omission of a small immaterial transaction that is not locatable would render the results of the audit statistically unreliable.

Summary
All audit sampling techniques used in this project are those common in industry practice. All audit sample applications must be adequately documented in the work papers, as to criteria considered, how sample size was determined, if sampling was or was not applicable, and conclusions on the result of the sample.

TASK 3: REVIEW & TEST QUARTERLY TRANSACTIONS



Overall Task Goal

The goal of this task is to determine if the Utilities are following CPUC orders, rulings, and decisions in their procurement transactions and to document compliance (or non-compliance) of their activities in this area.

Substantive Testing

The objective of this task was to determine that each Utility's quarterly procurement transactions conformed to their respective approved Procurement Plans. The Utilities are required to define and document the selection of the procurement processes and products chosen, justify the timing of transactions, substantiate system load requirements and conditions underlying the need for the quarter's transactions and meet risk management goals.

During this phase of the project, each team requested a listing of all transactions for specific procurement methods and types. From the transaction information provided and transactions reported in the quarterly advice letters, samples were taken to test numerous regulatory requirements. The approved procurement methods tested included Requests for Offers (RFO's), negotiated bilateral contracts, spot market purchases, and locational swaps. Approved procurement transaction types tested included QFs, day ahead transactions (DA), hour ahead transactions (HA) and real time transactions (RT).

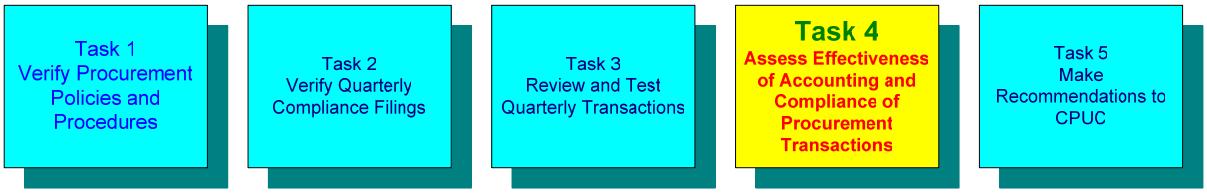
The sampled transactions were tested to obtain sufficient and competent evidential matter to provide reasonable assurance that the selected transactions have been executed in accordance with CPUC orders, rulings and decisions. Testing of each transaction included tracing the transaction from origination within the trading or planning organization through the settlement process, Utility General Ledger and into the ERRA. In addition, testing of each transaction included verifying the counterparty, a review of credit and collateral, risk management and reporting in accordance with CPUC decisions.

If the transactions were not executed in accordance with CPUC ruling, decisions, orders, additional clarifications were requested and the transaction would be recorded as a finding for further discussion and reporting.

Detailed Project Tasks
The detailed steps that are part of our work plan in this area are as follows:

Task 3: Review & Test Quarterly Transactions	
3.01	Reviewed Advice Letter filings and Commission decisions relevant to procurement transactions
3.02	Reviewed copies of and verified internal procurement reports
3.03	Verified utility procurement expenditures by tracing specific transactions from origination through settlement and ERRA reporting from January 1, 2005 through December 31, 2005
3.04	Determined compliance of procurement expenditures with Commission approved procurement plan
3.05	Determined completeness of procurement plan quarterly compliance reporting
3.06	Summarized the results of the procurement plan compliance review

TASK 4: ASSESS EFFECTIVENESS OF ACCOUNTING & COMPLIANCE OF PROCUREMENT TRANSACTIONS



Overall Task Goal

The goal of this task was to document and determine that Utility accounting practices were consistent with applicable Commission decisions. The procedures used in completing this task can be summarized as follows:

Task 4: Assess Effectiveness of Accounting & Compliance of Procurement Transactions	
Task Objective: 4.01	
Determined that Utility accounting practices and procedures for procurement of energy are consistent with applicable Commission decisions	
4.01.1	Summarized excerpts of relevant Commission decisions regarding Utility accounting practices and procedures regarding energy procurement
4.01.2	Interviewed selected members of Utility Finance group and document their systems (if needed), policies and procedures regarding following Commission decisions in recording energy transactions
4.01.3	Obtained internal audit reports and Sarbanes-Oxley documentation and testing results prepared in this area. Reviewed and commented as applicable
4.01.4	Obtained Utility General Ledger transaction detail for energy expenditure related accounts
4.01.5	Reviewed revenue recognition note to Utility's audited financial statements for comments regarding Utility's policies in this area
4.01.6	Reviewed derivatives note in the Utility's audited financial statements for revenue recognition policy regarding hedged energy instruments non-monetary exchanges and that their recording are in accordance with FAS 133/149/153
4.01.7	Reviewed other notes to the Utility's audited financial statements for comments on revenue recognition issues
4.01.8	Obtained and review other relevant documentation and data
4.01.9	Assessed Utility oversight of procurement program expenditures
4.01.10	Assembled comments and recommendations based on above tasks
4.01.11	Reviewed comments with VK PMO, QA partner and Director of Accounting and Auditing if deemed appropriate
4.01.12	Included revised comments in recommendation section of draft and final reports

Task 4: Assess Effectiveness of Accounting & Compliance of Procurement Transactions	
Task Objective: 4.02	
Determine that Utility's ERRA account follows applicable Commission decisions.	
4.02.1	Determined if the Utility established the ERRA account with the stated requirements, and followed the semi-annual update process.
4.02.2	Determined if the ERRA account tracked the stated requirements, and followed the semi-annual update process
4.02.3	Verified that monthly reports showing activity in the ERRA balancing account were filed with the Energy Division and included copies of source documents when required
4.02.4	If needed, interviewed Energy Division auditor in-charge of reviewing Utility's ERRA report filings and documented comments regarding the accuracy and supporting documentation of the monthly ERRA filing
4.02.5	Verified tracking of actual incurred ERRA costs against fuel and purchase power revenue requirements. Verified the transfer of actual costs recorded in the ERRA to the Settlement Rates Balancing Account (SRBA)

Overall Approach to Task 4
Our overall approach to Task 4 drew on our experiences as auditors of utilities and our interviews of key CPUC and Utility personnel to address the individual workplan steps. Financial statement analysis of the Utilities' audited statements played a major role in the completion of this task.

Financial Statement Analysis
The primary purpose of an audit, unless it is otherwise intended, is to express an opinion on the financial statements of the entity subject to audit. Such an audit is subject to the inherent risk that errors or irregularities may not be detected. If conditions are discovered that lead to the belief that material errors, defalcations or other irregularities may exist, or if any other circumstances are encountered that require extended services, the auditor is required to promptly advise Utility management.

The independent auditors of the Utility expressed an unqualified opinion on the fairness of the Utility's presentation of its financial position, results of operations and cash flows. The Utility's auditor performed their audit in accordance with Generally Accepted Auditing Standards (GAAS) as promulgated by the AICPA. An unqualified opinion is the highest statement of audit assurance as to the accuracy of the Utility's financial statements and records. The Utility's financial statement note disclosures, including those regarding the proper valuation of derivative financial contracts, long/short-term contractual commitments and other areas that fall under the scope of this project.

Virchow Krause Reliance on Utility's Audited Financial Statements
In our execution of Task 4 of the project, Virchow Krause relied on the unqualified opinion of the Utility's auditors as to the accuracy of the Utility's financial statements. We take no responsibility for our comments and findings should subsequent events come to light that the financial statements were not free from material misstatements or disclosures. In addition, we reviewed various SEC filings by the Utility to form the basis for our conclusions. Such filings were prepared and reviewed by the Utility's internal Finance team and no formal audit opinion was given on these filings by the Utility's outside auditor. Our conclusions were based on the information in the SEC filings and if certain other information came to light subsequent to the filings that we were not aware of our conclusions may have changed.

Irregularities and Illegal Acts
An auditor is required to communicate any irregularities or illegal acts to the Utility's oversight board on discovery. This would include the non-compliance of the Utility with applicable CPUC rulings and decisions. To our knowledge these disclosures were not made by the Utility's auditors to the Utility's oversight body or management.

Typical Auditor Workplan
The following discussion identifies the typical workplan that the Utility's auditor would follow in performing their audit. We did not obtain the detailed workplan from the Utility's auditor. However, such workplan steps are common industry procedures and required by the American Institute of Certified Public Accountants (AICPA) to perform an audit in accordance with Generally Accepted Auditing Standards. These standards are designed to ensure that financial statements of the entity being audited are free from material misstatement.

Selected workplan steps in each identified area that would be tested by the Utility's audit or that pertain to this project are detailed below. These include:

1. Control Environment
   - Review policies and procedures associated with implementing internal control enhancements within Utility operations.
   - Document and assess the communication process in place from management to staff relative to control activities.
   - Document major systems and processes supporting the financial reporting process for future use and control assessments.
   - Interview process owners to determine adequacy and completeness of control documentation.
   - Develop opinion on the assurance that can be placed on financial statement disclosures in all areas – including the valuation of energy trading contracts and compliance with rules and regulations.

2. Control Activities
   - Perform internal control documentation relative to key systems and processes in place.
   - Perform test of controls relative to key aspects of the financial reporting and accounting process.
   - Select sampling methods to assess control inherent in detection risk.

3. IT Infrastructure & Systems

- Conduct review of information technology infrastructure relative to financial reporting risks.
- Perform review of application and systems controls aimed at protecting transactional integrity.
- Complete IT infrastructure analysis by providing risk assessment of existing systems in place.

4. Cash & Investments Segment

- Test proper recording of instruments that are marked to market.
- Test account transactions recording unrealized gains and losses
- Test valuation and recording of derivative instruments and related note disclosures.

5. Deferred Regulatory Assets & Liabilities Segment (if recorded)

- Test appropriateness of recording and valuation of FAS 71 deferrals and their future recoverability through rates
- Obtain details of the various components of deferred assets/liabilities.
- Test account transactions.
- Test compliance of regulatory approval and recovery periods.

6. Current Payables

- Determine the extent of other payables currently reported within the financial statements.
- Conduct substantive testing on account balances and determine adequacy of disclosure within the financial statements.

7. Laws & Regulation Compliance

- Meet with management to identify all significant compliance rules required as part of the financial reporting process.
- Enquire to management relative to proper disclosure on their financial statements for compliance to disclosure of commitments and other contingencies within the financial statements.

8. Operations & Maintenance Expense Segment

- Compare expenses to prior years and budgeted amounts.
- Account analysis of significant variations.
- Review vouchers payable listings as of year-end, determine proper cutoffs and review for unrecorded liabilities.
- Perform test of transaction sample and walkthrough of selected transactions to determine effectiveness of controls.

9. Contracts & Derivatives

- Obtain listing and inventory of all existing contracts within the Utility operations.
- Evaluate all contracts for proper disclosure within the financial statements.
- Conduct analysis of existing contracts to search for potential derivative applications to the extent that derivative instruments are found to ensure that accounting for the derivatives are done according to established business practices and financial standards.

10. Financial Reporting Segment

- Obtain management and attorney representation letters of responsibility for the accuracy of the financial statements, note disclosures and any commitments and contingencies that exist as of the audit report date.
- Review regulatory reporting requirements and evaluate compliance with regulatory reporting and standards.
- Review internal contract compliance reports to determine any impact on audit procedures and financial reporting.

11. Audit Committee Interaction

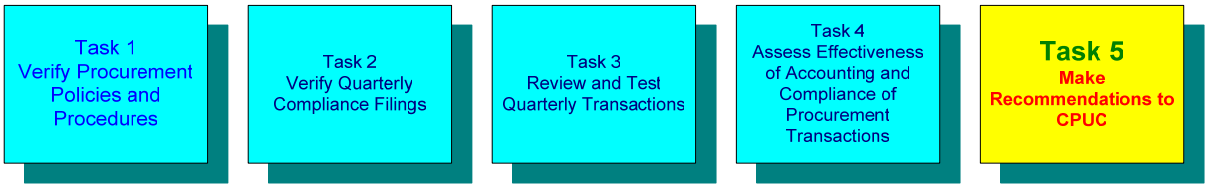
- Conduct meetings with audit committee to review the status of the audit throughout the year.
- Preparation of reports necessary to communicate relevant discussion items.
- Participate in audit presentation and preparation of responses to questions anticipated as part of the audit presentation.

Impact on Procedures for Sarbanes-Oxley Compliance

The Utility was required by the Sarbanes-Oxley Act to undergo an analysis of its control structures in key business processes. The analysis is required to be opined upon by its external auditor and management as to the effectiveness of internal controls and any deficiencies in controls. To our knowledge, management and the Utility's external auditors have not noted any material deficiencies in its internal control structure. Such analysis would include a review of the controls over compliance with rule and regulations promulgated by the CPUC.

We had no findings of non-compliance in our work under this project task. That, along with the additional independent reviews in this area done by the Utility's external auditors and CPUC staff should give additional assurance that the Utility is in compliance requirements under Task 4 for the period examined.

TASK 5: MAKE RECOMMENDATIONS TO THE COMMISSION



Overall Task Goal

The goal of this task is to report on findings of non-compliance with CPUC orders, rulings and decisions, and to make recommendations to the Commission to enhance or clarify procurement practice and compliance to the Commission approved procurement plan. While a great deal of this audit was structured towards determining compliance with CPUC orders and decisions, the steps needed to determine compliance allows examination of controls and processes put in place by the Utilities to meet CPUC requirements. The observations related to the 2004 and 2005 processes are contained in a separate document.

This audit report summarizes the work program executed, and reports findings related to compliance. If the Utility was found compliant, this report would initiate approval of the advice letter filings for 2005. If significant non-compliance was found, the audit report would be submitted to the Director of the Energy Division and a resolution would be placed on the Commission's agenda for discussion.

Preparation and Review of Final Reports

In accordance with RFP Section A.4, Virchow Krause prepared a series of Audit Reports for review and comment by the CPUC's Energy Division and the Audit & Compliance Branch of CPUC's Water Division.

The reports include confidential (for CPUC use only) and non-confidential reports (for Public Distribution). The non-confidential reports excluded confidential information specified by the Utilities consistent with the Commission's confidentiality policies, including those developed in R.05-06-040, the confidentiality rulemaking.

The reports were prepared as follows:

- Based on the information gathered, a draft Audit Report: *Procurement Transaction Compliance Audit – January 1, 2005 to December 31, 2005 Report,* was prepared for review and comment by the CPUC's Energy Division, and Audit and Compliance Branch of the CPUC's Water Division.

- The Utilities reviewed their respective draft audit reports and reported any factual errors to the Energy Division, Contract Manager who shared these comments with Virchow Krause. Based on Energy Division comments on the draft, we prepared a Final Audit Report which was sent to the Energy Division.

Following delivery of the draft Audit Reports, Virchow Krause briefed the Energy Division and Audit & Compliance Branch of the Water Division as required.

FINDINGS FOR TASKS 2 AND 3

FINDING 1 – ADVICE LETTER COMPLIANCE

Criteria

According to Appendix B of D.02-10-062, SCE is required to file each month's transactions that conform to the approved procurement plan by advice letter. The advice letters must contain the following information:

- Identification of the ultimate decision maker(s) up to the Board level, approving the transactions.
- The break-even spot price equivalent to the contract(s).

Finding

The following table highlights our findings with regard to identification of the ultimate decision maker(s):

Quarter/Year	Advice Number	Filing Date	Does the Advice Filing identify Ultimate decision makers up to the Board level, approving transactions?
Q1 2005	1890-E	5/2/2005	No - Advice letter filing Confidential Attachment identifies approvals up to VP of Power Procurement, not to Board level
Q2 2005	1905-E	8/1/2005	No - Advice letter filing Confidential Attachment identifies approvals up to VP of Power Procurement, not to Board level
Q3 2005	1925-E	10/31/2005	No - Advice letter filing Confidential Attachment identifies approvals up to VP of Power Procurement, not to Board level
Q4 2005	1959-E	1/30/2006	No - Advice letter filing Confidential Attachment identifies approvals up to VP of Power Procurement, not to Board level

FINDINGS FOR TASKS 2 AND 3 (cont.)

FINDING 1 – ADVICE LETTER COMPLIANCE (cont.)

Finding (cont.)

The following table highlights our findings with regard to testing whether the break-even spot price was equivalent to the contracts:

Quarter/Year	Advice Number	Filing Date	Is the break-even spot price equivalent to the contract provided?
Q1 2005	1890-E	5/2/2005	No - advice letter notes that CPUC has not defined break-even spot price or calculation methodology
Q2 2005	1905-E	8/1/2005	No - advice letter notes that CPUC has not defined break-even spot price or calculation methodology
Q3 2005	1925-E	10/31/2005	No - advice letter notes that CPUC has not defined break-even spot price or calculation methodology
Q4 2005	1959-E	1/30/2006	No - advice letter notes that CPUC has not defined break-even spot price or calculation methodology

Conclusion

Our testing indicated four out the four advice letters submitted to the CPUC did not identify approval up to the Board level. Also, four out of four advice letters submitted to the CPUC did not provide break-even spot price information related to the contracts as required.

FINDINGS FOR TASKS 2 AND 3 (cont.)

FINDING 2 – VALIDATION OF PORTFOLIO RISK MODEL BY INDEPENDENT AUDITOR

Criteria

According to Decision 03-12-062, SCE shall submit a model report to Energy Division staff, describing the methodology, assumptions, and formulas of the portfolio risk model. Following the submittal of the model report, SCE and Energy Division staff were to discuss elements of the validation process, such as selecting an independent auditor, the scope of the audit, and the methodology for model validation. An unqualified model certification was to serve as the basis of authorizing the model. In the event that the model is not successfully validated, SCE and Energy Division staff will agree on the use of a commercially available risk measurement model.

