

RESIDENTIAL SOLAR PANEL RETAILER

APPLICATION INSTRUCTIONS

Before engaging in the capacity of a residential solar panel retailer, the entity must register with the Utah Division of Consumer Protection. Utah Code § 13-52-101 *et seq.*

A residential solar panel retailer entity must notify the Division in writing within 30 days of any change in the information required by law, rule, or application, including any change of name, address, telephone number, email address, or registered agent for service of process.

The following is a list of requirements that **MUST** be submitted with the application. Please ensure that you are reviewing these requirements thoroughly before submitting your application in order to reduce processing times.

I. BACKGROUND CHECK REQUIREMENTS

A. A [completed FD-258 fingerprint card](#) for **each** of the residential solar panel retailer's **participants**.

- Do **NOT** email the fingerprint card.
- A participant is defined by Utah Code § 13-52-102(7) as: "an owner, officer, director, member or manager of a limited liability company, principal, trustee, general or limited partner, sole proprietor, or an individual, with a controlling interest in an entity.
- Fingerprint Cards must be mailed to the following address(es):

Standard Mail:

Division of Consumer Protection
State of Utah Department of Commerce
PO Box 146704
Salt Lake City, UT 84114-6704

FedEx:

Division of Consumer Protection
Heber M. Wells Building
2nd Floor
160 East 300 South
Salt Lake City, Utah 84114-6704

- Each individual listed as a participant in the residential solar panel retailer must submit a [consent to background check form](#).

- For each individual listed as a participant an additional \$25.00 fee is required at the time of application for the cost of each participant's background check to be processed by the Bureau of Criminal Identification.

II. SURETY REQUIREMENTS

Surety must be submitted to the Division in the applicable amount. To determine the surety amount refer to the section below.

1. *Has the applicant or any affiliated person violated a chapter enforced by the division, as described in Section 13-2-1, within the three-year period immediately before the day on which the applicant will file this application?*
 - a. If yes, the surety requirement is \$300,000. The answer to the following questions do not affect this amount.
2. *Does the applicant have more than 10 employees?*
3. *Does the applicant sell more than 500 kilowatts nameplate capacity annually?*
 - a. If NO to Question 1 but YES to Question 2 and/or Question 3, the surety amount will be \$200,000.
 - b. If NO to all of the above questions the surety requirement is \$100,000.

Note: The Surety requirement can be submitted by a surety bond or an irrevocable letter of credit, and must be submitted on the Division approved forms, found below.

- [Surety Bond](#) Ensure this document is signed by the surety company and the principal in order to avoid application delays.
- [Deposit Control Agreement](#)

III. DISCLOSURE REQUIREMENTS

Utah Code § 13-52-201 *et seq.* Includes a list of required disclosures that must appear on contract(s), or agreement(s). During the application process, you will be prompted to provide answers related to your business practices to determine relevant disclosures. Based on the answers you provide, the location of required disclosures must be provided.

Below you will find the complete list of disclosures and requirements. Please ensure that the disclosures in the solar agreement match the formatting of any statements contained in "quotation marks."

Note: Ensure that the copies of any contract(s), or agreement(s) submitted to the Division and have the required disclosures highlighted.

- 1. Disclosure statement requirements:** (Utah Code § 13-52-201(2))
 - a) The disclosure statement must be in 12-point font.
 - b) Provide the page number and location of the name, address, telephone number, and any email address of the potential customer.
 - c) Provide the page number and location of the name, address, telephone number, and email address of the solar retailer.
 - d) Provide the page number and location of the name, address, telephone number, email address, and state contractor license number of the person who is expected to install the system that is the subject of the solar agreement.
 - e) Does the applicant select the person who is expected to provide operations or maintenance support to the potential customer, or introduce that person to the potential customer? (YES OR NO)
 - If YES: provide the page number and location of the name, address, telephone number, email address, and state contractor license of the operations or maintenance support person.

- 2. Contents of disclosure statement for any solar agreement:** (Utah Code § 13-52-202)
 - a) Does the applicant charge the customer for operations or maintenance services that are not included as part of the solar agreement? (YES OR NO)
 - IF YES, provide the page number and location where any costs associated with the operations or maintenance services that are not included as part of the solar agreement.
 - IF NO, provide the page number and location where the applicant provides a statement indicating that the cost of replacing equipment making up part of the residential solar energy system is not assumed.
 - b) Does the applicant provide any written estimate of the savings the potential customer is projected to realize from the residential solar energy system? (YES or NO)
 - If YES: Provide the page number and location where the applicant provides the estimated projected savings over the life of the solar agreement. These estimations may not exceed the 20-year useful life of the residential solar energy system.
 - c) Does the applicant make any material assumptions used to calculate estimated projected savings? (YES or NO)
 - If YES: Does the applicant provide an assumed rate of increase?

