

**Adjustable Block Program  
Lottery Procedure – Guidance Document  
28 NOVEMBER 2018**

The Illinois Power Agency and its Program Administrator (collectively referred to herein as “the Agency”) deeply appreciate the thoughtful comments received across two rounds of comments on its Block 1 Lottery—IPA Strawman Proposal draft lottery guidelines document. These comments helped the Agency refine, and hopefully improve, its initially proposed lottery process for the random selection of projects in the Adjustable Block Program should project applications during the 14 days after program launch constitute over 200% of Block 1 capacity in any Group/category combination.<sup>1</sup> While some suggestions offered by stakeholders were adopted, others were not; the purpose of this guidance document is to provide interested parties with an understanding of the Agency’s thought process in making certain key determinations found in its finalized Lottery Process document.

**PROJECT REALLOCATION (SUBSTITUTION)**

The September 10, 2018 strawman proposal published by the Agency floated the idea that developers may be able to substitute, or reallocate, projects selected through the lottery process with the developers’ other non-selected applicant projects. The primary rationale for the Agency’s consideration of this proposal was the potential for increased cost-efficiency, particularly in the community solar project category: as projects feature varying cost structures, the substitution of community solar projects could theoretically allow developers to swap in a project featuring a lower cost structure, resulting in a more economically efficient outcome and potentially lower subscription costs for subscribers. In particular, the Agency was concerned about the widely-varying interconnection cost estimates received by some community solar developers from utilities; the Agency understood that, on occasion, some projects applying for interconnection were receiving interconnection cost estimates often multiple times greater than other projects within the same electric utility’s interconnection queue. In theory then, with project substitution in place, an otherwise viable project featuring high interconnection costs could be substituted out for a project with more manageable interconnection costs.

After the review of two rounds of comments and the Agency’s continued internal analysis, the Agency determined that substitution offered a poor solution for at least the following reasons. First, to prevent an endless cycle of substitutions and to avoid developers making decisions later rendered unwise by another developer’s subsequent substitution decision (as the decisions of other projects within the same interconnection queue could impact a project’s interconnection costs), the Agency would need to establish a limited post-lottery window for substitution decisions. But because the utility interconnection cost estimates available at that time would be generally unreliable—estimates were developed before the lottery based on all projects ahead of that project within a given queue moving forward with interconnection, when only a minor fraction of those projects would actually be developed—project

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<sup>1</sup> For example, Block 1 in the Group A, community solar category has 22 MW of capacity. Should applications in this Group/category combination exceed 44 MW of capacity within 14 days after applications open, the Agency would conduct a lottery.

developers would not know which of their projects actually featured the lowest interconnection costs. For instance, a project receiving an uneconomically high initial interconnection cost estimate may eventually prove to be the least expensive to interconnect—but at the time of substitution decision, the developer would not have no way of knowing that. Consequently, even under a regime allowing substitution, project developers’ ability to make informed decisions about individual project interconnection costs would be severely limited.<sup>2</sup>

Second, the Agency is concerned about the perverse incentives that substitution may create. While the Agency has attempted to develop project maturity standards sufficient to ensure that only viable projects (i.e., projects that can eventually be developed with the benefit of a REC delivery contract) apply to the Adjustable Block Program, the presence of over 650 community solar projects in ComEd’s interconnection queue alone (and proportionately similar numbers for Ameren), despite the availability of far fewer REC contracts, offers indication that the barriers to program entry may be low. With low barriers to entry, substitution may incent project developers to submit projects which, while meeting the program’s minimum technical requirements, could never be developed but were nevertheless submitted in the hope of receiving a “winning” position in the Agency’s lottery (and thus a REC contract) and later swapping that project out for a viable project.<sup>3</sup> As the Agency’s intention has never been to allow a project developer to submit projects that it had no intention of actually developing, it became clear that project substitution encouraged gaming behavior that the Agency urgently needed to prevent.

Third, not allowing substitution also carries the benefit of helping ensure geographic diversity within the program. Section 1-75(c)(1)(K) of the IPA Act requires that the Adjustable Block Program must be “designed to ensure that renewable energy credits are procured from . . . projects in diverse locations,” and not merely “concentrated in a few geographic areas.” While a random selection process is not an absolute guarantee of geographic diversity, project substitution could result in the clustering of projects into low-cost pockets of the state or allow an individual developer to develop only those projects located in a given county or on a given feeder. Disallowing substitution thus allows the lottery process to better track this provision of the law.

For the foregoing reasons, the Agency will not be allowing substitution for projects selected through the lottery process, including the allocation of discretionary capacity. The Agency deeply appreciates the comments received on this topic and the role those comments played in helping the Agency attain a more sophisticated understanding of this issue.

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<sup>2</sup> While project developers may have more reliable cost estimates for projects that are in first queue position on a feeder (as there are fewer contingencies as part of the estimate), having first queue position projects developed may not necessarily result in a more economically efficient outcome than the development of projects chosen through a random selection process. This is because, after non-selected projects are moved backward or out of the interconnection queue, a winning project will ascend to first queue position. By virtue of now being in first position, that winning project’s interconnection costs may be very similar to the *prior* first position project’s cost estimate, and would likely bear little resemblance to the heavily-contingent estimate previously offered to that winning project.