Finding

No validation of the model has occurred.

Conclusion

We noted SCE has submitted SCE's Risk Assessment & Planning Tool (RAPT) with Advice Letter 1889-E on April 18, 2005 to Energy Division. No validation of the model has occurred.

FINDINGS FOR TASKS 2 AND 3 (cont.)

FINDING 3 – OVER-THE-COUNTER PRICE TRANSPARENCY

Criteria

According to Decision 03-12-062, SCE shall demonstrate that the identified over-the-counter (OTC) brokers provide prices that are equivalent to those of exchanges.

Finding

We requested SCE to provide supporting documentation for selected OTC transactions to demonstrate that OTC prices were comparable to exchange prices during the same period. SCE responded that Decision 03-12-062 requires that when SCE proposes to add a new broker to its procurement plan's list of approved brokers and exchanges, it must demonstrate that the prices provided by that broker are both visible and representative. SCE also responded that Virchow Krause's request would be impossible to meet. There is no viable exchange from which SCE may transact power, outside of the CAISO Real-Time Imbalance Market, which is not a market of choice. The only viable exchange that offers products SCE transacts in is the NYMEX, which only offers specific gas products, and does not offer products to be delivered at the SoCal border.

Conclusion

SCE has not demonstrated that over-the-counter brokers' prices are equivalent to exchanges.

FINDINGS FOR TASKS 2 AND 3 (cont.)

FINDING 4 – SPOT MARKET PURCHASES

Criteria

According to Decision 03-12-062, Decision 04-01-050 and Decision 04-07-028:

- Spot market purchases in total should not exceed 5% of monthly need. If it does exceed 5%, the Utility must justify it in the Quarterly Advice Letter filing. The following two points are acceptable justifications:

    1. Addresses D.02-10-062 limitation on spot purchases to less than 5% - if Utility has sufficient reserves and can tap spot markets at a cost below their contract call options, they may go above 5% threshold.
    2. Clarifies that D.03-12-062 decision that spot market activities should not exceed 5% of monthly needs was only a guideline. If Utilities see the need to engage in spot transactions to enhance local area reliability, they should do so even if it pushes them above the 5% monthly need.

Finding

Spot market purchases exceeded 5% of monthly need for two months in 2005 and justification was not noted in the Utility's quarterly filing.

Conclusion

Of the 12 monthly listings of spot market purchases as a percentage of total monthly need, spot market transactions in total did not exceed 5% of monthly need for all but two months. Documented justification is required for the two months that exceeded 5% but no justification was noted in the Utility's Quarterly Advice Letter filing.

FINDINGS FOR TASKS 2 AND 3 (cont.)

FINDING 5 – DEMAND RESPONSE

Criteria

According to Decision 04-12-048…

- The MW targets for each IOU for Demand Response should be 3% of their annual system peak. Annual system peak is defined as the "peak for their respective territories inclusive of all their customers taking services within their boundaries". The IOUS are supposed to recalculate their annual peak and make sure their target is correct. The IOUS are supposed to meet their recalculated Demand Response goals.

Finding

SCE did not meet its MW targets and goals for Demand Response forecasts set in D.03-12-062 of 628MW.

Decision	Year Addressed	Target MW	Achieved MW
D03-12-062	2004 (July)	400	205
D04-12-048	2005 (July)	628	290

Conclusion

SCE recalculated the annual system peak correctly and revised their DR goals to be 3% of their annual system peak, but did not meet their DR goals.

FINDINGS FOR TASKS 2 AND 3 (cont.)

FINDING 6 – AUTHORIZED EXCHANGES/BROKERAGES

Criteria

In Decision 02-10-062, the Commission authorized the Utilities to procure products using various transaction processes and further authorized a Utility list of brokers and exchanges that could be used to transact approved electricity and natural gas products.

Finding

SCE reported 12 gas deals in 2005 with a company not approved for trading. [redacted] was not on their approved list of approved brokers. The 12 gas deals in 2005 totaled [redacted]. The following table summarizes 2005 transactions relating to Saddleback deals reported in the quarterly reports.

[redacted]	2005 Gas Deals	
Deal #	Volume	Notional Value
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

Conclusion

During 2005, SCE made 12 gas deals through a broker, [redacted], which was not an approved broker for 2005.

FINDINGS FOR TASKS 2 AND 3 (cont.)

FINDING 7 – ENERGY ACTION PLAN (EAP) LOADING ORDER

Criteria

According to Decision 04-12-048 (FOF 3), "the EAP's loading order framework identifies certain demand-side resources as preferred because they work towards optimizing energy conservation and resource efficiency while reducing per capita demand, as well as certain preferred supply-side resources. The EAP loading order is: energy efficiency (EE) and demand response (DR), renewables (including renewable distributed generation), clean fossil-fueled distributed generation (DG) and clean fossil-fueled central-station generation..."

Finding

SCE reflected the Commission's preferred loading order by including a demand response target in its long-term procurement plan as required by Decision 04-12-048. As noted in Finding 5 of this report, SCE did not achieve the demand response target.

Conclusion

As SCE did not achieve the demand response target which is in place to achieve the Commission's preferred loading order, it is concluded that the loading order priorities were not fully followed.

APPENDICES

APPENDIX A

ABBREVIATIONS AND ACRONYMS

ABBREVIATIONS AND ACRONYMS

Advice Letter	Advice Letter
AICPA	American Institute of Certified Public Accountants
BOM	Balance of Month
CAISO	California Independent System Operator
CDWR	California Department of Water Resources
CPCN	Certificate of Public Convenience and Necessity
CPUC	California Public Utilities Commission
CRT	Consumer Risk Tolerance
DA	Day Ahead
DR	Demand Response
DSM	Demand-Side Management
DWR	Department of Water Resources
EAP	Energy Action Plan
EE	Energy Efficiency
EEI	Edison Electric Institute
ERRA	Energy Resource Recovery Account
FERC	Federal Energy Regulatory Commission
GAAP	Generally Accepted Accounting Principles
GHG	Greenhouse Gas
HA	Hours Ahead
IE	Independent Evaluation
IOU	Investor-Owned Utilities
IPP	Independent Power Producer
ISO	Independent System Operator
IUE	Inter-Utility Exchanges
LSE	Load Serving Entity
MW	Megawatt
MWh	Megawatt hour
NDA	Non-Disclosure Agreement
NYMEX	New York Mercantile Exchange
OASIS	Open Access Same-Time Information Systems
ORA	Office of Ratepayer Advocates
ORM	Operating Reserve Margin
OTC	Over-the-Counter
PEEBA	Procurement Energy Efficiency and Balancing Account
PG&E	Pacific Gas and Electric Company
PPA	Power Purchase Agreement
PRG	Procurement Review Group
PURPA	Public Utility Regulatory Policies Act
QCR	Quarterly Compliance Report
QF	Qualifying Facilities

RA	Resource Adequacy
RAR	Resource Adequacy Requirement
RFO	Request for Offer
RFP	Request for Proposal
RMR	Reliability Must Run
RNL	Residual Net Long
RNS	Residual Net Short
RPS	Renewable Portfolio Standard
RT	Real-Time
SCE	Southern California Edison Company
SDG&E	San Diego Gas & Electric Company
SO	Standard Offer
SoCalGas	Southern California Gas Company
SRAC	Short Run Avoided Costs
STPP	Short Term Procurement Plan
TeVaR	Time To Expiration Value at Risk
TURN	The Utility Reform Network
UCAN	Utility Consumers Action Network
URG	Utility-Retained Generator
VaR	Value at Risk
WAPA	Western Area Power Administration
WECC	Western Electricity Coordinating Council

APPENDIX B

GLOSSARY

GLOSSARY

A

ACCOUNTING SYSTEM – A method of recording accounting data for a Utility or company or a method of supplying accounting information for controlling, evaluating, planning and decision making.

ADVICE LETTER – The process by which utilities file required information for review and approval by the Commission.

AFFILIATE – With respect to a person or entity, any individual, corporation, partnership, firm, joint venture, association, joint-stock company, trust or unincorporated organization, directly or indirectly controlling, controlled by, or under common control with, such person or entity.

AFFILIATE TRANSACTIONS – Procurement transactions with affiliates.

ALL-SOURCE SOLICITATIONS – Refers to Requests for Offers (RFOs) or Requests for Proposals (RFPs) that are open to all resources. Examples include conventional generation technology resources, renewable generation technology resources, various products supplied by energy marketers, and portfolio resources supplied by other utilities.

ANCILLARY SERVICES – The services other than scheduled energy that are required to maintain system reliability and meet WECC/NERC operating criteria. Such services include regulation, spinning reserve, non-spinning reserve, voltage support, and black start capability.

ANONYMOUS TRANSACTIONS – Transactions structured so that the identity of the seller is not known to the buyer until agreement is reached, and vice versa.

APPLICABLE COMMISSION ORDERS – Rules, regulations, decisions, opinions or orders as the Commission may lawfully issue or promulgate from time to time, which further define the rights and obligations of the parties under an order.

ARBITRAGE – The simultaneous purchase of one commodity against the sale of another in order to profit from fluctuations in the usual price relationships. Variations include the simultaneous purchase and sale of different delivery months of the same commodity; of the same delivery month, but different grades of the same commodity; and of different commodities.

AREA LOAD – The total amount of electricity being used at a given point in time by all consumers in a Utility's service territory.

B

BASIS RISK – Risk created when there is a difference between gas price indices in associated gas supply and energy sales agreements; basis risk increases when there is a low correlation between gas price indices in associated gas supply and power contracts.

BILATERAL CONTRACTS – A two-party agreement for the purchase and the sale of energy and/or capacity products and services.

BILATERAL TRANSACTION – Contract negotiated with a counterparty outside of an RFO process, and not conducted through an approved brokerage or exchange.

BLACK-SCHOLES MODEL – A widely used option pricing model

BROKER – An retail agent that arranges the sale and purchase of electric energy, the transmission of electricity, and/or other related services between buyers and sellers but does not take title to the commodity sold.

C

CAISO – California Independent System Operator is a non-profit public corporation responsible for ensuring efficient use and reliable operation of the transmission grid consistent with achievement of planning and operating reserve criteria.

CALL OPTION – An agreement that gives the holder the right, but not the obligation, to purchase a specified volume of a commodity at a pre-determined price and date.

CAPACITY – The amount of electric power for which a generating unit, generating station, or other electrical apparatus is rated either by the user or manufacturer. Usually is measured in MW.

CODE OF CONDUCT – Conduct guidelines for all employees engaged in the procurement process to follow and abide by during employment or subsequent to their employment by the Utility.

COLLATERAL – A guarantee pledged between the Utility and the counterparty used for security of payment.

COMMISSION – The California Public Utilities Commission

COMMODITY SWAP – An over-the-counter agreement between two parties specifying the exchange of payments based on a given commodity or formula. These contracts typically involve an exchange of (1) a fixed price exposure for a floating price exposure or of (2) a floating price exposure for another floating price exposure, based off different locations, formulas, etc.

CONSUMER RISK TOLERANCE – The theoretical price, as established by the Commission, that an average consumer would be willing to pay to reduce the risk of higher prices in the future (i.e., the cost-to-risk tradeoff).

COUNTERPARTY – The party with whom the Utility has signed a contract in a two-party contract.

CREDIT LIMIT – The authorized limit of credit to a counterparty determined by the Utility.

CREDIT MECHANISM – Parent company or third party guarantees, letters of credit, surety bonds and similar mechanisms that utilities explore when extending unsecured credit limits to non-investment grade counterparties.

CREDIT RISK – The likelihood of economic loss due to the risk of default of counterparties or customers.

CUSTOMER LOAD – The Utility's forecasted retail load requirements for its servicing territories, generally expressed in MWhs.

D

DAM – Day Ahead Market; the forward market for energy and ancillary services to be supplied during the settlement period of a particular trading day that is conducted by the Independent System Operator, the power exchange, and other Scheduling Coordinators. This market closes with the Independent System Operator's acceptance of the final day-ahead schedule

DAY-AHEAD – The twenty-four hour time period prior to the Trading Day.

DAY-AHEAD TRANSACTIONS – In the context of physical electrical energy transactions day-ahead refers to transactions executed on one day for delivery on the "next" as defined by the Western Electricity Coordinating Council ("WECC") Preschedule Calendar. On a non-holiday week, this schedule is as follows:

Trading Day	Delivery Day
Monday	Tuesday
Tuesday	Wednesday
Wednesday	Thursday
Thursday	Friday and Saturday
Friday	Sunday and Monday

In the context of physical natural gas transactions, day-ahead refers to transactions executed on one day for delivery on the "next" as defined by the Intercontinental Exchange ("ICE") Next Day Trading Calendar Physical Natural Gas. This schedule is as follows:

Trading Day	Delivery Day
Monday	Tuesday
Tuesday	Wednesday
Wednesday	Thursday
Thursday	Friday
Friday	Saturday, Sunday and Monday

DEAL – The terms of an executed transaction between a Utility and a counterparty.

DECISION – Interim orders based upon conclusions of law and findings of fact.

DEMAND FORECAST – As estimate of Demand over a designated period of time.

DEMAND RESPONSE PROGRAMS – "Demand response" refers to actions taken by end-users to reduce power demand during critical peak times or to shift demand to off-peak times.

A demand response program provides customers with incentives for reducing load in response to an event signal. These incentives can take the form of a financial credit or their bill, a dynamic rate or exemption from rolling blackouts. Events can be called for economic or reliability reasons. Because demand response programs are designed to operate only a few hours per event, they typically reduce capacity (kW) but not energy (kWh).

DERIVATIVE – Financial instrument which is based ("derived") on the underlying price of a physical or financial instrument. Derivatives may be traded on regulated exchanges or over-the-counter.

DIRECT ACCESS – The ability of end-use customers located in the service territory of an IOU to purchase electricity from retail sellers other than their local Utility.

DIRECT ACCESS CUSTOMERS – Customers located within the service territory of an IOU who purchase electricity from sellers other than their local Utility. DA customers continue to receive and pay for delivery services from their local Utility.

DISPATCH ORDER – Controls scheduling, monitoring and controlling distribution of energy.

DWR CONTRACTS – Contracts for generating resource capacity and energy deliveries executed by the California Department of Water Resources during 2001 and allocated to the investor owned utilities for contract administration purposes only.

E

EDISON ELECTRIC INSTITUTE – An association of electric companies formed in 1933 "to exchange information on industry developments and to act as an advocate for utilities on subjects of national interest." An EEI contract is a standard master agreement that provides the base terms and conditions for transactions executed between two parties of a particular master agreement.

ELECTRIC SERVICE PROVIDER – An entity that provides electric service to a retail or end-use customer, but which does not fall within the definition of an electrical corporation under Section 218.

ELECTRONIC TRADING EXCHANGES – A procurement process used to select transactions through electronic energy trading exchanges.

ENERGY – Energy is the amount of electricity consumed over time. Usually it is measured in units of Watt-hours or standard multiples thereof, e.g., 1,000 Wh=1kWh, 1,000 kWh=1MWh, etc.

ENERGY EFFICIENCY – Programs and measures designed to reduce consumer energy consumption. Example of programs and measures include lighting retrofit, process redesign and appliance rebates which encourage consumers to purchase high-efficiency appliances.

ENERGY EXCHANGE – Any transaction in which quantities of energy are received or given up in return for similar energy products.

ERRA – The Energy Resource Recovery Account that accounts for the cost of different types of energy resources and costs.

EXCHANGE AGREEMENT – A contractual agreement in which quantities of natural gas or electricity are delivered, either directly or through intermediaries, from one company to another company, in exchange for the delivery by the second company to the first company of an equivalent volume or heat content. The exchange may take place at the same time and location or at different times and/or locations. Such agreements may also involve the payment of cash.

EXCHANGE TRADED CONTRACTS – Contract for electric capacity and energy executed through electronic and voice exchange markets under standard product terms and conditions. Products are generally for “standard products” (peak, on-peak or flat) and standard periods of duration (hourly, daily, balance of month, monthly, quarterly).

F

FINDINGS – Conclusions that are reached and recorded at the end of a formal inquiry.

FIRM POWER – Power or power-producing capacity, intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

FORWARD CONTRACT – An over the counter contract that obligates the holder to either physically deliver or physically receive a particular commodity at a specified location on a specified future date. These are typically settled financially.

FORWARD TRANSACTIONS – Transactions in which delivery occurs or extends beyond the prompt month.

G

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES – Defined by the FASB as the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time, includes both broad guidelines and relatively detailed practices and procedures.

H

HAM – Hour Ahead Market: The forward market for energy and ancillary services to be supplied during the settlement period of a particular trading hour that is conducted by the Independent System Operator, the power exchange, and other Scheduling Coordinators. This market closes with the Independent System Operator's acceptance of the final hour-ahead schedule.

HEDGING –The buying and selling of futures contracts so as to protect energy traders from unexpected or adverse price fluctuations.

HEDGING CONTRACTS – Contracts which establish future prices and quantities of electricity independent of the short-term market. Derivatives may be used for this purpose.

I

INDEPENDENT EVALUATOR – An independent entity retained by an IOU, pursuant to commission requirements, to review its competitive selection process where affiliate, IOU-built, or IOU turnkey projects are bidding.

INDEPENDENT SYSTEM OPERATOR – The ISO is responsible for the operation and control of the statewide transmission grid.

INDEXED ENERGY – Power purchased for on terms that are certain as to quantity and delivery times, but the pricing floats based on an agreed upon index.

INTER-UTILITY EXCHANGE – An agreement between a Utility and other regulated utilities or other load serving entities for capacity to reduce RNS.

