

Adjustable Block Program Guidelines for Distributed Generation Marketing Materials and Marketing Behavior

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This document provides marketing guidelines for Approved Vendors in the Illinois Power Agency's Adjustable Block Program ("ABP") and their employees, contractors, and subcontracting or partnering solar installers and marketers. Although community solar projects may be part of the ABP, this document applies specifically to distributed generation ("DG") PV systems and not to community solar projects. The first section, covering guidelines for marketing materials, is written for the use of the contractor who will be reviewing and approving all marketing materials for participation in the ABP. The second section, covering guidelines for marketing behavior, is written for the use of Approved Vendors and their partners who will be working directly with customers.

Guidelines for marketing materials

1. Approved Vendors and their agents and subcontractors shall not make any demonstrably false or misleading statements.
2. Approved Vendors and their agents and subcontractors shall accurately portray the nature of solar power, RECs, and the ABP.
 - a. What is the Adjustable Block Program?
 - i. The Adjustable Block Program is an Illinois state incentive program for new solar photovoltaic ("PV") systems. It provides payments for the Renewable Energy Credits produced by solar photovoltaic systems through the purchase of the Renewable Energy Credits by Illinois utilities. These payments vary depending on the size of the system and where it is located.
 - ii. Examples of statements companies may not make related to the ABP.
 1. "The ABP guarantees that you will save money."
 2. "We represent the ABP."
 - iii. Examples of statements companies may make related to the ABP.
 1. "The ABP is a state program that provides an incentive for solar PV systems."
 2. "If you sign a contract with us, and our application to the ABP is successful, the PV system we install on your roof will be part of the ABP."
 - iv. Companies may not make any demonstrably false or unsubstantiated statements about the ABP program.
 - b. What are RECs and why are they valuable?
 - i. Renewable Energy Credits ("RECs") are created when renewable generators, including solar panels, generate electricity, but they are not the electricity itself. Instead, they represent the environmental value of the electricity. RECs can be

- bought and sold, and whoever owns the RECs has the legal right to say they used that renewable power. This right is important to utilities that are required to supply a certain amount of their power from renewable sources. If the RECs from a customer's PV system are transferred to the utilities through the ABP, then that customer cannot claim to be using renewable electricity. Approved Vendors and their subcontractors may not suggest that customers will be receiving or using renewable electricity.
- ii. Examples of statements companies may not make related to RECs and the energy produced by the system.
 - 1. "Your home will run on cleaner, greener energy."
 - 2. "The sun will provide your electricity."
 - iii. Examples of statements companies may make related to RECs and the energy produced by the system.
 - 1. "The renewable attributes ("RECs") of this electricity will be sold by us to keep the cost of your panels affordable."
 - 2. "Your PV system will create energy from the sun."
 - 3. "Your PV system will contribute to the development of solar power."
 - iv. Companies may not make any demonstrably false or unsubstantiated statements about RECs.
- c. Will solar save money for the customer?
- i. All terms and values in the marketing materials, including terms and values related to escalators, financing terms, and rates, must be consistent with terms used in the disclosure form and the contract.
 - ii. All terms and values related to system production that are used to estimate the customer's financial return in the disclosure form must be consistent with the system production terms and values that are submitted to the Program Administrator and used to calculate the number of RECs that the system will produce.
 - iii. All marketing materials must be consistent with the IPA informational brochure, and, in particular, with the following items from the brochure:
 - 1. That customers are not guaranteed to save money with solar;
 - 2. That the disclosure form will include the best estimate of whether they will save money, and, if so, how much.
 - iv. Examples of statements that companies may not make related to whether customers will save money.
 - 1. "You will save money if you get solar panels."
 - 2. "Every customer who gets solar saves money."
 - v. Examples of statements companies may make related to whether customers will save money.
 - 1. "We expect many electricity customers in Illinois will save money by signing up for solar."
 - 2. "Our best estimate is that you will likely save money if you install solar."
 - vi. Companies may not make any demonstrably false or unsubstantiated statement about whether solar will save customers money.