- If YES: What is the rate assumed to increase? The assumed increase may not be greater than 3%.
 - If YES: Provide any material assumptions used to calculate the estimated projected savings and the source of those assumptions including:
 - the rate of assumed electricity increase,
 - the potential customer's eligibility for or receipt of tax credits or other governmental or utility incentives,
 - the residential solar energy system production data, including production degradation,
 - the residential solar energy system's eligibility for interconnection under any net metering or similar program,
 - the electrical usage and the residential solar energy systems designed offset of the electrical usage,
 - the historical utility costs paid by the potential customer,
 - any rate escalation affecting a payment between the potential customer and the applicant,
 - and the costs associated with replacing equipment making up part of the residential solar energy system, or if those costs are not assumed, a statement indicating that those costs are not assumed. (Final app should have this as a bullet point list)
 - If YES, provide the page number and location where the potential customer's eligibility or receipt of tax credits or other governmental utility incentives are outlined.
- d)** Provide the page number and location where the following required disclosure is included in CAPITAL LETTERS and in close proximity to any written estimate of projected savings in substantially the following form and content. "THIS IS AN ESTIMATE. UTILITY RATES MAY GO UP OR DOWN AND ACTUAL SAVINGS, IF ANY, MAY VARY. HISTORICAL DATA ARE NOT NECESSARILY REPRESENTATIVE OF FUTURE RESULTS. FOR FURTHER INFORMATION REGARDING RATES, CONTACT YOUR LOCAL UTILITY OR THE STATE PUBLIC SERVICE COMMISSION."
- e)** Provide the page number and location where the following required disclosure is included in CAPITAL LETTERS and in close proximity to any written estimate of projected savings in substantially the following form and content. "ESTIMATES OF ENERGY PRODUCTION GENERATED BY A RESIDENTIAL SOLAR ENERGY SYSTEM MAY VARY. THE RESIDENTIAL SOLAR ENERGY SYSTEM MAY PRODUCE MORE OR LESS THAN THE ESTIMATED ENERGY PRODUCTION."

- f) Provide the page number and location where the following required disclosure is included in CAPITAL LETTERS and in close proximity to any written estimate of projected savings in substantially the following form and content. "TAX AND OTHER FEDERAL, STATE, AND LOCAL INCENTIVES VARY AS TO REFUNDABILITY AND ARE SUBJECT TO CHANGE OR TERMINATION BY LEGISLATIVE OR REGULATORY ACTION, WHICH MAY IMPACT SAVINGS ESTIMATES. CONSULT A TAX PROFESSIONAL FOR MORE INFORMATION."
- g) Provide the page number and location of the notice stating: "Legislative or regulatory action may affect or eliminate your ability to sell or get credit for any excess power generated by the solar energy system, and may affect the price or value of that power."
- h) Does the applicant contact potential customers through door-to-door sales, seminars at third-party locations, or other sales events that do not require the customer to come to the applicant's retail location? (YES or NO)
- If YES: Provide the page number and location of the following statement. This statement must be in its exact language and in CAPITAL letters. "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period reflecting the supplier's cancellation policy but not less than three business days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS LATER."
- i) Provide the page number and location of a statement describing the solar energy system and indicating the solar energy system design assumptions, including the:
- make and model of the solar panels and inverters,
 - solar energy system size,
 - positioning of the panels on the customer's property,
 - estimated first-year energy production, and
 - 1) estimated annual energy production degradation, including the overall percentage degradation over the term of the solar agreement or, at the applicant's option, over the estimated useful life of the solar energy system.
 - 2) Provide the page number and location that includes a description of any warranty, representation, or guarantee of energy production of the solar energy system.
 - 3) Provide the page number and location that includes the approximate start and completion dates for the installation of the solar energy system.

- 4) Provide the page number and location of the following statement in exact language: “The solar retailer may not begin installation of the system until at least four business days after the day on which the solar retailer and customer enter into a contract.”
- 5) Does the applicant maintain the ability to transfer any warranty or maintenance obligations related to the solar energy system to a third party? (YES or NO)
 - If YES: The page number and location of the statement indicating whether the applicant may transfer any warranty or maintenance obligations related to the solar energy system to a third party.
 - If YES: The page number and location of the following statement in its exact language “The maintenance and repair obligations under your contract may be assigned or transferred without your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs, you will be notified of any change to the address, email address, or phone number to use for questions or payments or to require solar energy system maintenance or repair.”
- 6) Does the applicant obtain customer approval to connect the solar energy system to the customer’s utility? (YES or NO)
 - If NO: Provide the page number and location where the retailer provides a statement stating the applicant will not obtain customer approval to connect the solar energy system to the customer’s utility, and what the customer must do to interconnect the solar energy system to the utility.
- 7) Does the retailer provide any roof penetration warranty or other warranty? (YES or NO)
 - If YES: Provide the page number and location of the roof penetration warranty or other warranty.
 - If NO: Provide the page number and location of a statement that the applicant does not provide any warranty. This statement must be in **BOLD CAPITAL LETTERS**.
- 8) Provide the page number and location of the statement indicating whether the applicant will make a fixture filing or other notice in the county real property records covering the solar energy system, including a Notice of Independently Owned Solar Energy System, and any fees or other costs associated with the filing that the applicant may charge the customer.