INVESTMENT GRADE – A rating of the credit quality based upon credit metrics.

INVESTOR-OWNED ELECTRIC UTILITY – An investor owned utility (IOU) is a private company owned by stockholders that provides electric utility services to a specific service area. A designation used to differentiate a Utility owned and operated for the benefit of shareholders from municipally owned and operated utilities and rural electric cooperatives. The investor-owned utility is regulated by the California Public Utilities Commission.

L

LOAD – The amount of power required at any point or point in the system. A load is created by the power demands of customer equipment.

LOAD FORECASTS – A projection of the amount of electric power required at any specific point or points on a system. The requirement originates at the energy consuming equipment of the consumers.

LOCAL AREA RELIABILITY – Requirements imposed by the CPUC on Load-Serving Entities to contract for electrical generating capacity in a designated Local Area.

LOCATIONAL BASIS SPREAD – The price differential between two different delivery points. Utilities can engage in locational spread transactions by simultaneously purchasing energy at one location and selling it in another, and thus earn revenue equal to the forward market locational price differential and reduce the basis risk of the portfolio.

LONG TERM PROCUREMENT PLAN – A Utility's long term energy planning process related to energy purchases.

LONG TERM TRANSACTIONS – Transactions with durations greater than or equal to five years in length.

M

MW – Megawatt – one megawatt equals one million (1,000,000) watts.

MWh – Megawatt hour – One million watt hours.

MARKET-BASED PRICING – Prices of electric power or other forms of energy determined in an open market system of supply and demand under which prices are set solely by agreement as to what buyers will pay and sellers will accept. Such prices could recover less or more than full costs, depending upon what the buyers and sellers see as their relevant opportunities and risks.

MARKET CLEARING PRICE – The price at which supply equals demand for the Day-Ahead or Hour-Ahead markets.

MARKET RISK – Market risk in energy companies is the risk of erosion of cash flows or asset values from positions in physical commodities or energy derivatives, caused by changes in outright price levels, basis differentials, forward price curves, price volatilities, interest rates or the passage of time.

MARGINAL COST – The change in cost associated with a unit change in quantity supplied or produced.

N

NON INVESTMENT GRADE – A below investment grade rating of the credit quality based upon credit metrics.

NON-STANDARD PRODUCT – A product that is likely to be readily available through brokerages and exchanges and may be traded "liquidly." A product is defined as being traded "liquidly" when it has a high level of trading activity and open interest.

O

OASIS – Open Access Same Time Information System, a computerized system of electronic sites that post offers for standard electric transmission products at tariff rates.

OFF PEAK – Period of relatively low system demand. These periods often occur in daily, weekly, and seasonal patterns; these off-peak periods differ for each individual electric utility.

ON-PEAK – Periods of relatively high system demand. These periods often occur in daily, weekly, and seasonal patterns; these on-peak periods differ for each individual electric utility.

OPEN POSITION – The remaining position of a Utility to be served by spot market transactions.

OPTION – An agreement in which the buyer has the right (but not the obligation) to exercise by buying or selling an asset at a set price (strike price) on or before a future date (the exercise date or expiration); and the seller has the obligation to honor the terms of the contract

OVER-THE-COUNTER – Trades of electricity or natural gas, or futures thereof, on any open commodities market.

P

PEAK DEMAND – The maximum level of electric demand in a specified time period.

PEAK LOAD – The maximum load during a specified period of time.

PEEBA – The Procurement Energy Efficiency and Balancing Account to track the costs and revenues associated with specific authorized programs by the Commission.

PORTFOLIO – The collection of procurement products that make up the Utility's supply for its customers.

POWER EXCHANGE – An entity providing a competitive spot market for electric power through day- and/or hour-ahead auction of generation and demand bids.

PRICE CURVES –

- ***Forward Curve*** (or "futures price") – A forward curve is a term structure of forward prices observed in the market. Forward contracts, like futures, are agreements to buy or sell a commodity at a future time. Forward price is the price to be paid at delivery.
- ***Price Forecast*** – A price forecast is a projection of future price levels (these could be day-ahead prices, futures prices, monthly prices etc.) expressed either in nominal or a given year's dollars.

PROCUREMENT REVIEW GROUP – A Commission-authorized entity made up of eligible non-market participants, such as consumer groups and state agency representatives, who are given the opportunity to review IOU procurement activity.

PROMPT-MONTH – In the context of electricity transactions, the month following the month for which Day-Ahead power trading is taking place.

PURPA – The Public Utilities Regulatory Policies Act of 1978 (PURPA) is implemented by Federal Energy Regulatory Commission, the California Public Utilities Commission (CPUC) and amended by the Energy Policy Act of 2005. Under PURPA each electric Utility is required to offer to purchase available electric energy from cogeneration and small power production facilities.

PUT OPTION – An agreement that gives the holder the right, but not the obligation, to sell a specified volume of a commodity at a pre-determined price and date.

Q

QUALIFYING FACILITY – QFs are non-utility power producers that often generate electricity using renewable and alternative resources, such as hydro, wind, solar, geothermal or biomass (solid waste). QFs must meet certain operating, efficiency, and fuel-use standards set forth by the Federal Energy Regulatory Commission (FERC). If they meet these FERC standards, utilities must buy power from them unless they are in certain competitive markets. QFs usually have long-term contracts with utilities for the purchase of this power, which is among the Utility's highest-priced resources.

R

REAL-TIME – The time in which certain computer systems process and update data as soon as it is received from some external source. The time available to receive the data, process it, and respond to the external process is dictated by the time constraints imposed by the process.

REAL-TIME PRICING – The near instantaneous pricing of electricity based on the cost of the electricity available for use at the time the electricity is demanded by the customer.

RELIABILITY-MUST-RUN AGREEMENTS – A Must-Run Service Agreement between the owner of an RMR Unit and the ISO within geographical areas identified via the Local Area Reliability Service (LARS) process.

RENEWABLE ENERGY RESOURCES – Energy resources that are naturally replenishing but flow-limited. They are virtually inexhaustible in duration but limited in the amount of energy that is available per unit of time. Renewable energy resources include: biomass, hydro, geothermal, solar, wind, ocean thermal, wave action, and tidal action.

REQUEST FOR OFFERS – Request by a Utility for offers from producers and marketers for contracts to sell (or buy) electric capacity, energy, natural gas or other products to the Utility.

REQUEST FOR PROPOSALS – Request by a Utility for proposals from producers and marketers for contracts to sell (or buy) electric capacity, energy, natural gas or other products to the Utility.

RESERVE MARGIN – The amount of Resource Adequacy Capacity that a Utility is required to maintain.

RESIDUAL NET LONG For CAPACITY (SURPLUS) – When the capacity resources under an LSE's control exceed the peak hourly demand (MW), including the required planning reserve margin, of the LSE's customers, the LSE is in a residual net long situation for capacity.

RESIDUAL NET LONG FOR ENERGY – When the energy requirement (kWh or MWh) of the LSE's customers load, for a given period of time (i.e. hour, month, year, etc.), is less than the total energy supply available to serve the LSE's customers, the LSE is in a residual net long situation for energy.

RESIDUAL NET SHORT FOR CAPACITY (DEFICIT) – When the peak hourly demand (MW), including the required planning reserve margin, of the LSE's customers exceeds the capacity resources under the LSE's control, the LSE is in a residual net short situation for capacity.

RESIDUAL NET SHORT FOR ENERGY – When the energy requirement (KWh or MWh) of an LSE's customer load, for a given time interval (i.e. hour, month, year, etc.), is greater that the total energy supply available to serve the LSE's customers, the LSE is in a residual net short situation for energy.

RESOURCE ADEQUACY – The program that ensures that adequate physical generating capacity dedicated to serving all load requirements is available to meet peak demand and planning and operating reserves, at or deliverable to locations and at times as may be necessary to ensure local area reliability and system reliability.

RISK MANAGEMENT – The process of identifying, capturing, measuring, managing, monitoring and reporting all market risks arising from asset-related and trading risk management and trading activities.

RISK MANAGEMENT COMMITTEE – The internal organization within the Utility responsible for overseeing, implementing and monitoring the risk management policies and procedures.

RULING – A proceeding governed by procedural and evidentiary rules approved by the Commission.

S

SARBANES – OXLEY – Risk management requirements on corporations.

SETTLEMENT – The process of financial settlement for products and services purchased and sold. Each settlement involves a price and quantity.

SHORT TERM PROCUREMENT PLAN – The procurement plan approved by the Commission related to short term procurement rulings and decisions.

SO1 CONTRACTS – A type of contracts called Standard Offer 1 contracts with a specified contract length.

SPOT MARKET TRANSACTIONS – Transactions that take place in either the Day-Ahead, Hour-Ahead or real-time markets.

SPOT PRICE – The price for a one-time open market transaction for immediate delivery of a specific quantity of product at a specific location where the commodity is purchased "on the spot" at current market rates.

T

TIME TO EXPIRATION VALUE AT RISK – Is an indication of the uncertainty in future cash flows, and is determined by calculating the difference between expected (or base case) portfolio costs and the costs in a lower probability scenario (such as the 95th or 99th percentile case).

TOLLING AGREEMENT – Agreement whereby a marketer supplies generation fuel to produce electricity for the marketer or customer at an agreed spark spread, and the marketer or customer receives the right to electricity output.

TRANSPARENT EXCHANGES – Electronic exchanges that offer a common mechanism of matching buyers and sellers at the current competitive market price.

U

URG - Utility-retained generation, including Utility's portfolio of generation resources and power purchase agreements.

V

VALUE AT RISK – A statistical estimate of the worst expected loss of a position's value resulting from an adverse market movement that could occur under normal market conditions over a specified time horizon, given a specified confidence interval (e.g. 95%), expressed in dollars.

VALUE AT RISK LIMIT – Maximum authorized VaR for transactions of a specified portfolio or book.

VOICE AND ONLINE BROKERS – A transaction method approved by the Commission for transaction via phone or directly online.

W

WESTERN AREA POWER ADMINISTRATION – A power marketing administration that markets and delivers hydroelectric power and related services within a 15-state region of the central and western United States.

WESTERN SYSTEMS POWER POOL AGREEMENT – The WSPP Agreement is a standardized contract among members of the WSPP for electric power sales and physical power options. Members enter into numerous individual power transactions using standard schedules under the Agreement.

APPENDIX C

ATTACHMENT X & Y

ATTACHMENT X

DATE (within 5 business days of beginning employment, including pursuant to a contract with a person or entity that (1) purchases, sells or markets electrical energy or capacity or natural gas; (2) bids on or purchases power plants; (3) advises or consults regarding the purchase, sale, or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants. (4) develops electric transmission lines and/or gas pipelines; (5) advises or consults others regarding the development of electric transmission lines and/or gas pipelines;)

Director of the Energy Division
CPUC
505 Van Ness Avenue
San Francisco CA 94102

To whom it may concern:

I began working for NAME OF ENTITY on date. My duties are: [general description to be provided about duties of the position or engagement.]
I will not use any of the confidential information obtained as a result of performing work under the Agreement to engage, directly or indirectly, in any of the following:

(a) the purchase, sale, or marketing of electrical energy or capacity or natural gas;

(b) the bidding on or purchasing of power plants;

(c) advising or consulting others regarding the purchase, sale or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants.

(d) the development of electric transmission lines and/or gas pipelines;

(e) advising or consulting others regarding the development of electric transmission lines and/or gas pipelines;

(f) any other use of confidential utility information obtained as a result of the compliance review.

Signed,
NAME

cc: NAME OF UTILITY/name/position of utility contact

ATTACHMENT Y

Date:

Director of the Energy Division
CPUC
505 Van Ness Avenue
San Francisco CA 94102

To Whom It May Concern:

I have read the Agreement between the CPUC and Virchow Krause & Company, LLP, and I agree, as a condition of obtaining access to confidential utility information for purposes of completing work under that Agreement, to the terms of the Agreement limiting disclosure of confidential utility information. In particular, I agree to complete and send Attachment X to the Director of the CPUC's Energy Division within 5 business days of beginning work for any entity that engages, directly or indirectly, in:
(a) the purchase, sale, or marketing of electrical energy or capacity or natural gas;
(b) the bidding on or purchasing of power plants;
(c) advising or consulting others regarding the purchase, sale or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants;
(d) the development of electric transmission lines and/or gas pipelines;
(e) advising or consulting others regarding the development of electric transmission lines and/or gas pipelines;

Signed,

_____
Signature

_____
Print Name Above

APPENDIX D

REGULATORY REQUIREMENT TESTING

REGULATORY REQUIREMENTS TESTING

These questions are for illustrative purposes only for the subject areas tested and do not represent the complete list of tests.

Decision	Section	Requirement	Major Testing and Test Questions
D.02-08-071	IV. (A.) 2.	Utilities are required to offer SO1 contracts to QFs meeting these two conditions: 1. QF must have been in operation and under contract to provide power with an IOU at any point between Jan. 1, 1998 and Aug. 22, 2002 (This date was extended through later decisions to end of 2006) 2. QF contract must be set to expire before Jan. 1, 2004, have already expired, or have already been terminated. (This date was extended to end of 2006)	Verify that the Utilities offered SO1 contracts to any QFs meeting the conditions delineated in D.02-08-071: – Was the original contract in operation and under contract to provide power with an IOU at any point between 1/1/98 - 12/18/2003? – Was this contract set to expire in 2004, have already expired or have already been terminated? – Did the IOU offer an extension? – Was it amended with terms for SO1 contracts? – Was the pricing and terms the same as the original SO1 contract?
D.02-10-062		Each utility must conduct all procurement through a competitive process with only arms-length transactions. Transactions involving any self-dealing to the benefit of the Utility or an affiliate, directly or indirectly, including transactions involving an unaffiliated third party, are prohibited.	Perform a procurement process walk-through and review sample contracts and transactions to confirm that the Utilities conducted procurement on an arms-length basis: – Were the procurement transactions executed with affiliates completed with an approved method that allowed for an anonymous transaction? – With regard to affiliate transactions, were the IOU's solicitations/bidding process structured so that it is anonymous? – During the procurement process, did the Utilities take steps to evaluate the cost-effectiveness or other benefits to rate-payers of the sampled contracts and transactions compared to alternatives?

Decision	Section	Requirement	Major Testing and Test Questions
D.02-10-062		As modified by D.02-12-074, OP 24, 2. Each utility must adopt, actively monitor, and enforce compliance with a code of conduct for all employees engaged in the procurement process that 1) identifies trade secrets and other confidential information; 2) specifies procedures for ensuring that such information retains its trade secret and/or confidential status (e.g., limiting access to such information to individuals with a need to know, limiting locations at which such information may be accessed, etc.); 3) discusses employee actions that may inadvertently waive or jeopardize trade secret and other privileges; 4) discusses employee or former employee activities that may involve misappropriation of trade secrets or other confidential information, unlawful solicitation of former clients or customers of the utility, or otherwise constitute unlawful conduct; 5)requires or encourages negotiation of covenants not to compete to the extent such covenants are lawful under the circumstances (e.g., where a business acquires business interests of individuals who subsequently work for the acquiring business, the individuals disposing of their business interests may enter covenants not to compete with their new employer) All employees with knowledge of its procurement strategies should be required to sign and abide by an agreement to comply with the comprehensive code of conduct and to refrain from disclosing, misappropriating, or utilizing the utility's trade secrets and other confidential information during or subsequent to their employment by the utility."	Verify that the Utilities adopted, actively monitor and enforce compliance with a code of conduct: – Review the Utilities' code of conduct policy implemented with regard to D.02-10-062 – Review processes and procedures in place to monitor and enforce compliance – Confirm that existing code of conduct include required language per D.02-10-062 – Test if sampled employees signed a code of conduct contract/agreement

Decision	Section	Requirement	Major Testing and Test Questions
D.02-10-062	XII. (B.) 1.	ERRA account is the balancing account used to "facilitate cost comparison among utilities, assist to track variable energy related costs, and establish energy revenue requirement and associated rate in the near future." The ERRA balancing account would account for the cost of different types of energy resources and tracking energy costs would allow for different types of comparisons among utilities in the area of types of cost inclusion, tariff language, and filings with the Commission.	Verify that the cost of the sampled quarterly transactions were recorded properly in the monthly ERRA filings: – Were the transaction invoices provided following the guideline and in agreement with the reported transactions? – Did the monthly ERRA summaries reported correspond to the quarterly advice letters? – Did the Utilities establish a balancing account to track energy costs, excluding existing DWR contracts that include URG fuels, QF contracts, inter-utility contracts, ISO charges less reliability must-run revenues, irrigation district contracts, bilateral or forward market purchases, credit and collateral for procurement purchases, and ancillary services? – Did the IOU track the correct costs in the ERRA and follow the semiannual update process that was established for fuel and purchased power forecasts and the ERRA mechanism? – Were copies of original source documents provided for entries over $100 recorded in the account?
D.02-10-062	XII. (B.) 1.	Scope of included expenses: major cost items include Utility Retained Generation (URG) fuels; Qualifying Facilities (QF), Bilateral, Irrigation Districts, and Inter utility, Contracts. Power purchases, ISO, Credit/Collateral, and other items approved.	– Did the Utilities establish a balancing account to track energy costs, excluding existing DWR contracts that include URG fuels, QF contracts, inter-utility contracts, ISO charges less reliability must-run revenues, irrigation district contracts, bilateral or forward market purchases, credit and collateral for procurement purchases, and ancillary services?