3. Approved Vendors and their agents shall accurately portray their identities and affiliations.
 - a. All materials shall reflect that the Approved Vendor, or the Approved Vendor's agent, is not employed by, representing, endorsed by, or acting on behalf of a utility or a utility program, a consumer group or consumer group program, or a governmental body, except in those cases where the Approved Vendor is a consumer group or governmental body.
 - b. Use of utility name and logo
 - i. An Approved Vendor shall not use the logo of a public utility, the ICC, the IPA, or the ABP in any manner, except the following:
 1. An Approved Vendor may use the logo of the IPA on specific materials that have been created by the IPA, including the informational brochure and the disclosure form.
 - ii. An Approved Vendor shall not use the name of a public utility, the ICC, or the IPA in any manner that is deceptive or misleading, including, but not limited to, implying or otherwise leading a customer to believe that an Approved Vendor is soliciting on behalf of or is an agent of a utility, the ICC, or the IPA.
 - iii. An Approved Vendor shall not use the name, or any other identifying insignia, graphics or wording that has been used at any time to represent a public utility company, the ICC, or the IPA, or their services, to identify, label or define any of its offers.

Guidelines for marketing behavior

1. All guidelines apply not only to Approved Vendors but also to their agents and subcontractors. Approved Vendors are responsible for taking reasonable measures to ensure agents and subcontractors comply with these marketing guidelines.
2. Approved Vendors and their agents and subcontractors shall comply with all existing state and federal laws.
3. Customers shall not be required to sign up for a specific Alternative Retail Electric Supplier as part of their solar contract.
4. Unfair, deceptive, or abusive acts or practices
 - a. Approved Vendors shall conduct all aspects of their business that touch on customers or their interests without any unfair, deceptive, or abusive acts or practices ("UDAAP").
 - b. Approved Vendors shall regularly examine and consider the possibility of UDAAP violations in all aspects of their business that touch on customers or their interests, including but not limited to marketing, sales, origination, contract terms, contract options, installation, servicing, and loss mitigation.
5. Advertising
 - a. No advertising claim by any Approved Vendor should be deceptive or misleading, whether by affirmative statement, implication or omission, including claims:
 - i. About products or services.
 - ii. About pricing, quality and performance.
 - iii. Made in print, electronic, verbal, and any other medium.
 - b. All claims must be supported by factual, verifiable sources.

- c. Approved Vendors should be familiar with all advertising laws, rules, regulations and guidance, including the FTC guidance on advertising and marketing.
 - d. Approved Vendors should avoid referring to a PV system as “free” in oral or written marketing or sales discussions unless the customer will not pay anything for the PV system or the energy it generates.
6. Sales and marketing interactions
- a. Approved Vendors shall comply with, and shall ensure that all of its employees, agents and contractors comply with any and all federal, state, and local laws regarding restrictions on contacting its customers, including but not limited to the federal Do Not Call Registry, the CAN-SPAM Act of 2003, the Telemarketing Sales Rule, the Telephone Consumer Protection Act of 1991, Direct Marketing Association’s Business Code Article 47, 48, and any analogous state or local laws. This includes provisions related to:
 - i. Prohibitions against manually dialed calls to wireless numbers;
 - ii. Call time restrictions;
 - iii. Call curfews and banning calls to customers on statutory holidays or during a declared state of emergency;
 - iv. No autodial or text wireless numbers without prior express written consent;
 - v. Limitations on the length of time callers may allow phones to ring;
 - vi. If using automated or prerecorded messages, ensuring compliant opt-out mechanisms are available, including a toll-free number to allow customers to easily opt-out of future calls;
 - vii. All applicable email requirements, including properly identifying the type of email and opt out provisions.
 - b. Approved Vendors must respect the wishes of customers who do not want to be contacted by maintaining accurate and current “do-not-contact” lists of such customers, and/or requiring their contractors, service providers and agents to maintain such lists.
 - c. Approved Vendors that receive customer “do-not-contact” requests through an employee, agent or contractor must add the customer to their “do-not-contact” lists.
 - d. Approved Vendors must ensure that employees, agents and contractors (e.g., solar lead generators) have access to up-to-date “do-not-contact” lists, and that all comply with this Code section.
 - e. Approved Vendors must have reasonable protocols to ensure that employees, agents and contractors do not initiate contact with customers on their “do-not-contact” lists.
 - f. Approved Vendors, their agents and contractors may contact customers previously listed on a “do-not-contact” list who later initiate contact with Companies, their agents or contractors, but subject to all applicable local, state and federal limitations on the breadth of such contact.
 - g. Approved Vendors should seek openness and transparency and not seek to take advantage of a customer’s lack of knowledge. If an Approved Vendor becomes aware that a customer clearly misunderstands a material issue in a solar transaction or that the system will not work as intended to be used by the customer, the Approved Vendor should correct that misunderstanding.