- 9) Provide the page number and location of the following required notice. This notice must be in this exact language and in all CAPITAL LETTERS. "NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO MAKE ANY PROMISE TO YOU THAT IS NOT CONTAINED IN THIS DISCLOSURE STATEMENT CONCERNING THE COST SAVINGS, TAX BENEFITS, OR GOVERNMENT OR UTILITY INCENTIVES. YOU SHOULD NOT RELY UPON ANY PROMISE OR ESTIMATE THAT IS NOT INCLUDED IN THIS DISCLOSURE STATEMENT."
- 10) Provide the page number and location of the following required notice. This notice must be in this exact language and in all CAPITAL LETTERS. "[name of solar retailer] IS NOT AFFILIATED WITH ANY UTILITY COMPANY OR GOVERNMENT AGENCY. NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO CLAIM AFFILIATED WITH A UTILITY COMPANY OR GOVERNMENT AGENCY."
- 11) Provide the page number and location of a statement with the name and contact information of the person that will perform the installation.
- 12) Provide the page number and location of a statement provided to the potential customer that the state may require the potential customer at full cost to the potential customer to test a residential solar energy system for a hazardous substance before disposal and dispose of a residential solar energy system in accordance with state law or risk a civil penalty up to \$10,000 per day for each day of violation.
- 13) Provide a page number and location of a notice that the applicant may not sell the contract to another solar company without express customer approval.
- 14) Provide a page number and location of a conspicuous list of:
 - Finance fees, including those not charged directly to the customer; and
 - Solar energy system operation and maintenance that the customer is obligated to perform to comply with the terms of the guarantee of the minimum energy production
- 15) Provide the page number and location of any additional information, statement, or disclosure the applicant considers appropriate, as long as the additional information, statement, or

disclosure does not have the purpose or effect of obscuring the disclosures required under this part.

3. Contents of disclosure statement for system purchase agreement. (Utah Code § 13-52-203)

- 1) Does the applicant propose to enter a system purchase agreement with a potential customer? (YES or NO)
 - a) If YES: Provide the page number and location of the following required disclosure in substantially the same following form and content. “You are entering an agreement to purchase an energy generation system. You will own the system installed on your property. You may be entitled to federal tax credits because of this purchase. You should consult your tax advisor.”
 - b) If YES: Provide the page number and location of the price quoted to the potential customer for a cash purchase of the system.
 - c) If YES: Provide the page number and location of the schedule of required and anticipated payments from the customer to the applicant and third parties over the term of the system purchase agreement, including application fees, up-front charges, down payment, scheduled payments under the system purchase agreement, payments at the end of the term of the system purchase agreement, payments for any operations or maintenance contract offered by or through the applicant in connection with the system purchase agreement, and payments for the replacement of system components likely to require replacement before the end of the useful life of the system as a whole.
 - d) If YES: Provide the page number and location of the total of all payments mentioned in the previous statement.
 - e) If YES: Provide the page number and location of a statement indicating that the cost of insuring the system is not included within the schedule of payments.
 - f) If YES: Does the applicant obtain insurance against damage or loss to the system?
 - IF NO: Provide the page number and location of the following statement, if applicable, with substantially the following form and content, “You are responsible for obtaining insurance coverage for any loss or damage to the system. You should consult an insurance professional to understand how to protect against the risk of loss or damage to the system. You should also consult your home insurer about the potential impact of installing a system.”
 - g) If YES: Provide the page number and location of information about whether the system may be transferred to a purchaser of the home or real property where the system is located and any conditions for a transfer.

4. Contents of disclosure statement for system lease agreement. (Utah Code § 13-52-204)

- 1) Does the applicant propose to enter a system lease agreement with a potential customer? (YES OR NO)
 - a) If YES: Provide the page number and location of the following statement with substantially the following form and content, "You are entering an agreement to lease an energy generation system. You will lease (not own) the system installed on your property. You will not be entitled to any federal tax credit associated with the lease."
 - b) If YES: Provide the page number and location of Information about whether the system lease agreement may be transferred to a purchaser of the home or real property where the system is located and, if so, any conditions for a transfer.
 - c) Does the applicant obtain insurance against damage or loss to the system?
 - IF NO: Provide the page number and location of a statement that the applicant does not obtain insurance against damage or loss to the system and a description of the consequences to the customer if there is damage or loss to the system.
 - d) Information about what will happen to the system at the end of the term of the system lease agreement.

5. Contents of disclosure statement for power purchase agreement. (Utah Code § 13-52-205)

- 1) Does the applicant propose to enter a power purchase agreement with a potential customer? (YES OR NO)
 - a) If YES: Provide the page number and location of a statement with substantially the following form and content: "You are entering an agreement to purchase power from an energy generation system. You will not own the system installed on your property. You will not be entitled to any federal tax credit associated with the purchase."
 - b) If YES: Provide the page number and location of Information about whether the power purchase agreement may be transferred to a purchaser of the home or real property where the system is located and, if so, any conditions for a transfer.
- 2) Does the applicant obtain insurance against damage or loss to the system?
 - a) IF NO: Provide the page number and location of a statement that the applicant does not obtain insurance against damage or loss to the system

and a description of the consequences to the customer if there is damage or loss to the system.

- b) Information about what will happen to the system at the end of the term of the power purchase agreement.