Decision	Section	Requirement	Major Testing and Test Questions
D.02-10-062	Appendix B	Utilities will file each month's transactions that conform to the approved procurement plan by advice letter. The advice letters must contain the following:	Confirm that the quarterly filings include required information per D.02-10-062. Validate that the reported information is complete and materially accurate, as applicable, including but not limited to testing if the number and volume of transactions reported in the quarterly filings are materially accurate. Verify that the Utilities filed the quarterly filings in a timely fashion, within 30 days after the end of the quarter, as required by Section VIII of Decision 03-12-062.
D.02-10-062	Appendix B	1. Identification of the ultimate decision maker(s) up to the Board level, approving the transactions	Confirm that the required information was included in the quarterly filings.
D.02-10-062	Appendix B	2. The briefing package provided to the ultimate decision maker	Confirm that the required information was included in the quarterly filings.
D.02-10-062	Appendix B	3. Description of and justification for the procurement processes used to select the transactions (e.g., Request for Offers, Electronic Trading Exchanges, ISO Spot Markets). For competitive solicitations, describe the process used to rank offers and select winning bids. For other transactional methods, provide documentation supporting the selection of the chosen products	Confirm that the required information was included in the quarterly filings. (The information was also utilized as inputs to our other tests.) For competitive solicitations, verify that the process described in quarterly filings is consistent with the process identified through the review of work papers and subject matter expert interviews, as applicable. For other transactional methods, verify that documentation supporting the selection of the chosen products is consistent with work papers and outputs from the selection process, as applicable.

Decision	Section	Requirement	Major Testing and Test Questions
D.02-10-062	Appendix B	4. Explanation/justification for the timing of the transactions (i.e., product term and rate of procurement)	Confirm that the required information was included in the quarterly filings. Verify that the explanation/justification provided in the filing is supported by work papers from Utilities' needs analysis processes, as applicable.
D.02-10-062	Appendix B	5. Discussion of the system load requirements/conditions underlying the need for the month's transactions.	Confirm that the required information was included in the quarterly filings. Verify that the system load requirements/conditions reported in the filing can be supported by work papers from Utilities' needs analysis process, as applicable.
D.02-10-062	Appendix B	6. Discussion of how the month's transactions meet the goals of the risk management strategy reflected in the Commission-approved procurement plan (e.g., achieving lowest stable rates)	Confirm that the required discussion was included in the quarterly filings. Verify that Utilities performed an analysis to evaluate how our sampled transactions meet the goals of the risk management strategy.
D.02-10-062	Appendix B	7. Copy of each contract	Confirm that the required information was included in the quarterly filings: – Gain understanding of how Utilities qualify the types of contracts subject to the requirement
D.02-10-062	Appendix B	8. The break-even spot price equivalent to the contract(s)	Confirm that the required information was included in the quarterly filings. – Gain understanding of how Utilities define the break-even spot price equivalent to the contract(s) – Gain understanding of how Utilities qualify the types of contracts subject to the requirement
D.02-10-062	Appendix B	9. An electronic copy of any data or forecasts used by the utility to analyze the transactions	Confirm that the required information was included in the quarterly filings.

Decision	Section	Requirement	Major Testing and Test Questions
D.02-10-062	Appendix B	10. Utilities should provide a reasonable number of analyses requested by the Commission or the Procurement Review Group and provide the resulting outputs. Utilities should also provide documentation on the model and how it operates.	Obtain and review documentation and outputs of major models and systems utilized in the procurement process.
D.02-12-074		For standard of conduct #2 (Noncompetition agreements), further language is added to define what should be included in each utility's code of conduct.	Verify the code of conduct includes the required language.
D.02-12-074		Each comprehensive code of conduct should include an identification of trade secrets and other confidential info, procedures to ensure such info remains confidential, list employee actions that may jeopardize trade secrets or involve misappropriation of confidential info and other unlawful activities, and requires or encourages negotiation of covenants not to compete.	Verify the code of conduct includes the required language.
D.02-12-074		PG&E, SDG&E, and Edison shall file with the Energy Division each month a report showing the activity in the ERRA balancing account with copies of original source documents supporting each entry over $100 recorded in the account.	Confirm that copies of original source documents provided for entries over $100 recorded in the account for the sample transactions.
D.03-06-076	II. (B.)	The standard also does not preclude transactions through ISO (Independent System Operator) that can be demonstrated to include multiple and anonymous bidders.	Gain an understanding of how the IOU's follow the Standard of Conduct 1 competitive procurement standards for transactions through ISO included multiple and anonymous bidders.

Decision	Section	Requirement	Major Testing and Test Questions
D.03-06-076	Pg. 12	The standard also does not preclude transactions through ISO (Independent System Operator) that can be demonstrated to include multiple and anonymous bidders.	Verify that the sampled procurement transactions executed with affiliates were completed with an approved method that allowed for an anonymous transaction including ISO transactions.
D.03-12-062	III. (B.)	Spot market purchases in total should not exceed 5% of monthly need, as a guideline. Utilities should justify their planned spot market purchases if they exceed 5% of monthly needs. This guideline applies to energy procurement in Day-Ahead, Hour-Ahead, and Real-Time markets and it is intended to represent a target amount, rather than a hard limit, as there may be economic reasons justifying a Utility's decision to exceed the target.	Gain an understanding how the Utilities calculate and monitor spot market purchases against monthly needs. Review the percentage of spot market purchases to monthly needs. If spot market purchases exceed the target amount, review the justifications for reasonableness: – Did the IOU document the justification properly (e.g. quarterly advice letter, PRG minutes, etc.)Was the justification related to economic reasons such as least-cost dispatch? – Was the justification to enhance local reliability? Was the justification that they had sufficient reserves and can tap spot market at a cost below their contract call options? – Did the support match the operating target report? – If the Utilities exceeded the target amounts because of higher priced reserves, did they have indeed have reserves in the planning docs?
D.03-12-062	III. (C.) 1.	Risk reporting using a by-product of VaR (TeVaR) measured on a 12-month rolling basis at a 99 confidence level is adopted. Discusses the approved portfolio Risk Measurement - PG&E & SDG&E are authorized to use TeVAR and SCE is authorized to use a proprietary model.	Gain an understanding of authorized models and risk reporting processes. Confirm that the Utilities filed a monthly portfolio risk report per D.03-12-062. Confirm that Utilities' risk reporting is supported by detailed systems output.

Decision	Section	Requirement	Major Testing and Test Questions
D.03-12-062	III. (C.) 1.	1. If between quarterly PRG consultations, a Utility's estimated portfolio risk (measured at the 99th percentile) exceeds 125% of the CRT, the Utility will promptly meet and confer with its PRG to discuss the underlying risk drivers and factors affecting the change in portfolio risk and to decide whether specific hedging strategies and/or plan modifications are needed to reduce portfolio risk to within the CRT threshold. 2. If the Utility and the PRG decide that plan modifications are needed, the utility will file these modification sign the form of an expedited application, within 15 days of the PRG meeting. Until the application is approved, the Utility may operate under its existing plan.	Verify that the Utilities consulted with PRG if the estimated portfolio risk exceeded 125% of CRT. Verify that the Utilities filed plan modifications in a timely fashion, if applicable.
D.03-12-062	III. (E.) 1.	Authorizes the type of products that can be procured. Builds on the ones authorized in 02-12-062. (See tables in section) In Utility plans, Utilities are to specify which products they intend to use along with a definition of the product and the associated benefit/cost attributes.	Verify that the products procured by the Utilities, as described in their Quarterly Compliance Reports, were on the list of approved products set forth in Section III of CPUC Decision 03-12-062. Test that the sample transactions are authorized products with no exceptions.
D.03-12-062	Pg. 64	Sets targets and goals for demand response for 2004 - 2007 (See table 1) These goals only apply to "price responsive" programs. MW savings generated by interruptible programs do not count.	Verify that the Utilities met MW targets and goals for demand response established for 2005.

Decision	Section	Requirement	Major Testing and Test Questions
D.03-12-062	III. (E.) 2.	Authorizes transaction process to be used by the IOUs (See Table); they can use OTC brokers but they have to demonstrate the prices are equivalent to those of exchanges; they also can now use bilateral contracts.	Verify that the transaction processes used by the Utilities, as described in their Quarterly Compliance Reports, were on the list of approved processes set forth in Section III of CPUC Decision 03-12-062. Test that the sample transactions were procured using authorized transaction processes with no exception.
D.03-12-062	III. (E.) 3.	For affiliate transactions the IOUs must still abide by the requirements of D.02-10-062 and D.03-06-076. Basically, the IOUs must conduct all procurement through competitive process with only arms length transactions; But they can enter into anonymous transactions so that it is structured that the identity of the seller is not known to the buyer until an agreement is reached.	With regard to affiliate transactions, verify that procurement transactions executed with affiliates were completed with an approved method that allowed for an anonymous transaction.
D.03-12-062	III. (E.) 5.	Required to consult with their PRGs for transactions greater than 90 days.	Verify the Utilities consulted with the PRG for sample transactions greater than 90 days.

Decision	Section	Requirement	Major Testing and Test Questions
D.03-12-062	III. (E.) 5.	Authorized the IOUs to use negotiated bilateral contracts in three limiting circumstances and for less than 90 days. 1. For short term transactions of less than 90 days during and less than 90 days forward subject to the strong showing standard adopted in D.02-10-062 and modified in D.03-06-067. These must be separately reported in the utilities quarterly compliance report. 2. To purchase longer term non-standard products provided they include a statement in quarterly compliance filings to justify the need in each case (why it is not in the best interest of ratepayers to purchase this thru a more open and transparent process). 3. For standard products in instances where there are five or fewer counterparties who can supply the product (limited to only two categories of gas products - gas storage and pipeline capacity. This must also be reported in the quarterly compliance filing.	Confirm that the Utilities used negotiated bilateral contracts in accordance with the CPUC decisions.
D.03-12-062	III. (G.) 1 & III (H)	Authorized the continuation of the PRG process which was established in D.02-10-062, meetings should be on a quarterly basis and should review its open position, changes in market conditions and the necessity of filing an updated plan.	Review the PRG meeting agenda, minutes and/or presentation materials to verify that: – Meetings were held on a quarterly basis. – Utilities discussed open position, market conditions and/or revised the fuel and market power forecasts at least each quarter with their PRG? – Did the PRG recommend any actions to be taken as a result of the meetings? – Did the Utilities follow PRG recommendation?

Decision	Section	Requirement	Major Testing and Test Questions
D.03-12-062	III G	Fuel and Power Forecasts - each IOU is supposed to review market conditions on a quarterly basis with their PRG & file plan updates if needed.	Determine if the Utilities discussed market conditions and/or revised the fuel and market power forecasts at least each quarter with their PRG. Verify that the Utilities updated their procurement plans if it was necessitated by a significant deviation of fuel and power forecasts from current market conditions.
D.03-12-062	Pg 43	For future filings, utilities are to use their best effort to obtain up-to-date forecasts and to estimate appropriately the high and low cases surrounding those forecasts.	Confirm that the filings include up-to-date forecasts and estimates with high and low cases.
D.03-12-062	IV. (A.) 5. (a)	(Revising rule above) Utilities are required to offer SO1 contracts to QFs meeting these two conditions: 1. QF must have been in operation and under contract to provide power with an IOU at any point between Jan. 1, 1998 and Aug. 22, 2002 (This date was extended through later decisions to end of 2006) 2. QF contract must be set to expire before Jan. 1, 2004, have already expired, or have already been terminated. (This date was extended to end of 2006)	Verify that the Utilities offered SO1 contracts to any QFs meeting the conditions delineated in D.02-08-071: – Was the original contract in operation and under contract to provide power with an IOU at any point between 1/1/98 - 12/18/2003? – Was this contract set to expire in 2004, have already expired or have already been terminated? – Did the IOU offer an extension? – Was it amended with terms for SO1 contracts – Was the pricing and terms the same as the original SO1 contract?
D.03-12-062	IV. (A.) 5. (a) (1)	No new QF contracts should be issued until a decision on the long-term procurement issues is final.	Verify the Utilities did not enter into a new QF contract prior to the decision on the long term procurement plan.

Decision	Section	Requirement	Major Testing and Test Questions
D.03-12-062	IV. (A.) 5.	Rules that Utilities should still follow interim treatment as ruled in D.02-08-071 (when there is no long-term agreement); the IOU shall purchase power until 12/31/2004 pursuant to an SO1 contract conditions.	Verify that the Utilities offered SO1 contracts to the QFs meeting the conditions delineated in D.02-08-071 & D.03-12-062.
D.03-12-062	V. (F.) 2.	IOUs must establish a one-way Procurement Energy Efficiency and Balancing Account (PEEBA) to track the costs and revenues associated with authorized programs. Cost should be submitted with monthly ERRA filings.	Verify that PEEBA cost was submitted with monthly ERRA filings.
D.03-12-062	VIII. (A.)	IOUs must submit a quarterly plan compliance report within 30 days of the end of the quarter. (This was extended from 15 days with the approval of D.03-12-062 on December 18, 2003.)	Confirm the Utilities filed their Quarterly Compliance Reports in a timely fashion.
D.04-01-050	IV. (A.) 6.	Addresses D.02-10-062 limitation on spot purchases to less than 5% - if utility has sufficient reserves and can tap spot markets at a cost below their contract call options, they may go above 5% threshold.	In case that the spot market purchase target amount was exceeded, review if the Utilities had sufficient reserves and could tap spot market at a cost below their contract call options.
D.04-01-050	IV. (B.) 4.	Utilities must rely on formal RFP process for long-term generating capacity resources; utilities can present applications for certificates of public convenience and necessity (CPCN) for projects that are utility-owned or utility-built; utilities must present evidence and justification as to why this structure is preferable and how cost containment should be addressed.	Confirm that the Utilities used a RFP process for increasing generating capacity.

Decision	Section	Requirement	Major Testing and Test Questions
04-01-050	IV. (B.) 6. (e)	Sets permanent ban on affiliate transactions for procurement with exceptions: 1. "Anonymous" transactions 2. SDG&E and SoCalGas, and PG&E and affiliates so long as transactions are found necessary and beneficial for ratepayer interest 3. Grandfathering of existing contractual relationships with affiliates for the life of the plant	Verify that affiliate transactions can be justified following the exceptions guideline per D.04-01-050.
D.04-01-050	IV. (C.) 2.	In dealing with non-investment companies, utilities must use credit mechanisms (guarantees, surety bonds, etc); with investment-grade counterparties, the utilities are allowed to impose their own credit thresholds	With regard to the transactions/contracts with non-investment counterparties, verify proper credit mechanisms were in place following the guideline in D.04-01-050. If no such credit mechanisms were in place, review other justifications provided by Utilities for reasonableness; document the results.
D.04-01-050	V. (A.) 2.	Can begin to procure for 2005 needs by entering into short term contracts with duration periods of 1 year or less.	Verify that sampled contracts / transactions were duration period of 1 year or less, if procured for 2005 needs.
D.04-01-050	V (B) 7 c (3)	Utilities are required to sign SO1 contracts of five years in duration with QFs wishing to provide power at short-run avoided cost (SRAC) prices	Verify that the IOU compiled with signing SO1 contracts as required.
D.04-01-050	V (B) 7 c (3)	Issue of QFs with expired or soon-to-be-expired utility contracts will be resolved in one of these ways: 1. Voluntary QF participation in IOU competitive bidding processes 2. Renegotiation by the QF and the IOU on a case-by-case basis of contract terms 3. Five-year SO1 contracts with the understanding that appropriate revisions by the Commission to the QF pricing methodology will flow through to the renewed contracts	Verify that the IOU followed the procedures for QF's with expired or soon-to-be-expired utility contracts.

Decision	Section	Requirement	Major Testing and Test Questions
D.04-01-050	V (B) 7 c (4)	New QFs proposing to provide power that tracks the utility's actual needs are entitled to an agreement to provide energy and capacity needed by the utility; utilities are not required to offer standard contracts to new QFs	No separate testing needed.
D.04-07-028	3. (3.1) 3.1.3	This decision relaxes the restrictions placed on negotiated bilateral contracts (D.03-12-062) - utilities are authorized to engage in bilateral negotiated contracts for capacity and energy from power plants where the purpose is to enhance local area reliability.	(Clarification added to other testing in this document.)
D.04-07-028	1. (3.1) 3.1.4	Clarifies that D.03-12-062 decision that spot market activities should not exceed 5% of monthly needs was only a guideline. If utilities see the need to engage in spot transactions to enhance local area reliability, they should do so even if it pushes them above the 5% monthly need.	(Clarification added to other testing in this document.)

Decision	Section	Requirement	Major Testing and Test Questions
D.04-12-048	III C	IOUs should use the Energy Action Plan (EAP) loading order when **soliciting resources** (energy efficiency and demand side resource, renewable generation resources, (including renewable DG), clean fossil DG & efficient clean fossil generation resources. When these opportunities are captured, renewable generation is to be procured to the fullest extent possible – whenever an IOU issues a Request for Offer/Proposal (RFO/RFP) for generation resources, it must justify its selection of fossil generation over renewable generation offers.	Determine if the IOUs followed EAP loading order when soliciting resources and employed energy efficiency and demand-side resources first. - Did the IOUs follow the EAP loading order in their forecasts? (The EAP's "loading order" framework identifies certain demand-side resources as "preferred" because they work towards optimizing energy conservation and resource efficiency while reducing per capita demand, as well as certain preferred supply-side resources. The EAP loading order is: energy efficiency and demand response; renewables [including renewable DG]; clean fossil-fueled DG; and finally clean fossil-fueled central-station generation). - Did the IOUs justify its selection of fossil generation over renewable generation offers in their RFO/RFPs?
D.04-12-048	IV A3	Lists the MW targets for each IOU for Demand Response. This should be 3% of their annual system peak. (4% 2006) Annual system peak is defined as the "peak for their respective territories inclusive of all their customers taking services within their boundaries". The IOUs are supposed to recalculate their annual peak and make sure their target is correct.	Determine if utility met MW targets and goals for demand response forecasts established for 2005. - Did they recalculate the annual system peak correctly and revise their DR goals to be 3% of their annual system peak? - Did they meet their DR goals?

