

ESS Compliance Notice – False Invoices

9 September 2021

ACP sanctioned for using false invoices to create ESCs

We have taken action against Cyanergy Pty Ltd over the use of false recycling invoices to create Energy Savings Certificates (**ESCs**).

Cyanergy has agreed to surrender 10,898 ESCs. We have also imposed a condition on Cyanergy's accreditation to undertake a pre-registration audit prior to creating ESCs.

Our investigation found that Cyanergy had relied upon six false recycling invoices to support the creation of ESCs. These invoices had been altered to show that an inflated quantity of equipment had been recycled.

Cyanergy says that these invoices were falsified by a former employee without its knowledge.

Accredited Certificate Providers must hold complete and accurate records

It is a condition of accreditation that an Accredited Certificate Provider (**ACP**) keep a record of:

- The location in which the (energy saving) activity occurred
- The energy savings (calculated in accordance with the ESS rules) arising from the activity, and
- The methodology, data and assumptions used to calculate those energy savings.

ACPs must also keep the records that the Scheme Administrator has specified the ACP must keep.

These records are set out in *the Record Keeping Guide*, the *Method Guide* for the relevant calculation method and for the commercial lighting formula, the *Commercial Lighting Evidence Manual*.

These records must be kept in a form and manner approved by the Scheme Administrator, and a person is only eligible for accreditation if they have record keeping arrangements that are approved by the Scheme Administrator.

This means that it is essential that ACPs create and maintain complete and accurate records to support the creation of ESCs. Where an ACP relies on records created by another person to create ESCs, it must have effective systems and practices to ensure that these records are true and correct before relying on them to create ESCs.

We employ a variety of tools to confirm the veracity and correctness of records used to support the creation of ESCs. This includes the use of third-party audits and coercive information-gathering powers which allow us to obtain information and documents from relevant parties.

We may take regulatory action if ESCs are created from incomplete or false records

Contravention of a condition of accreditation is an offence and ESCs created in contravention of a condition of accreditation are improperly created. ACPs must not create ESCs unless they hold complete, accurate and reliable records to support their creation.

We may take regulatory action where an ACP fails to meet their conditions of accreditation or improperly creates ESCs by relying on incomplete or inaccurate records. Such action may include imposing conditions, ordering the surrender of improperly created ESCs, issuing penalty notices or commencing a prosecution. The contravention of a condition of accreditation and the improper creation of an ESC are also grounds for us to cancel or suspend an accreditation under the ESS.

For more information on our approach to compliance, please refer to:

- The *Compliance and Enforcement Policy* available on the IPART website at www.ipart.nsw.gov.au, and
- The *Accredited Certificate Provide – Compliance Guide* available on the Energy Savings Scheme website at www.ess.nsw.gov.au.