7. An installer's representative will make an in-person site visit to a potential customer and evaluate the site's azimuth, orientation, and shading before designing a system. The system will be designed before the customer signs a contract.
8. The following materials and information will be provided to the customer at the indicated steps of the process:
 - a. IPA informational brochure to be presented to the customer at first contact that is in person or online.
 - b. If first contact is by telephone or direct mail, the brochure will be included at first (if any) follow-up that is in person or online.
 - c. The brochure will be given to the customer again prior to the execution of any contract at the point at which the contract is executed.
 - d. Disclosure form to be completed after site visit and system design, and completed disclosure form to be delivered to customer before contract is signed. Approved Vendor agent shall review the disclosure form with the customer before the customer signs it and give the customer an opportunity to ask questions about it.
9. In-person solicitation
 - a. An Approved Vendor agent shall state that he or she represents an independent seller or third-party owner ("TPO") of PV systems and that he or she is not employed by, representing, endorsed by, or acting on behalf of, a utility, or a utility program, a consumer group or consumer group program, or a governmental body (unless the Approved Vendor is a governmental body or consumer group).
 - b. In the absence of local ordinances or regulations, Approved Vendors and their agents shall not conduct in-person solicitation at residential dwellings before 9:00 a.m. and after 7:00 p.m. or civil dusk, whichever is earlier.
 - c. The Approved Vendor agent shall obtain consent to enter multi-unit residential dwellings. Consent obtained to enter a multi-unit dwelling from one prospective customer or occupant of the dwelling shall not constitute consent to market to any other prospective customers in the dwelling without separate consent.
 - d. Each Approved Vendor shall perform criminal background checks on all employees and agents engaged in in-person solicitation. The Approved Vendor shall maintain a record confirming that a criminal background check has been performed on its employees or agents in accordance with this Section.
10. Telemarketing
 - a. In addition to complying with the Telephone Solicitations Act [815 ILCS 413], an Approved Vendor agent who contacts customers by telephone for the purpose of selling or leasing PV systems or signing up customers for PPAs shall provide the agent's name and identification number. The Approved Vendor agent shall state that he or she represents an independent seller or TPO of PV systems. An Approved Vendor agent shall not state or otherwise imply that he or she is employed by, representing, endorsed by, or acting on behalf of, a utility or a utility program, a consumer group or a consumer group program, or a governmental body or a program of a governmental body (unless the Approved Vendor is a governmental body or consumer group).
11. Direct mail
 - a. Statements in direct mail material shall not claim that the Approved Vendor agent represents, is endorsed by, or is acting on behalf of, a utility or a utility program, a

consumer group or program, or a governmental body or program (unless the Approved Vendor is a governmental body or consumer group).

12. Online marketing

- a. Each Approved Vendor offering sale or lease of solar systems to customers online shall clearly and conspicuously make available the informational brochure. The Approved Vendor's marketing material shall not make any statements that it is a representative of, endorsed by, or acting on behalf of a utility or a utility program, a consumer group or a program run by a consumer group, a governmental body or a program run by a governmental body (unless the Approved Vendor is a governmental body or consumer group).

13. Conduct and training of agents and contractors

- a. An Approved Vendor agent shall be knowledgeable of the requirements applicable to the marketing and sale of PV service to the customer class that he or she is targeting.
- b. All Approved Vendor agents shall be familiar with PV services that they sell, including the rates, payment and billing options, the customers' right to cancel, and applicable termination fees, if any. In addition, the Approved Vendor agents shall have the ability to provide the customer with a toll-free number for billing questions, disputes and complaints, as well as the Program Administrator's toll-free phone number for complaints.
- c. Approved Vendor agents shall not utilize false, misleading, materially inaccurate or otherwise deceptive language or materials in soliciting or providing services.
- d. No Approved Vendor agent shall make a record of a customer's account number until a contract has been signed.
- e. All Approved Vendor agents shall complete a training program that covers the applicable Sections of these marketing behavior guidelines. The Approved Vendor shall document the training of its agents and provide a certification to the Program Administrator showing that an agent completed the training program prior to an agent being eligible to market or sell PV that will be part of the ABP. Upon request by the Program Administrator or the IPA, an Approved Vendor shall provide training materials and training records within seven business days.
- f. The IPA and the Program Administrator reserve the right to produce standardized training materials and to require vendors to use those materials to supplement whatever other materials they may use.
- g. When an Approved Vendor contracts with an independent contractor or vendor to solicit customers on the Approved Vendor's behalf, the Approved Vendor shall confirm that the contractor or vendor has provided training in accordance with this Section.
- h. Each Approved Vendor shall monitor marketing and sales activities to ensure that its agents are providing accurate and complete information and complying with all laws and regulations.