Decision	Section	Requirement	Major Testing and Test Questions
D.04-12-048	V	In general, IOUs are directed to procure the **maximum feasible** amount of renewable energy in the general solicitations authorized by this decision, and will be allowed to credit this procurement towards their RPS targets.	Determine if the IOU procured the maximum feasible amount of renewable energy. - Did the IOU procure the maximum feasible amount of renewable energy? - Did the solicitation consider renewable resources? - Did the IOU select the renewable bidder when cost-effective to do so?
D.04-12-048	V	The all-source solicitation should consider renewable resources as follows: in preparing its RFO, the IOU will identify the specific types of electricity products it is seeking, and will employ the least cost-best fit method of bid evaluation. This requires that a renewable bidder be responsive to the IOU's expressed power needs – i.e. meets the "best fit" criteria. In this instance, the IOU will employ the GHG adder discussed below in comparing the bid prices of the renewable and nonrenewable options. If the renewable resource is cost-effective when the adder is included (i.e. its bid price is less than or equal to the fossil generator's bid price), the IOU is to select the renewable bid. Thus, the renewable generator must both provide the specific product sought, and be cost-effective when the GHG adder is employed, in order for the "maximum feasible" standard to be in effect.	Same as above.

Decision	Section	Requirement	Major Testing and Test Questions
D.04-12-048	VI	For **long-term needs**, Contracts with duration five years or longer by submitted to the Commission for preapproval. The approval process of renewable contracts will differ depending on whether the contract is procured via an all-source or RPS solicitation. As determined in D.04-07-029, renewable contracts from an RPS solicitation will be submitted to the Commission for approval with advice letters. However, renewable contracts from all-source solicitations must be submitted with an application.	Determine if the IOU submitted the required application/advice letter for a contract with duration five years or longer to the Commission for pre-approval. - Did the IOUs file appropriate application/advice letter for contracts with duration five years or longer? - Were the contracts with duration five years or longer entered after the commission approve all contract terms greater than 5 years?
D.04-12-048	VI	For **long term contracts**, the IOUs' procurement authority is on a rolling 10-year basis, given that the long-term procurement plans cover a ten-year period and they will be updated and reviewed every two years.	Verify that the IOUs did not execute contracts with duration over ten years.
D.04-12-048	Pg 245	Lift ban on **long-term affiliate transactions** for transactions entered into through an open and transparent solicitation process, and maintain the ban on short-term affiliate transactions.	Use this updated information for the affiliate transactions testing.

Decision	Section	Requirement	Major Testing and Test Questions
D.04-12-048	VI E	Clarification on D.03-12-062: Authorized IOUs to conduct procurement using **negotiated bilateral agreements** for transactions of up to three calendar months, or one quarter, forward; and that the utilities will consult with their PRGs for transactions with delivery periods of greater than three calendar months, or one quarter. Also, clarifies that D.03-12-062 authorized IOUs to conduct procurement using an electronic auction format for execution of competitive solicitations, among other transactional methods. The authorized products are good for short-, medium-, and long-term procurement. (See Table)	Verify that negotiated bilateral agreements do not exceed three calendar months, or one quarter, forward. Verify the IOU's are in compliance with the Commission approved products and transactions processes according to the clarifications on 03-12-062 provided in 04-12-048.
D.04-12-048	VIII (A) 2 and (D)	Sets requirements for all-source solicitations. (See pp.126-7 and 140-1 for list of requirements)	Verify that requirements for all-source solicitations were followed.
D.04-12-048	VIII C	For **IEs (Independent Evaluators)**, the Commission acknowledges the detailed IE guidelines set forth by FERC in its recent July 2004 and generally endorse them. The Commission determined that we will not allow the IEs to make binding decisions on behalf of the Utilities. We will require the use of an IE in resource solicitations where there are affiliates, IOU-built, or IOU-turnkey bidders. However, the Commission will not require that the IEs administer the entire RFO process. The IOU shall consult with its IE and PRG on the design, administration, and evaluation aspects of the RFO to ensure that the overall scope is not unnecessarily broad or otherwise too narrow. (Refer to pp.131-133 for FERC requirements).	Verify that Independent Evaluators were involved in resource solicitations where there are affiliates, IOU-built, or IOU-turnkey bidders. With respect to the above projects, verify that the IOUs consulted with its IE and PRG on the design, administration, and evaluation aspects of the RFO.

Decision	Section	Requirement	Major Testing and Test Questions
D.04-12-048		During 2005, any QF contract that expires after 12/31/2005 can not have the contract extended according to SO1 (set in 04-01-050). The only recourse is to 1. participate in any upcoming power solicitations or 2. negotiate bilateral contracts with Utilities. (later in Dec of 2005 the IOUs can extend contracts expiring in 2006 according to 04-01-050)	This information was incorporated into the SO1 extension testing above.
D.04-12-048	VIII E	Utilities shall employ S&P methodology for debt equivalence, using a 20% risk factor when evaluating bids in an all-source solicitation. (The Commission believes that the 30% S&P risk factor is too high to be reasonable and fair to all PPAs.). This DE methodology should be used by the utilities and/or the IE when evaluating bids in an all source and RPS RFO. The IOUs will also need to demonstrate, on a total portfolio basis, the DE impact of the PPAs in the Cost of Capital proceeding.	Determine that the Utilities employed the DE methodology as defined by the Commission when evaluating PPA bids. Verify that a 20% risk factor was used for the DE calculation.

APPENDIX E

SCHEDULE OF INFORMATION REQUESTS

SOUTHERN CALIFORNIA EDISON COMPANY
SCHEDULE OF INFORMATION REQUESTS

The following summarizes the majority of the information requests issued to SCE. This list has been modified to remove confidential information and any direct references to particular transactions, counterparties, volumes, prices, etc. It has also been modified to exclude any investigations into particular transactions or processes and many clarifying questions related to data received from the utility.

	Information Requested
1	Copies of all review processes, policies and procedures used to implement and perform the adopted procurement plans including:
	- Process mapping and documentation regarding assembly of quarterly filings
	-Any internal policies and procedures manuals and process maps regarding energy procurement transactions
	-Policies and procedures for competitive solicitations including ranking of offers and bid selection
2	Procurement organization chart, including decision makers up to the Board level that approve procurement transactions (staff, management, committees, etc.)
3	Sarbanes-Oxley documentation and testing results in the areas of energy procurement
4	Copies of all procurement plans for 2005 (all versions)
5	All decisions plus attachments relating to short-term and long-term procurement procedures that were not publicly available (ex. D.02-12-074 appendices)
6	All quarterly procurement compliance filings for 2005
7	Credit policies for 2005
8	One sample per year of the monthly portfolio risk report that shows the estimated portfolio risk
9	Copy of long-term energy efficiency plans for 2005
10	List of all affiliates as defined by D.02-10-062 & D.03-06-076 for the audit period of 2005
11	Monthly energy charges to each ERRA account, and ERRA filings for 2005
12	Monthly cost information for the PEEBA account for 2005
13	Monthly recorded power sales revenues for 2005
14	Detail about peak day load per month for 2005
15	Monthly detail for RAR resources of operation capacity per day and per month
16	Documented hourly load forecasts for all 12 months of the year
17	- Year-ahead and month-ahead compliance filings
18	Year-ahead preliminary load forecasts (submitted each spring)
19	Load forecast submissions and documentation
20	SCE risk measurement proprietary model report and explanations to Energy Division, and report from independent auditor validating the model (D.03.12.062 Section IIIC.1)
21	Evidence that demand response megawatt targets were met

	Information Requested
22	Credit policies for 2005 and samples of negotiated terms and conditions relating to energy procurement
23	Monthly energy charges to each ERRA account, and ERRA filings for 2005
24	Monthly cost information for the PEEBA account for 2005
25	Monthly recorded power sales revenues for 2005
26	Year-ahead preliminary load forecasts (submitted each spring)
27	Load forecast submissions and documentation
28	CPUC Codes of Conduct in effect 2005 and any revision documents
29	Start and finish dates for all employees involved in energy procurement process in 2005
30	Internal Audit reports on the procurement process
31	Monthly Energy Division Data Response Submission for entire audit period
32	Verification of complete submission of process flow maps for energy planning, power and gas trading, QCR process and structure product processes
33	List of all affiliates as defined by D.02-10-062 & D.03-06-076 for the audit period of 2005
34	Detail about peak day load per month for 2005
35	Discussion re: transaction data fields linkage to QCR reporting categories and authorized product list
36	List of counter party information of Financial Deals for the 2nd, 3rd and 4th quarter of 2005 (1st quarter information was provided in QCR work papers)
37	Risk reports for 2005
38	2005 minutes from all PRG meetings
39	All ERRA reports for 2005
40	ERRA tariffs prior to and after decision D.02-12-074 to exclude costs associated with ETTA
41	Employee signed Code of Conduct contracts
42	All QF contracts that expired in 2005 and the contract terms under which power was purchased
43	SO1 contracts to QFs who have been in operation and under contract to provide power between Jan 1, 1998 and the extended date, and set to expire before Jan 1, 2006 and the extended date
44	List of the RFPs for renewable resources for 2005
45	Details of swap transactions for 2005
46	2005 RFO details and contracts
47	Supporting documentation for selected 2005 transactions. For each selected transaction, supporting documentation includes the following information: Transaction date, contract execution date, counter party name, investment rating of counter party (investment grade or non-investment grade), delivery date, product type, volume (MW), price, and accounting record showing this transaction is charged to ERRA account

	Information Requested
48	Supporting documentation for selected 2005 broker transactions that demonstrate the prices are equivalent to those of exchanges. For each selected transaction, supporting documentation includes the following information: Transaction date, counter party name, documentation that demonstrate the prices were equivalent to those of exchanges as required in D.03-12-062
49	List of contracts post 10/27/2005 for RAR
50	Full list of all long term contracts and contract execution dates. Specify QF contracts
51	Provide annual purchased electricity volume from renewable resources for 2005
52	Provide annual total electricity sold volume for 2005
53	Provide annual audited financial statements and notes for 2005
54	ERRA semi-annual update filings for 2005
55	Verify that monthly reports showing activity in the ERRA balancing accounts were filed with the Energy Division and included copies of source documents when required for 2005; Include date submitted to Energy Division
56	Provide the fuel and purchased power revenue requirements documentation for 2005 that are used as a comparison to actual ERRA costs in the ERRA filings. Provide the portion of the ERRA report used to document this comparison. Show the detail of actual costs recorded in the ERRA transferred to the Settlement Rates Balancing Account (SRBA) in 2005. Detail the amount of Surplus that was applied to the Procurement-Related Obligation Account (PROACT)
57	Provide the general ledger detail for the ERRA account for 2005

APPENDIX F

REVISED RFP 2-9-06

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

02/09/2006

REQUEST FOR PROPOSAL

Notice to Prospective Proposers for Procurement Transactions Audit of Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (Utilities) For Years 2004, 2005 and 2006

February 09, 2006

You are invited to review this Request for Proposal (RFP), entitled, Utilities Procurement Transactions Audit for 2004, 2005 and 2006.

This RFP is a reissue of the first RFP posted on October 20, 2005 to include supplemental and updated information deemed important and necessary by the Commission.

Firms/teams interested in responding to this RFP are encouraged to submit a postcard or brief letter indicating their interest and providing the firm's name and address. This postcard/letter should be sent to the attention of Fred E. Tamse at the California Public Utilities Commission by **February 17, 2006**. Submitting the postcard/letter will ensure that your firm/team receives supplemental or updated information that might be released subsequent to Commission formal issuance of the RFP.

Firms/teams that submitted proposals in response to the October 20, 2005 RFP who wish to submit proposals in response to this revised RFP may either submit new sets of proposals or may submit an addendum to their proposals already received by the Commission.

No state funds will be expended for the work described in this RFP. CPUC staff will direct the Utilities to pay for approved charges. The Utilities will have sole responsibility for payment to the contractors for the work described in the RFP.

In the opinion of the California Public Utilities Commission, this RFP is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, the contact person for this RFP is:

Fred E. Tamse
California Public Utilities Commission
Utility Audit, Finance & Compliance Branch, Water Division
415-703-1181
E-mail: fet@cpuc.ca.gov

Please note that no *verbal* information given will be binding upon the CPUC unless such information is issued in writing as an official addendum.

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A. Purpose and Description of Services

A.1 BACKGROUND AND GENERAL INFORMATION FOR CONTRACTOR

In this Request for Proposals (RFP), the California Public Utilities Commission's (CPUC or Commission) Energy Division solicits qualified bidders to conduct a compliance audit of PG&E, SCE and SDG&E's (Utilities) procurement transactions including expenditures and any revenues for the years 2004, 2005 and 2006. The Audit will be conducted under the direction of the CPUC's Utility Audit, Finance, & Compliance Branch of the Water Division (Audit Branch). We estimated this project to cost between, $500,000 to $1,000,000. Additional information concerning the context and scope of the audit is provided below.

AGENCY MISSION

The CPUC regulates privately owned telecommunications, electric, natural gas, water, railroad, rail transit, and passenger transportation companies. The CPUC is responsible for assuring that California utility customers have safe, reliable utility service at reasonable rates, protecting utility customers from fraud, and promoting the health of California's economy. In pursuing these goals, the Commission establishes service standards and safety rules, and authorizes utility rate changes. It monitors the safety of utility and transportation operations, and oversees markets to inhibit anti-competitive activity. In its efforts to protect consumers, it prosecutes unlawful utility marketing and billing activities, governs business relationships between utilities and their affiliates, and resolves complaints by customers against utilities. It implements energy efficiency programs, low-income rates and telecommunications services for disabled customers. It oversees the merger and restructure of utility corporations, and enforces the California Environmental Quality Act for utility construction or other disposition of assets. The CPUC works with other state and federal agencies in promoting water quality, environmental protection and safety. It also intervenes in federal proceedings on issues that affect California utility rates or services.

THE SUBJECT OF THE AUDIT

The subject of this Audit is a comprehensive audit of the Utilities' Procurement Transactions from January 1, 2004 through December 31, 2006, in compliance with their Procurement Plans, approved by the CPUC.

PROCUREMENT TRANSACTIONS

On October 29, 2001, the Commission issued R.01-10-024, an "Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development". R.01-10-024 was issued to establish ratemaking mechanisms to enable the California Investor-Owned Utilities (IOU) to resume purchasing electric energy, capacity, ancillary services and related hedging instruments to fulfill their obligations to serve and meet the needs of their customers. The objectives of each utility's procurement process is to ensure sufficient and reliable energy supply at low and stable rates and to optimize the value of its overall supply portfolio for the benefit of the customers.

On October 24, 2002, in D.02-10-062, the Commission adopted the regulatory framework by which the IOU would resume full procurement responsibilities commencing on January 1, 2003. As part of the framework established by D.02-10-062, once a utility's procurement plan is approved, all transactions entered into in compliance with it are to be filed with the Commission's Energy Division via a quarterly compliance advice letter. In addition, if a transaction falls outside the approved procurement plan, the utility is to file an expedited application. These quarterly compliance advice letter filings are also referred to as "Quarterly Transaction Reports".

Initially, D.02-10-062 required the utilities to file the quarterly compliance advice letters within 15 days after the end of each quarter, detailing all transactions in compliance with the adopted plans. PG&E and SDG&E filed a joint petition to modify D.02-10-062, specifically to extend the due date of the Quarterly Procurement Plan Compliance Reports from within 15 days of the end of the quarter to within 30 days of the end of the quarter. The Commission granted the request in D.03-12-062.

D.03-12-062, of rulemaking R.01-10-024, (December 18, 2003), adopted the short-term procurement plans (STPP) under which the utilities would conduct their 2004 procurement activities. D.03-12-062 addressed the process under which the utilities' quarterly compliance filings pursuant to their 2004 procurement plans would be reviewed. The Commission found that the Energy Division should, in consultation with each utility and its Procurement Review Group (PRG), select an outside auditor to review and verify the quarterly compliance filings to ensure they are in compliance with the adopted procurement plans, and the audit expenses should be paid by the utilities and recorded in a memorandum account. D.03-12-062 stated that a resolution for the Commission's agenda should only be prepared if the Energy Division or the outside auditor find the transactions or procurement practices are not in compliance with the adopted plans.

In April 2004, the Commission closed rulemaking R.01-10-024, and opened a new rulemaking related to utility procurement, R.04-04-003. In December 2004, the Commission adopted D.04-12-048 which approved the IOU's long-term procurement plans and clarified some of the procurement rules adopted in prior Commission decisions. In D.04-12-048, the Commission ordered the utilities to propose a way to reformat the submission of "Quarterly Transaction Reports" to streamline the review of the reports.

The contractor selected as a result of this RFP will be responsible for review of quarterly compliance advice letter filings for 2004, 2005 and 2006 in accordance with this Work Plan as shown on pages 5-7.

The utilities submitted all quarterly advice letter filings in 2004, and the 1st through 3rd quarters of 2005 reporting their electric and electric-related natural gas procurement activities in conformity with their Procurement Plans. These filings identify how the transactions entered into are in compliance with the upfront standards identified by the Commission in its procurement related decisions.

The utilities will continue to submit quarterly advice letter filings throughout the remainder of 2005, and following each quarter in 2006. The last filing for the 4th Quarter of 2006 is expected to be made within 30 days of the end of the 4th Quarter of 2006.

PURPOSE OF THIS RFP

The independent/outside auditor will be selected to review the utilities' procurement transactions as reported on a quarterly basis by advice letter filings in 2004, 2005 and 2006. At the conclusion of its review, the independent auditor will be required to deliver confidential (for CPUC use only), and non-confidential (for Public Distribution) audit reports for each of the audited utilities for each audited year. Therefore, a total of six audit reports will be delivered for 2004 comprising of a confidential, and non-confidential audit reports for PG&E, SCE and SDG&E. Six audit reports will also be required for the 2005 audit period. Likewise, another six audit reports will be required for the 2006 audit period. Interim reports will be requested for 2006. The non-confidential audit reports will exclude confidential information specified by the utilities consistent with the Commission's confidentiality policies, including those developed in R.05-06-040, the confidentiality rulemaking. The confidential audit report will include all confidential information submitted by the utilities.

The independent auditor will review the utilities' procurement transactions to ensure the prices, terms, types of products, and quantities of each product conform to the approved procurement plans.

The importance of confidentiality is emphasized in the audits of the Utilities' procurement transactions. The winning Contractor must maintain strict confidentiality, including among the contractor's teams. This means that, in addition to confidentiality conditions identified in page 36, the audit team assigned to audit a particular Utility must not share, trade or exchange information with the audit teams auditing the other Utilities, other than as necessary for oversight and quality control of the three audits. The Contractor's project manager overseeing the audit of the Utilities must maintain the highest confidentiality among his/her auditors performing the audit of PG&E, SCE, and SDG&E.

A.2 SCOPE OF WORK: COMPLIANCE AUDIT

The winning firm/team will be required to perform the tasks described below. The audit period covers the term January 1, 2004 through December 31, 2006.

Final Deliverable
The Contractor will be required to deliver to the Commission ***Comprehensive Procurement Transactions Audit Reports*** covering the tasks listed below as follows: (1) Final 2004 Audit Reports, to be delivered on or before **September 25, 2006**; (2) Final 2005 Audit Reports, to be delivered on or before **November 10, 2006**, and (3) Final 2006 Audit Reports, to be delivered on or before **July 31, 2007**.

The compliance audit will detail the Utilities' quarterly procurement transactions for 2004, 2005 and 2006, including related expenditures and revenues supported by Energy Resource Recovery Account (ERRA) invoices and procurement transactions documents. Individual audit reports will be prepared for PG&E, SCE, and SDG&E for years 2004, 2005 and 2006.

As stated under the purpose of this RFP above, the auditor will submit two sets of audit reports for each utility company, and for each year of 2004, 2005 and 2006, specifying one set for public distribution only, and another set for CPUC use only. The auditors should provide interim reports to the Energy Division and the Audit Branch for the review of the Utilities' 2006 quarterly procurement transactions, no later than 120 days after the Utilities submit the Compliance filings to the Commission.

Task 1: Verify Procurement Transactions policies and procedures during the years 2004, 2005 and 2006

- Obtain copies of and review applicable regulatory decisions, orders, resolutions, and the Utilities' Commission-approved procurement plans to establish the standards for the quarterly procurement plan compliance review. The Commission initially adopted short-term procurement plans, and it later adopted long-term procurement plans for each of the utilities.
    - Identify and extract portions of the applicable decisions, orders, resolutions, and utility's Commission-approved procurement plan which provide the regulatory framework under which the utility operates in performing its short-term procurement responsibilities.
    - Summarize the results of the regulatory review to develop a regulatory framework for the quarterly procurement plan compliance review.
    - Develop a regulatory compliance checklist to use in the quarterly procurement plan compliance reviews.
- Obtain copies of the review processes, policies and procedures used by the utility to implement and perform under the Commission-adopted procurement plan.

- Conduct interviews with utility's power procurement managers who oversee the implementation of the procurement plan including but not limited to, forecasting, energy planning, contracts and trading, and operations.

- Conduct interviews with utility's PRG participants to review that the processes, policies and procedures used by the utility conform to the Commission's policies. Review the audit work plan with the PRG and incorporate any feedback into the work plan in coordination with the contract manager.

- Obtain and review copies and review presentations (and/or meeting minutes) made by the utility to its PRG regarding its procurement plans. Presentations will include information provided to the PRG (as directed by the Commission) about the utilities procurement plans. Contents will include, but are not limited to, information on the utilities' procurement portfolio open position; changes in market conditions from previous quarter, including gas and electric prices; hedging strategies going forward and whether an updated plan is required to be filed.

Task 2: Verify Quarterly Compliance Filings (Advice Letters) including all information adopted in the Master Data Request (Appendix B of D.02-10-062).

- Verify and review quarterly advice letters filing including supporting documentation.

- Identify and verify utility's authorized decision-makers up to the Board level that approved the procurement transactions. Identify the position(s) held by each individual. Identify the authorizing staff members, including the utilities' risk management committees that review and approve all utility transactions.

- Obtain and verify description of and justification for the procurement processes used to select the transactions (e.g., Requests for Offers, Electronic Trading Exchanges, ISO Spot Markets). Check that the procurement transactions were consistent with the Commission approved procurement products (and policies).

- For competitive solicitations, review and describe the process used to rank offers and select winning bid(s). Review whether the process is consistent with Commission orders related to competitive solicitations.

- For all other procurement transactional methods, provide documentation supporting the selection of the chosen products. Review whether the transactions are consistent with Commission orders related to non-competitive solicitations.

- Explain/justify the timing of transactions (i.e. product term and rate of procurement).

- Discuss the system load requirements/conditions underlying the need for the month's (later quarter's) transactions.

- Discuss how the months' transactions meet the goals of the risk management strategy reflected in the Commission-approved procurement plan (i.e., achieving lowest stable rates).

- Obtain copy of each procurement contract.

    - Verify that forward contracts for delivery commencing after 2004 do not exceed a term approved by the Commission.

    - For transactions in 2004 prior to the issuance of D.04-12-048, verify that forward contracts do not provide for delivery schedule to begin after September 30, 2005.

- Determine break-even spot price equivalent to the contract(s). The auditor should prepare a chart showing volume of transactions [Sales and Purchases in kWh] by term length. This will show spot transactions in relating to total procurement volumes.

- Obtain copy of any data or forecasts used by the utility to analyze the transactions.

- Provide a reasonable number of analyses requested by the Commission or the PRG, and provide the resulting outputs. Utilities should also provide documentation on the model and how it operates.

- Verify that only the product types and transaction processes used for procurement of Residual Net Short (RNS) and sales of Residual Net Long (RNL) during the quarter are those that are in the utility's Commission-approved Procurement Plan.

    - Approved methods are competitive solicitations (RFO/RFP), electronic exchanges, voice and online-brokers, ISO transactions, energy exchanges, negotiated Bilateral Contracts, and OASIS sites for transmission.

- Verify that the utility did not transact with its affiliates.

- Verify that the utility acted in accordance with its approved procurement plan and did not violate any laws or Commission adopted rules.

Task 3: Review and test quarterly transactions for consistency with the utility's Commission-adopted procurement plan

- Obtain copies of Advice Letter filings and Commission decisions relevant to procurement transactions

- Obtain copies of and verify all internal procurement reports

- Verify and summarize utility procurement expenditures from January 1, 2004 through December 31, 2006

- Determine compliance of procurement expenditures with Commission approved procurement plan

- Determine completeness of procurement plan quarterly compliance

- Summarize the results of the procurement plan compliance review

- If the Utility is in compliance with its adopted procurement plan, submit audit report to the Director of the Energy Division who will approve the advice letter(s) filing.

- If the Utility's transactions or procurement practices are not in compliance with its procurement plan, submit audit report to the Director of the Energy Division. A resolution for the Commission's agenda will be prepared.

Task 4: Assess the effectiveness of accounting and compliance of procurement transactions.

- Determine that utility accounting practices and procedures for Procurement of energy are consistent with applicable Commission decisions.
- Based on generally accepted government auditing standards:
  - Obtain and review relevant program plans, descriptions, and budgets
  - Obtain and review descriptions of utility accounting systems and procedures, including procurement practices and procedures
  - Obtain and review other relevant documentation and data
  - Assess utility oversight of procurement program expenditures
  - Report on effectiveness of utility accounting, and procurement management

Task 5: Make any recommendations to the Commission

- As applicable, make recommendations to the Commission to enhance or clarify procurement practices and compliance to Commission approved procurement plan.

A.3 SCOPE OF WORK: QUARTERLY STATUS BRIEFINGS AND WRITTEN UPDATES

The winning firm/team will be required to perform the tasks described below.

Deliverables

In addition to performing the tasks outlined above for the preparation of the final Audit reports, the winning firm will also be required to perform additional tasks for the preparation of briefings and updates to CPUC staff. Such updates shall include:

- Upon commencement of the contract, an initial work plan shall be prepared by the successful bidder and shared with the utilities and their PRGs.
- A regularly scheduled (monthly or bimonthly) work status update will be provided to Energy Division, utilities, and their PRGs. The update will include information on each section of the Audit in relation to the approved bidder work plan, targets and projected achievements. The update will include any challenges encountered by the contractor, the proposed plan for overcoming those challenges, and any projected changes to the work plan and its schedule.
- A summary of issues addressed for each quarterly Advice Letter by the successful bidder
- A summary of challenges confronted by the successful bidder during the audit of the quarterly Advice Letters
- A summary of ways the bidder has overcome those challenges or proposes to do so in the future

- Projected activities vis-a-vis the work plan for the advice letters not yet reviewed.

The successful bidder will propose a regular schedule for briefings and written updates (especially with respect to schedule) as part of their contract work plan. The bidder may be asked to share schedule and briefings with the utilities and their procurement review groups.

A.4 SCOPE OF WORK: FINAL REPORT

Task 1: Report Writing Tasks

- Based on the information gathered in sections A.2, prepare a Draft Final Audit Report: *Procurement Transactions Compliance Audit - January 1, 2004 to December 31, 2004 Report,* for review and comment by the CPUC's Energy Division, and Audit & Compliance Branch of CPUC's Water Division. Prepare a second audit report applicable for period *January 1, 2005 to December 31, 2005* for review and comment by the Energy Division, and Audit & Compliance Branch (Water Division). Prepare a third audit report applicable for period *January 1, 2006 to December 31, 2006* for review and comment by the Energy Division, and Audit & Compliance Branch (Water Division). (Refer to page 5, Final Deliverable).

- Utilities will review their respective draft audit reports and report any factual errors to the auditors, Energy Division and Contract manager. Based on Energy Division comments on the Draft, prepare a Final Draft Audit Report for final review by the Energy Division.

- Based on comments received on the Final Draft Audit Report, prepare and deliver to the CPUC a Final Audit Report.

- Brief the Director of the CPUC's Energy Division, and other agency decision makers on the report's findings, as required.

B. Minimum Qualifications for Proposers

Firms must possess extensive knowledge of utility financial accounting practices and knowledge of energy procurement transaction programs. Respondents must be familiar with standard financial auditing procedures and have some knowledge of the technology and program results of procurement transaction programs and measures from other jurisdictions within the United States. Knowledge of and experience with public utility company operations is also necessary.

Bidders may form teams to bid on the scope of work contained within this RFP. However, if a team approach is used all subcontracting firms must be identified in the bidder's proposal. If a team is selected, the CPUC Contract Manager must approve any proposed substitution of subcontracting firms in writing before any substitution occurs. The bidder responding to this RFP must serve as the Prime Contractor.

C. Proposal Requirements and Information

This section describes the required components of the RFP responses and provides additional information concerning the RFP selection process.

C.1 Time Schedule (Revised)

It is recognized that time is of the essence. All proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

Event	Date
Proposal Posting on CPUC website	February 9, 2006
Intent to bid postcard/letter received by CPUC	February 17, 2006
Written Question Submittal Deadline	February 24, 2006
Final Date for Proposal Submission	**March 17, 2006, by 4:00 pm**
Phase I - Evaluation Completed	April 5, 2006
Phase II - Interviews ***(Interviews will take place at the CPUC headquarters in San Francisco)***	Week April 10-14, 2006
Phase II - Interview Evaluation Completed	April 18, 2006
Phase III - Cost Proposal Opening	April 18, 2006
Phase III - Evaluation Completed	April 18, 2006
RFP award notice posted at CPUC website	April 20, 2006
Agreement Award	April 20, 2006
Contract approved and signed by the CPUC and Consultant (date is approximate)	April 24, 2006
Contract work starts (date is approximate)	April 24, 2006
Draft 2004 Audit Reports	August 28, 2006
Final 2004 Audit Reports	**September 25, 2006**
Draft 2005 Audit Reports	October 20, 2006
Final 2005 Audit Reports	**November 10, 2006**
Draft and Final Interim 2006 Audit Reports	
1st Quarter 2006	September 8, 2006
2nd Quarter 2006	November 30, 2006
3rd Quarter 2006	February 29, 2007
4th Quarter 2006	May 31, 2007
Draft 2006 Audit Reports	June 30, 2007
Final 2006 Audit Reports	**July 31, 2007**

C.2 Bidder's Business Information

State your firm's full name, address, and, if applicable, the branch office and any subcontractors that would perform or assist in performing any of the work. Please also designate persons authorized to act on behalf of your firm during contract negotiations and state your earliest available starting date.

C.3 Experience and Qualifications

To demonstrate the qualifications of the proposed team, the proposal shall include the following information:

A. Describe all applicable qualifications, provide detailed explanation of special capabilities directly related to electric procurement program evaluation and auditing.

B. Provide a full description of previous experience of the Prime Contractor and any subcontractors in performing work similar to that described in Sections A.2 of this RFP. Along with this narrative, include no more than two (2) samples of such work successfully performed. (NOTE: CPUC documents issued within the past five years need only be cited).

C. Provide references from the cited work performed by the proposed team members, particularly the project leadership, including dates of performance, client name, contact person and telephone number, and the name(s) and role(s) of the referenced team member(s).

D. List any awards or other recognition for the work described in the foregoing.

C.4 Work Plan and Work Schedule Requirements

Submit a detailed work plan for accomplishing the tasks described in Sections A.2 through A.4. The work plan should include the following:

A. Describe your firm's management procedure for planning, scheduling, and budgeting, as well as the procedures to be used in controlling time used, dollars spent, and quality control over the deliverables.

B. Describe the specific steps your firm intends to complete in performing the tasks outlined in Sections A.2, A.3, and A.4.

C. Describe any modifications or enhancements you would make to the tasks outlined in Section A.2 through A.4, why you would recommend these, and your proposed method for accomplishing the recommended changes.

D. Submit a schedule for accomplishing the program evaluation and delivering the final work products, including time estimates and milestones. The proposer should provide a conservative project timeline which estimates the number of days to complete each task identified in the work plan.

C.5 Organization Chart

Illustrate the proposed relationships between the project manager, key personnel, support staff, and other resources that are expected to participate in the project. Show which aspects of work each person will be responsible for performing, and show the approximate percentage of time that will be devoted to the project described in this RFP. Aspects of work should correspond to the work generally described in Sections A.3 though A.4 above.

C.6 Project Personnel

Provide up-to-date and useful resumes of all proposed team members (key personnel and support staff) shown on the Organization Chart, which include a description of responsibilities in similar work cited in Section C.3.B. Descriptions which are limited to "participated" or "assisted in" are of no value in determining the qualifications and experience of these individuals and will not be considered. Resumes of persons who are not shown on the Organization Chart or shown without specific duties will not be considered.

C.7 Conflict of Interest

Disclosure Requirements

Certain conditions may render a team unable to give impartial, objective assistance and advice, or otherwise result in a biased work product. Certain financial interests, especially financial interests in one of the Utilities, will prevent participation in auditing the Utility in which the individual and/or firm has a financial interest, and will prevent an individual from overseeing and coordinating the three Utility audits. In order to properly evaluate and judge the proposed team, and avoid termination and/or controversy at a later stage, disclose for each participating firm[1] and audit team member[s][2]

A. Any (i) current contract with, (ii) investment[3] of $2000 or greater in, or (iii) income[4] of more than $500 within the last twelve months from the Utilities,[5] their parents, subsidiaries or otherwise related business entities, as defined in Regulation 18703.1(d) of Title 2, Division 6 of the California Code of Regulations;[6] For contracts, provide the firm's name, the nature, scope and duration of the proposal, and its total monetary value.

B. Any (i) current contract with, (ii) investment[7] of $2000 or greater in, or (iii) income[8] of more than $500 within the last twelve months from energy market participants. For purposes of this RFP, energy market participants means: (a) any person or entity that purchases, sells or markets electrical energy or capacity or natural gas; (b) any person or entity that bids on or purchases power plants; (c) any person or entity that advises

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[1] "Participating firm" means any firm that will perform work pursuant to this RFP.

[2] Audit team member means any person that will perform work pursuant to this RFP, but does not include those whose participation is limited to the performance of secretarial or clerical work.

[3] "Investments" includes those of a spouse, registered domestic partner, and/or dependent children.

[4] Income includes loans, gifts of more than $360, and an individual's community property interest in the income of a spouse or registered domestic partner.

[5] "Utilities" means PG&E, SDG&E, and SCE.

[6] Regulation 18703.1(b) is available on the Fair Political Practices website at http://www.fppc.ca.gov/index.html?ID=52&r_id=/legal/regs/18703-1.htm

[7] "Investments" include the financial interests listed in footnote 3.