14. Records retention

- a. An Approved Vendor must retain each customer's sales or lease contract or PPA for twenty years or the duration of the lease or PPA, whichever is longer. Upon request by the IPA or Program Administrator, the Approved Vendor shall provide these records within seven business days.

- b. Upon the customer's request, the Approved Vendor shall provide the customer a copy of the contract via e-mail, U.S. mail or facsimile within seven business days. The Approved Vendor shall not charge a fee for the copies if a customer requests fewer than three copies in a 12-month period.
15. Customers not fluent in English
 - a. If any sales solicitation, agreement, contract or verification is translated into another language and provided to a customer, all of the documents must be provided to the customer in that other language.
 - b. When it would be apparent to a reasonable person that a customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the agent in English or when the customer or another person informs the agent of this circumstance, the Approved Vendor agent shall find another representative fluent in the customer's language, use an interpreter, or terminate the contact with the customer. When the use of an interpreter is necessary, a form consistent with Section 2N of the Consumer Fraud and Deceptive Business Practices Act must be completed.
 - c. During a telephone solicitation, when it would be apparent to a reasonable person that a customer's English language skills are insufficient to allow the customer to understand a telephone solicitation in English, or the customer or another person informs the agent of this circumstance, the agent must transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call.
16. Respecting a customer's request to not be contacted or to terminate contact
 - a. An Approved Vendor agent making an in-person visit or solicitation shall leave the premises at the customer's, owner's or occupant's request.
 - b. An Approved Vendor agent making a telephone call to a prospective customer shall terminate the phone call at the request of the prospective customer.
 - c. The Approved Vendor agent shall not conduct any in-person solicitations at any building or premises where any sign, notice or declaration of any description whatsoever is posted that prohibits sales, marketing or solicitations.
 - d. Upon a customer's request, the Approved Vendor shall not conduct any further marketing to that customer until the customer requests to receive further marketing. The Approved Vendor shall notify its agents of a customer's request.
17. Identification of salespeople
 - a. Approved Vendor agents who engage in in-person solicitation shall display identification on an outer garment. This identification shall be visible at all times and prominently display the following:
 - i. The Approved Vendor agent's full name in reasonable size font;
 - ii. An agent ID number;
 - iii. A photograph of the Approved Vendor agent; and
 - iv. The trade name and logo of the Approved Vendor the agent is representing.
 - b. If the identification only includes the required information listed above (agent's name, agent's ID number, agent's photo, and trade name and logo of the Approved Vendor), no review as marketing materials is required. If the identification displayed by Approved Vendor agents includes additional information, it is subject to review to ensure that it does not conflict with the guidelines for marketing materials.

18. Terms of the contract must be consistent with terms of the required disclosure form. Any statements made verbally must be consistent with the contract and the disclosure form.
19. Consequences for violation of marketing guidelines
 - a. Approved Vendors may be barred from participating as Approved Vendors. Per section 6.13.3 of the Long Term Renewable Resources Procurement Plan, “Approved Vendors found by the Agency to have violated consumer protection standards may be subject, at minimum, to suspension or revocation of their Approved Vendor status by the Agency, and if in violation of local, state, or federal law, also potential civil or criminal penalties from other relevant authorities.”
 - b. Approved Vendors may be subject to conditional approval and other forms of progressive discipline upon discovery of any problems related to consumer protection.
20. Approved Vendors should be aware that the ABP program administrator will follow up with selected customers to confirm that they received, understood, and signed the disclosure form.
21. The Program Administrator and/or the IPA may refer misleading marketing issues to the Illinois Attorney General, consumer protection groups, and/or others.