[8] Income includes the financial interests listed in footnote 4.

or consults regarding the purchase, sale, or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants; (d) any person or entity that develops electric transmission lines and/or gas pipelines; (e) any person or entity that advises or consults with others regarding the development of electric transmission lines and/or gas pipelines; (f) a trade association or other organization composed of or representing persons or entities that participate in the energy market; (g) the parents of any of the preceding entities. For contracts, provide the client name, total amount of payments, duration and nature of the service provided.

C. Prior contracts (i.e., over the last two years) with the Utilities, their parents, subsidiaries or otherwise related business entities, as defined in Regulation 18703.1(d) of Title 2, Division 6 of the California Code of Regulations, or market participants as defined in Section C 7 B above. For contracts, provide the client name, total amount of payments, duration and nature of the service provided.

D. Any active proposals with the Utilities their parents, subsidiaries or otherwise related business entities, as defined in Regulation 18703.1(d) of Title 2, Division 6 of the California Code of Regulations ; and/or energy market participants as defined in Section C.7.A- above. (Provide the firm's name, the nature, scope and duration of the proposal, and its total monetary value).

E. Participation on a Utility's Procurement Review Group (PRG) during 2004 through the present. [An individual participating on the PRG may not audit transactions that the individual has reviewed as a PRG participant.]

F. Provide a statement, signed by the principal of each participating firm, asserting that the information provided in response to Sections C.7. A though C. 7. E is correct to the best of that person's knowledge.

Additional information may be required prior to the award of this contract in order to meet state conflict of interest requirements.

FOR CURRENT STATE EMPLOYEES:

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

I. No officer or employee shall contract on that person's own behalf as an independent contractor with any state agency to provide goods or services.

FOR FORMER STATE EMPLOYEES:

J. For the two year period from the date of leaving state employment, no former state officer or employee may enter into a contract in which that person was engaged in any of the negotiations, transaction, planning, arrangements, or any part of the decision making process relevant to the contract while employed in any capacity by any state agency.

K. For the twelve month period from the date of leaving state employment, no former state officer or employee may enter into a contract with any state agency if that person was employed by that state agency in a policy making position in the same general subject area as the proposed contract within the twelve month period prior to that person leaving state service.

C.8 Cost Detail Format and Requirements

Respondents must submit their bids using the Cost Proposal Worksheet (Attachment 3). In accordance with Section C.9.E below, the bid information must be submitted in a **sealed envelope separate from the proposal package**.

C.9 Submission of Proposal

A. Proposals should provide straightforward and concise descriptions of the proposer's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.

B. All proposals must be submitted under **sealed** cover and received by the CPUC **on or before March 17, 2006 by 4:00 pm. Proposals received after this date and time will not be considered**.

C. A minimum of five (5) copies of the proposal, along with the original, must be submitted.

D. The original proposal must be marked "ORIGINAL COPY". All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the proposing firm. All additional proposal sets may contain photocopies of the original package.

E. The proposal envelopes must be plainly marked with the RFP number and title, your firm name and address, and must be marked with "DO NOT OPEN", as shown in the following example:

RFP #05PS5440
PG&E, SCE & SDG&E Procurement Transactions Audit for 2004-2006
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

DO NOT OPEN

If the proposal is made under a fictitious name or business title, the actual legal name of the proposer must be provided.

The bid prices and all cost information must be submitted in a separate sealed envelope. The envelope should be affixed to the outside of the proposal package and marked "Sealed Cost Proposal-DO NOT OPEN".

Proposals not submitted under sealed cover and marked as indicated will be rejected.

F. All proposals shall include the documents identified in Section E, Required Attachment Checklist. **Proposals not including the proper "required attachments" shall be deemed non-responsive**. A non-responsive proposal is one that does not meet the basic proposal requirements.

G. Mail or deliver proposals to the following address:

California Public Utilities Commission
Contracts Office, Room 2004
ATTN: Joyce Swisher
505 Van Ness Ave.
San Francisco, CA 94102
Tel: (415) 703-1439

H. Proposals must be submitted for the performance of all the services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.

I. A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. The CPUC may reject any or all proposals and may waive any immaterial deviation in a proposal. The CPUC's waiver of immaterial defect shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if awarded the agreement.

J. Costs for developing proposals, and in anticipation of award of the agreement are entirely the responsibility of the proposer and shall not be charged to the State of California.

K. An individual who is authorized to bind the proposing firm contractually shall sign Attachment 2, Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.

L. A proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline. Proposal modifications offered in any other manner, oral or written, will not be considered.

M. A proposer may withdraw its proposal by submitting a written withdrawal request to the CPUC, signed by the proposer or an agent authorized in accordance with Section K above. A proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.

N. The awarding agency may modify the RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package.

O. The awarding agency reserves the right to reject all proposals for reasonable cause including cost. The agency is not required to award an agreement.

P. Proposers are cautioned to not rely on the CPUC during the evaluation to discover and report to the proposer any defects and errors in the submitted documents.

Q. Proposers, before submitting their documents, should carefully proof them for errors and adherence to the RFP requirements.

R. More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any proposer has submitted more than one proposal for the work contemplated herein will cause the rejection of all proposals submitted by that proposer. If there is reason for believing that collusion exists among the proposer, none of the participants in such collusion will be considered in this or future procurements.

C.10 Evaluation Process

A. At the time of proposal opening, each proposal will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP. **Failure to provide required forms will result in rejection of the proposal**.

B. The CPUC will put each proposal through a process of evaluation to determine its responsiveness to the CPUC's needs. A selection panel comprised of Commission personnel will make the final selection of the consultant. The selection process consists of three phases that are described below.

C. Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the proposer, may be rejected.

D. PHASE 1: Rating Proposals

The proposals that meet the minimum qualifications will be evaluated and scored based on the criteria listed below. A minimum of **75 points** must be achieved in this phase in order to move on to Phase II.

Phase 1 consists of an evaluation of each proposal by the selection panel based on the following criteria:

20% Experience of the firm(s), project leadership and assigned individuals in a) utility accounting practices and/or audits; b) procurement transaction programs, and c) program impacts at the measure and programmatic level. Experience of the firm(s) with procurement transaction programs in other jurisdictions within the United States.

20% Analytical techniques and work plan to be employed.

10% Resources available to the project team. Location of the project team. Percentage of time devoted to the project by each team member.

10% Bidder's ability to start and complete the Audit in a timely manner while ensuring stability of assigned staff.

10% Experience of the firm(s) working on projects involving utility companies.

10% Firm(s) familiarity with utility's procurement transaction programs.

15% Potential for conflict of interest, other than disqualifying conflicts of interest (See Section C.7 Disclosure Requirements).

5% Education and other credentials of project leadership and team members. References, awards and other recognition for experience.

Total Possible Points -- 100

E. PHASE II: Interviews

Only proposals from those firms or teams receiving a score of 75 or better during the first phase of evaluation will be interviewed. Proposers will be evaluated by the selection panel on the quality of their presentations and their answers to interview questions. The presentations should focus on the bidder's proposals to achieve the work tasks identified in Sections A.2 through A.4 of the RFP. The presentation shall be given by the Consultant's proposed Project Manager.

Phase II will be graded based on the following criteria:

40% Presentation

60% Answers to Interview Questions

Teams selected for the presentation and interview must be available during the week of **April 10-14, 2006.** The presentation and interviews will be conducted at the CPUC's headquarters, which is located at 505 Van Ness Avenue, San Francisco, California.

F. PHASE III – Total Score

The one firm/team with the highest score from Phase III will be awarded the contract agreement.

During this phase, bids will be opened. The cost proposal with the lowest price will be assigned a score of 100 points or 30% (after adjustments are made for any applicable preference programs). Other cost proposals will be assigned points on a proportional basis relative to the cost of the lowest bid (and adjustments are made for any applicable preference programs). For example, if the second lowest bid is 20% *higher* than the lowest cost bid, it will be assigned a point score of 80 (or 24%), which is 20% *lower* than the point score or rate of the lowest cost bid.

Phase I and Phase II scores will be weighted 35% and 35%, respectively, and Phase III - 30%, to create a combined overall score of 100%.

Please note, if no proposals are received containing bids offering a price, which in the opinion of the CPUC is a reasonable price, CPUC is not required to award an agreement.

C.11 Award of Agreement

A. Upon award of the agreement, Contractor must supply the IOU that is designated as the payment agent for purposes of this Agreement (IOU payment agent) any information necessary for compliance with tax laws and reporting requirements.

B. Upon award of the agreement, Contractor must sign and submit to the CPUC the contract and related documents.

C.12 Disposition of Proposals

A. Upon proposal opening, all documents submitted in response to this RFP will become the property of the CPUC, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public. The CPUC cannot prevent the disclosure of public documents. However, the contents of all proposals, draft proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a proposer's proposal, shall be held in the strictest confidence until the "Letter of Intent" is posted.

B. Proposal packages may be returned only at the proposer's expense, unless such expense is waived by the CPUC.

C.13 Standard Conditions of Service

A. Service shall be available on the express date set by the CPUC and the Contractor, after all approvals have been obtained and the agreement is fully executed. Should the Contractor fail to commence work at the agreed upon time, the CPUC, upon five (5) days written notice to the Contractor, reserves the right to terminate the agreement. In addition, the Contractor shall be liable to return funds to the IOU payment agent the difference between Contractor's Proposal price and the actual cost of performing work by the second lowest proposer or by another contractor.

B. All performance under the agreement shall be completed on or before the termination date of the agreement.

C. The CPUC does not accept alternate contract language from a prospective contractor. A proposal with such language will be considered a counter proposal and may be rejected.

D. No oral understanding or agreement shall be binding on either party.

D. Required Attachments

Documents identified as "REQUIRED" on Attachment 1, Required Attachment Checklist, **must be included** with your proposal package in order to be considered responsive.

ATTACHMENT 1

ATTACHMENT CHECK LIST

A complete proposal or proposal package will consist of the items identified below.
Complete this checklist to confirm the items in your proposal. Place a check mark or "X" next to each item that you are submitting to the CPUC. For your proposal to be responsive, all required attachments must be returned. This checklist should be returned with your proposal package also.

	Attachment	Attachment Name/Description
_____	Attachment 1	Attachment Check List – **REQUIRED.**
_____	Attachment 2	Proposal/Proposer Certification Sheet – **REQUIRED.**
_____	Attachment 3	Cost Worksheet – **REQUIRED.** (Reminder: The worksheet must be submitted under separate cover as described in Section C.8 and C.9.E above.)
_____	Attachment 4	Disabled Veteran Business Enterprise Participation Forms and Instructions – **REQUIRED.** Std. 840 Disabled Veteran Business Enterprise Participation Summary (page 1). Good Faith Effort Documentation – Exhibit A (3 pages) DVBE forms are available on the Internet at http://www.documents.dgs.ca.gov/pd/smallbus/9-15-03%20DVBE%20PR-1-2.pdf
_____	Attachment 5	Contractor Certification Clauses. **NOT REQUIRED**. Do not complete this form. However, please note that if your firm wins the contract, you will have to submit this form to the CPUC.
_____	Attachment 6	Sample Agreement–**NOT REQUIRED**. Do not complete this form. This form is provided for illustrative purposes only. The contract language may be modified by the CPUC to suit the specific needs of this particular project.

ATTACHMENT 2

PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire package in duplicate with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

Do not return Section C, Proposal Requirements and Information (pages 3 through 11) nor the "Sample Agreement" at the end of this RFP.

A. Our all-inclusive cost proposal is submitted in a sealed envelope marked **"Cost Proposal - Do Not Open".**

B. Place all required attachments behind this certification sheet.

C. I have read and understand the DVBE Participation requirements and have included documentation demonstrating that I have met the participation goals or have made a good faith effort.

D. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause For Rejection

1. Company Name	2. Telephone Number ( )	2a. Fax Number ( )
3. Address		
Indicate your organization type: 4. ☐ Sole Proprietorship	5. ☐ Partnership	6. ☐ Corporation
Indicate the applicable employee and/or corporation number: 7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
Indicate applicable license and/or certification information: 9. Contractor's State Board Number	10. PUC License Number CAL-T-	11. Required Licenses/Certifications
12. Proposer's Name (Print)	13. Title	
14. **Signature**	15. Date	

16. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:

a. Small Business Enterprise
If yes, enter certification number:

_____

b. Disabled Veteran Business Enterprise Yes ☐ No ☐
If yes, enter your service code below:

_____

NOTE: A copy of your Certification is required to be included if either of the above items is checked **"Yes"**.

Date application was submitted to OSBCR, if an application is pending:

Completion Instructions for Proposal/Proposer Certification Sheet

Complete the numbered items on the
Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
10, 11, 12, 13	Must be completed. These items are self-explanatory.
14	If certified as a Small Business Enterprise, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.

ATTACHMENT 3

COST PROPOSAL WORKSHEET

Use this form to provide your firm's/team's bid price and cost information. The worksheet shall cover the tasks described in Sections A.2 though A.4 of the RFP. This information must be submitted in a separate sealed envelope. The envelope should be affixed to the outside of the proposal package and marked "Sealed Cost Proposal- DO NOT OPEN."

PRIMARY CONTRACTOR DIRECT LABOR (The listed job positions are for illustrative purposes only. You may substitute job titles/positions as necessary.)	HOURS	RATE	TOTAL	
Program Manager	_____ @	_____	_____	
Staff Assistant	_____ @	_____	_____	
Technician	_____ @	_____	_____	
Clerical	_____ @	_____	_____	
				$_____

INDIRECT COSTS (OVERHEAD AND FRINGE BENEFITS)

Overhead Rate	_____	_____
Fringe Benefits	_____	_____
		$_____

SUBCONTRACTOR(S) DIRECT LABOR (Disclose per firm, not by individual)

Firm A	$_____	
Firm B	$_____	
		$_____

SUBCONTRACTOR(S) INDIRECT COSTS (Disclose per firm, not by individual)

Firm A	$_____	
Firm B	$_____	
		$_____

DIRECT COSTS FOR BOTH PRIMARY AND SUBCONTRACTOR(S) (EXCEPT LABOR)

Travel Costs -Total	$ _____	
Equipment and Supplies - Total	$_____	
Other Direct Costs -Total	$_____	
		$_____

FEES	$_____
TOTAL COSTS	$_____

ATTACHMENT 4

Disabled Veteran Business Enterprise Participation Forms and Instructions

The standard contract language for the Disabled Veteran Enterprise Program (DVBE) can be found at the Internet web site http://www.documents.dgs.ca.gov/pd/smallbus/9-15-03%20DVBE%20PR-1-2.pdf
To view the DVBE package and obtain the required submittal forms go to the web site listed above.

If your firm is claiming DVBE participation, please submit a copy of the DVBE certification issued by the Office of Small Business Certification and Resources along with the STD 840 form to the CPUC.
If your firm is not claiming DVBE participation, you **must** submit the Good Faith Effort Documentation – Exhibit A form to the CPUC.

ATTACHMENT 5

Contractor Certification Clauses -- NOT REQUIRED. Do not complete this form. However, please note that if your firm wins the contract, you will have to submit this form to the CPUC at that time.

CERTIFICATION

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

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

CONTRACTOR CERTIFICATION CLAUSES

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

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

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

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

c. Every employee who works on the proposed Agreement will:
   1) Receive a copy of the company's drug-free workplace policy statement; and,
   2) Agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for awards of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

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

4. UNION ORGANIZING: Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.

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

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

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

8. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

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

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

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

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

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

ATTACHMENT 6

STANDARD AGREEMENT
STD. 213 (NEW 02/98)

	AGREEMENT NUMBER

1. This Agreement is entered into between the CPUC and the Contractor named below
   STATE AGENCY'S NAME

   CONTRACTOR'S NAME

2. The term of this Agreement is:

3. The maximum amount Of this Agreement is: $

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

   Exhibit A – Scope of Work Page(s)

   Exhibit B – Budget Detail and Payment Page(s)

   * Exhibit C – General Terms and Conditions _____ (Number) _____ (Dated)

   Exhibit D – Additional Provisions Page(s)

   Exhibit E – Billing Rates Page(s)

   Contractor's proposal is hereby incorporated by reference and made a part of this agreement.

**View at*

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		**Use Only**
CONTRACTOR'S NAME *(If other than an individual, state whether a corporation, partnership, etc.)*		
BY *(Authorized Signature)*	DATE SIGNED)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
CPUC		
BY (Authorized Signature)	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		☐ Exempt per _____

SAMPLE

This page is intentionally left blank.

EXHIBIT A

SCOPE OF WORK

1. Contractor agrees to provide to the California Public Utilities Commission program evaluation services as described herein:

   (To be completed after the contract is awarded.)

2. The services shall be performed at (insert location).

3. The services shall be provided during (insert time frame i.e., working hours, Monday through Friday, except holidays).

4. The project representative during the term of this agreement will be:

State Agency: CPUC	Contractor:
Name: Fred E. Tamse	Name:
Phone: 415-703-1181	Phone:
Fax: 415-703-4426	Fax:

Direct all inquiries to:

State Agency: CPUC	Contractor:
Section/Unit: Utility Audit, Finance & Compliance Branch	Section/Unit:
Attention: Fred E. Tamse	Attention:
Address: 505 Van Ness Ave., Room 3B San Francisco, CA 94102	Address:
Phone: 415-703-1181	Phone:
Fax: 415-703-4426	Fax:

5. Scope of Work for Contract No. ___
   To be completed after contract is awarded. Provide detailed description of work to be performed and duties of all parties. Address the following issues as applicable:

   - Specifications, requirements
   - Personnel, staffing
   - Coordination
   - Results, deliverables
   - Timelines, progress reports
   - Evaluation, acceptance

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. **Invoicing and Payment**

   A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the CPUC agrees to order the IOU to pay for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

   B. Compensation
   As compensation for the satisfactory completion of the services as specified in [Exhibit __], Contractor shall be entitled to a sum not to exceed $1 million unless the amount is increased by amendment hereto as provided in [Exhibit ___]. Payments not to exceed this total sum shall be made as set forth in the attached schedule. Billing rates shall be as specified in Appendix __]. **The IOUs are solely responsible for payment and the contractor agrees not to make any claims against the CPUC or the State of California for cost of work or any expenses related to the performance of this agreement.**

   C. Travel and Other Expenses
   CPUC will order the IOU to reimburse Contractor for actual operating costs and reasonable travel expenses incurred in the performance of this Agreement. Reasonable travel expenses are defined as transportation, lodging, meals and incidental expenses in conformance with State rules and regulations. Travel expenses will be reimbursed at the same rate as provided for State management employees, as outlined in Code Section 599.615-636. Total expenses claimed under this Agreement shall be included in the total amount encumbered under this Agreement.

   D. Invoices
   Invoices shall include the Agreement Number and shall be submitted in duplicate not more frequently than monthly in arrears to:

   California Public Utilities Commission
   Utility Audit, Finance & Compliance Branch, Water Division
   505 Van Ness Ave., Room 3B
   San Francisco, CA 94102
   ATTN: Fred E. Tamse

   Said invoices will be subject to verification and approval by the Director of the Energy Division or his/her designee and shall include the name, address, and I.D. Number of the Contractor, the number of this Agreement (PCA# Not applicable), a summary identifying the amount claimed for each task, the category(s) of professional services as identified in Contractor's Proposal, the number of hours claimed for each task and the total claimed; the amount of the invoice, an authorized Contractor signature, and a brief narrative progress report describing the context of the work completed during the invoice period. Travel expenses will be claimed in accordance with the regulations specified in Section 1.C.

   Progress payment will be made monthly, in arrears, on the basis of work performed towards completion of the contract deliverables. Ten percent (10%) retention shall be withheld from each invoice including billable hours and expenses. The retention shall become payable upon the satisfactory completion of the Agreement or at the completion of each separate task if the specific task is not a foundation for succeeding tasks leading to the completion of a finished project, report or plan.

EXHIBIT C

1. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

2. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the CPUC in the form of a formal written amendment.

3. AUDIT: Contractor agrees that the CPUC or its designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the CPUC to audit records and interview staff in any subcontract related to performance of this Agreement.

4. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the CPUC, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

5. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

6. TERMINATION FOR CAUSE: The CPUC may terminate this Agreement and be relieved of any obligation to order the IOU payment agent to pay the Contractor should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the CPUC may proceed with the work in any manner deemed proper by the CPUC. All costs to the CPUC or its designated contractor shall be deducted from any sum due the Contractor pursuant to this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

7. INDEPENDENT CONTRACTOR: Contractor and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the CPUC.

8. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment

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

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

9. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 103 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

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

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

12. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of $100,000, the contractor acknowledges in accordance with, that:

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

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

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

14. UNION ACTIVITIES Contractor agrees to the following:
a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.

b) No funds received under this agreement will be used to assist, promote or deter union organizing.

c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.

d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the Utilities' Procurement activities had been sought for these costs, and that Contractor shall provide those records to the CPUC upon request.

EXHIBIT D

ADDITIONAL PROVISIONS

1. **Consultant - Staff Expenses**

   The Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any California governmental entity that might pose a conflict of interest.

2. **Subcontracts**

   Contractor shall submit any proposed subcontracts to the CPUC for its written approval before entering into the same. No work shall be subcontracted without the prior approval of the CPUC. Upon termination of any sub-contract, the CPUC shall be notified immediately.

   If the terminated subcontractor is a DVBE, the contractor must replace the subcontractor within the same participation category and such replacement must be approved by the Commission. Failure to adhere to DVBE Participation may be cause for contract termination and recovery of damages under the rights and remedies due the CPUC under the default section of the contract. The Agreement shall permit the CPUC to audit the Contractor to verify compliance with DVBE regulations.

3. **Relationship with Contractor and Subcontractor**

   Contractor shall be responsible for all actions of subcontractors and all payment to subcontractors. Failure of a subcontractor to perform for any reason shall not relieve Contractor of the responsibility for competent and timely performance of duties under this contract. Commission staff will not deal with subcontractors except through Contractor's Project Manager.

   All requests for changes of work within this contract shall be in writing between the Project Manager for Commission and the Project Manager for Contractor.

4. **Commission Staff**

   Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions directed by the Commission's Project Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.

5. **Use of CPUC Personnel**

   Contractor will not be permitted to use CPUC personnel for the performance of services that are the responsibility of Contractor unless such use is previously agreed to in writing by the Commission's Project Manager, and an appropriate adjustment in price is made. No charge will be made to contractor for the services of State employees performing coordination or monitoring functions.

6. **Changes in Time for Performance of Tasks**

   The time for performance of tasks and items within the budget, but not the total contract price, may be changed by written approval of the Commission's Project Manager. However, the date for completion, the total contract price, and scope, as well as, all other terms may be altered only by formal amendment of this contract.

7. **Change of Personnel**

Contractor and Subcontractor's key personnel as indicated in the attached resumes may not be substituted without the Commission's Contract Manager's prior written approval.

8. **Ownership of Data**

Data developed for this contract shall become the property of the CPUC. It shall not be disclosed without the permission of the Commission's Project Manager. Each report shall also become the property of the CPUC and shall not be disclosed except in such manner and such time as the Commission's Project Manager may direct, with the exception of data which have become part of the public records of the CPUC, as discussed in Paragraph 9.

9. **Confidentiality of Data/Nondisclosure Agreement**

The Consultant ("Signatory"), by signing this Agreement agrees to perform the task(s) under this Agreement. The Signatory recognizes that it must have full and unfettered access to information and documents within the knowledge and possession of various entities under the regulatory jurisdiction of the Commission. The Signatory also recognizes that some of this information may be proprietary, confidential, or privileged in nature.

The Signatory further recognizes that the Commission Staff has broad statutory authority to compel the production of such information subject to the provisions of Public Utilities Code Sections 454.5(g) and 583 and General Order 66-C. The Signatory understands that these legal provisions generally preclude public disclosure of information furnished to the Commission, except those matters specifically required to be opened to public inspection or by order of the Commission.

The Signatory acknowledges that it has received a copy and read Public Utilities Code Sections 454.5(g) and 583 and General Order 66-C, and agrees to be subject to and to fully comply with these legal provisions in discharging its responsibilities. Such compliance includes abiding by the terms that prohibit public disclosure of confidential information and submitting to the jurisdiction of the Commission for the purposes of enforcing Public Utilities Code Sections 454.5(g) and 583. The Signatory acknowledges that it has received and read Public Utilities Code Section 2111, which provides that anyone who knowingly fails to comply with a Commission order, decision, rule, direction, demand or requirement is subject to penalties as set forth in that section.

The Signatory further recognizes that much of the information obtained from the Commission during the course of its work for the Commission may be subject to other privileges that preclude disclosure, and may not be disclosed without the consent of the Commission, or its Staff. These privileges include, but are not limited to, attorney work product privilege, the official information privilege, the attorney-client privilege, and other prohibitions precluding disclosure of confidential information.

The Signatory agrees not to disclose any confidential utility information regarding its work except upon order of the Commission, or the assigned Commissioner during the course of a hearing. The Signatory agrees not to disclose any other confidential information regarding its work except with the Commission Staff's express written consent, and to return all documents obtained during the course of the Agreement within 30 days of the conclusion of the assignment. The Signatory agrees to notify the Commission Staff and the utility that furnished the information of any inquiries and/or request for disclosure from any such third parties.

The Signatory further agrees not to use any of the confidential information obtained as a result of performing work under this Agreement for <u>any</u> purpose other than performing its obligations under this Agreement. Accordingly, the Signatory agrees (1) not to use confidential information obtained as a result of performing work under this Agreement to engage, directly or indirectly, in: (a) the purchase, sale, or marketing of electrical energy or capacity or natural gas; (b) the bidding on or

purchasing of power plants; (c) advising or consulting others regarding the purchase, sale or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants; (d) the development of electric transmission lines and/or gas pipelines; (e) advising or consulting others regarding the development of electric transmission lines and/or gas pipelines; and (2) not to use confidential information obtained as a result of performing work under this Agreement for any competitive, commercial, business, or personal benefit, or any other purpose unrelated to its obligations under this Agreement.

For a period of two years following the completion of its work under this agreement, the Signatory agrees to notify the Director of the Energy Division and the appropriate utility or utilities within five business days of beginning work for an entity or individual that (1) purchases, sells or markets electrical energy or capacity or natural gas; (2) bids on or purchases power plants; (3) advises or consults regarding the purchase, sale, or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants; (4) develops electric transmission lines and/or gas pipelines; (5) advises or consults others regarding the development of electric transmission lines and/or gas pipelines. This obligation applies to all entities and individuals that review confidential utility information pursuant to this Agreement, and requires completing and sending the form that is appended to this contract as Attachment X to the Director of the Energy Division and any utilities whose confidential information he, she or it has reviewed within five business days of beginning work for market participants as described in this paragraph.

The Signatory agrees not to permit the exchange of confidential information between its audit teams or to any other individuals who are not performing work under this Agreement. This means that members of an audit team assigned to one particular utility must not share, trade, or exchange confidential information with the teams auditing the other utilities, or with any other person outside the audit teams, except subcontractors or Commission personnel assigned to the same audit. The restriction on the exchange of confidential information between the teams auditing each utility does not prevent designated members of the contracting team from reviewing and overseeing each of the audits.

The Signatory shall not comment publicly to the press or any other media regarding its work, or the Commission's action on the same, except at a public hearing, or in response to questions from a legislative committee.

The Signatory agrees that prior to commencement of any work associated with this Agreement, the Signatory shall: (1) provide a copy of this section of the Agreement, including Attachments X, and Y, and Public Utilities Code Sections 454.5(g), 583, 2111 and General Order 66-C to all individuals (including any subcontractors) who will be performing tasks under this Agreement; (2) inform all those working under this Agreement that they are subject to these legal provisions and must comply with the Confidentiality of Data Agreement/Nondisclosure Sections of the Agreement; and (3) be fully responsible for the failure of these individuals (including any subcontractors) to abide by the terms of this Agreement.

Each individual performing work under this Agreement must sign a copy of the form appended to this Agreement as Attachment Y before obtaining access to confidential utility data.

Ninety days after any document submitted to the Commission has become a part of the public records of the State, Signatory may at its own expense, publish or utilize only the redacted, public version of the same, but not any confidential material subject to this Agreement, and shall include the following legend:

LEGAL NOTICE

This report was prepared as an account of work sponsored by the California Public Utilities Commission. It does not necessarily represent the views of the Commission or any of its employees except to the extent, if any, that it has formally been approved by the Commission

at a public meeting. For information regarding any such action, communicate directly with the Commission at 505 Van Ness Avenue, San Francisco, California 94102. Neither the Commission nor the State of California, nor any officer, employee, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document.

10. **Termination-Bankruptcy**

In the event proceedings in bankruptcy are commenced against the Contractor, it is adjudged bankrupt, or a receiver is appointed and qualifies, the CPUC may terminate this agreement by giving five days' notice in writing to the Contractor.

11. **Termination at CPUC's Option**

CPUC may at its option terminate this contract, with or without cause, at any time upon giving 30 days notice in writing to Contractor. In such event, Contractor agrees to use all reasonable efforts to mitigate its expenses and obligations hereunder. In such event, CPUC shall order the IOU payment agent to pay Contractor for all satisfactory services rendered prior to such notice of termination and for all expenses incurred by Contractor prior to said termination which are not included in charges for service rendered prior to termination and which could not by reasonable efforts of Contractor have been avoided.

12. **Termination in Event of Breach**

In the event of any breach of this contract, the CPUC may without any prejudices to any of its other legal remedies terminate this contract upon five days' written notice to the Contractor.

13. **Waiver**

No waiver of any breach of this contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this contract shall be taken and construed as cumulative: that is, in addition to every other remedy provided herein or by law. The failure of CPUC to enforce at any time any of the provisions of this agreement, or to require at any time performance by Contractor of any of the provisions thereof, shall in no way be construed to be a waiver of such provision nor in any way to affect the validity of this agreement or any part thereof or the right of CPUC to thereafter enforce each and every such provision.

14. **Gratuities**

A. The CPUC may, by written notice to the Contractor, terminate the right of Contractor to proceed under this contract if it is found, after notice and hearing by the CPUC or by Executive Director of the Public Utilities Commission or duly authorized representative, that gratuities were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the CPUC with a view toward securing a contract, securing favorable treatment with respect to award amendment, or the evaluation of performance of such contract, provided that the facts upon which either the Commission or the Executive Director makes such findings may be reviewed in any competent court.

B. In the event this contract is terminated as provided in paragraph 27(A), CPUC shall be entitled (i) to pursue the same remedies against Contractor as it could pursue in the event of the breach of the contract by the Contractor, and (ii) to a penalty in addition to any other damages to which it may be entitled by law, and to exemplary damages in an amount which shall be not less than three nor more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

The rights and remedies of the CPUC provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

15. **Conflict of Interest**

Contractor warrants that it is not currently employed by PG&E, SCE, and SDG&E, their parents, subsidiaries or otherwise related business entities, as defined in Regulation 18703.1(d) of Title 2, Division 6 of the California Code of Regulations, nor does it have active proposals before any of these entities. Contractor also warrants that it has no other pecuniary interest in the entities listed in the proceeding sentence, including the ownership of stocks or bonds, and that it has no official relation to any of those entities. Contractor warrants that to the best of its knowledge, the disclosure information provided by its employees and subcontractors and those performing work under the Agreement is true and correct. The Contractor shall ensure that any subcontractors or individuals reviewing transactions of Utility pursuant to this Agreement does not enter into contracts, seek employment with, or submit proposals with that Utility for the duration of this Agreement.

Contractor agrees to refrain from entering into any relationship that could result in a conflict of interest in the performance of this Agreement; and to notify the Commission's Project Manager promptly of any potential conflict of interest, including those of its employees, subcontractors, and/or anyone performing work under this agreement. For purposes of this Agreement, "conflict of interest" means a) a conflict of interest as defined in the underlying RFP or this Agreement; b) a conflict of interest prohibited by any applicable State and/or Federal law; and/or c) a financial interest that may impair the ability of the individual or firm to deliver fair unbiased work for the State. The Commission may also require any individuals performing work under this Agreement to notify the Contractor and/or the Commission's project manager of any potential conflicts of interests. The Commission may exercise its option to terminate this Agreement for pursuant to paragraph 12, Exhibit D. "Termination in the Event of Breach" if a conflict of interest is found.

16. **Agreement is Complete**

Other than as specified herein, no document or communication passing between the parties hereto shall be deemed a part of this Agreement.

17. **Captions**

The clause headings appearing in this agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit, or extend the scope or intent to the clauses to which they appertain.

18. **Force Majeure**

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitutes default, if such delay or failure is caused by "*Force Majeure*." As used in this section, "*Force Majeure*" is defined as follows: Acts of war and acts of god such as earthquakes, floods and other natural disasters such that performance is impossible.

19. **Counterparts**

For the convenience of the parties, any number of counterparts of this Agreement may be executed by the parties hereto. Each such counterpart shall, and shall be deemed to be, an original instrument, but all such counterparts taken together shall constitute one and the same agreement.

ATTACHMENT X

DATE (within 5 business days of beginning employment, including pursuant to a contract with a person or entity that (1) purchases, sells or markets electrical energy or capacity or natural gas; (2) bids on or purchases power plants; (3) advises or consults regarding the purchase, sale, or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants. (4) develops electric transmission lines and/or gas pipelines; (5) advises or consults others regarding the development of electric transmission lines and/or gas pipelines;)

Director of the Energy Division
CPUC
505 Van Ness Avenue
San Francisco CA 94102

To whom it may concern:

I began working for NAME OF ENTITY on date. My duties are: [general description to be provided about duties of the position or engagement.]
I will not use any of the confidential information obtained as a result of performing work under the Agreement to engage, directly or indirectly, in any of the following:
(a) the purchase, sale, or marketing of electrical energy or capacity or natural gas;
(b) the bidding on or purchasing of power plants;
(c) advising or consulting others regarding the purchase, sale or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants.
(d) the development of electric transmission lines and/or gas pipelines;
(e) advising or consulting others regarding the development of electric transmission lines and/or gas pipelines;
(f) any other use of confidential utility information obtained as a result of the compliance review.

Signed,
NAME

Cc: NAME OF UTILITY/name/position of utility contact

ATTACHMENT Y

Date:

Director of the Energy Division
CPUC
505 Van Ness Avenue
San Francisco CA 94102

To Whom It May Concern:

I have read the Agreement between the CPUC and NAME, and I agree, as a condition of obtaining access to confidential utility information for purposes of completing work under that Agreement, to the terms of the Agreement limiting disclosure of confidential utility information. In particular, I agree to complete and send Attachment X to the Director of the CPUC's Energy Division within 5 business days of beginning work for any entity that engages, directly or indirectly, in:

(a) the purchase, sale, or marketing of electrical energy or capacity or natural gas;
(b) the bidding on or purchasing of power plants;
(c) advising or consulting others regarding the purchase, sale or marketing of electrical energy or capacity or natural gas, or the bidding on or purchasing of power plants;
(d) the development of electric transmission lines and/or gas pipelines;
(e) advising or consulting others regarding the development of electric transmission lines and/or gas pipelines;

Signed,

NAME