<sup>3</sup> Indeed, it appears that this strategy was actually adopted by at least one developer: <https://www.pjstar.com/news/20181021/marshall-county-hearing-shines-spotlight-on-solar-lottery-program>

### CAP ON PERCENTAGE WON BY ANY DEVELOPER

The Agency's final Lottery Guidelines also adopt a proposal raised and supported by numerous commenters across multiple rounds of comments: capping the amount of capacity won by any given developer (or its affiliates) through the lottery's project selection process.

The Agency understands that, with respect to community solar projects, based upon updates from the utilities on interconnection requests as well as media reports, there could be as many as ten times the number of project applications as it has contracts available to allocate. As the Agency proposes to conduct only a single selection event (rather than many simulations and taking the average of all), this introduces the risk of an outlier outcome under which a given developer receives a disproportionately favorable outcome at the expense of all others (e.g., 50 megawatts of the 117 MW available in Group B). Given the significant amount of capital already invested into the Illinois market by a multitude of developers, the Agency agrees with commenters that this is a risk worth managing.

Additionally, while the Agency has full confidence in its ability to administer a truly random project selection process free of bias or any undue influence, the lottery process's outcomes are the focus of significant external interest—both within the solar industry and to other stakeholders across the state and even nationally. Even if conducted truly randomly, an outlier outcome as described above could be misunderstood externally as the Agency favoring one developer at the expense of others, reducing confidence in the program's management and calling the Agency's impartiality into question. As process-based explanations may prove unsatisfactory to those feeling aggrieved by a negative outcome, the Agency believes it is better to avoid the potential for at least the most egregious outcomes altogether.

Adopting a cap on the amount won by any developer raised the question of how best to implement it. As discussed at more length in the final Lottery Process guidelines, the Agency has elected to impose a cap on the REC contracts won by any family of affiliated<sup>4</sup> developers.<sup>5</sup> For any Group/category combination, whenever a lottery is triggered, the cap will be 20% of capacity in the total of Group 1 and Group 2, and then 20% of capacity in Group 3. Projects that receive "winning" lottery positions for allocation within the Group 1/Group 2 agglomerate but must be denied a REC contract due to the developer cap will receive first lottery position for Group 3; projects similarly curtailed in Group 3 will be placed first on the wait list. No developer cap will apply to the Agency's subsequent allocation of discretionary capacity.

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<sup>4</sup> "Affiliated" is intended as defined in Section 7.3.1 of the Long-Term Renewable Resources Procurement Plan.

<sup>5</sup> To be clear, the cap applies to a family of affiliated developers or installers, and **not** to a family of affiliated Approved Vendors. The Agency's rationale for this distinction is that a single Approved Vendor (or family of affiliated Approved Vendors) could, in theory, represent numerous developers in a Group/category—potentially a fraction of all developers that far exceeds 20%—and applying the cap to Approved Vendors could exclude large numbers of developers from REC contract awards. The Agency does not see a reason at this time to discourage developers from relying on a concentrated set of Approved Vendors for performing the administrative work associated with interfacing with the Adjustable Block Program. It is developers, not Approved Vendors, that are acting in the market by securing sites, customers, public approvals, materials and labor, and so forth, and thus diversity of outcome should be effected at the level of developers.

The Agency's reasoning for this approach is to maintain a diverse distribution of developers at each pricing point, but not to unduly punish projects that receive the good fortune of a "winning" lottery position but cannot be awarded a REC contract at a particular pricing level due to the cap. The Agency has chosen not to apply a developer cap to late-allocated discretionary capacity (which will receive Block 4 pricing that is lower than that of Blocks 1, 2, and 3) to allow for the possibility that one developer or family of developers could legitimately present a large number of serious, viable projects; those projects should not be *ex ante* restricted from full consideration for REC incentives.

The Agency has chosen to apply the developer cap within each Group/category combination (rather than within each Group regardless of category, or within each category regardless of Group) because a) the development dynamics for each project type are distinctive and one developer's activities in two different project categories should be considered separately, and b) the development dynamics within the Ameren service territory may differ from that in the ComEd service territory due to differences in interconnection procedure as well as geographic and economic differences, so again, diversity of result should be maintained within each Group.

The Agency considered applying the developer cap only to the community solar category (for which numerous developers are expected to apply for a limited number of REC contracts), but ultimately concluded that the rationale for limiting the concentration of developers is salient whenever a lottery is triggered, including in the small and large distributed generation categories. The integrity of the Program could be questioned if a single developer or family of developers doing commercial rooftop installations (or residential rooftop installations) were to receive, say, half of the available highest-priced REC contracts in a Group.

#### PUBLISHING PROJECT-SPECIFIC INFORMATION

The Agency appreciates the perspective offered by commenters seeking the publishing of only more general information (or obscured signifiers) about applicant projects. However, the Agency ultimately determined that both the public's interest in the program and external confidence in the integrity of the program was best served by publishing information about each project. Applicants to the Adjustable Block Program seek the benefit of a REC delivery contract that constitutes a ratepayer-funded incentive offered through a state administered program. Absent a compelling argument that such information constitutes proprietary, privileged or confidential information resulting in competitive harm due to its disclosure, the Agency believes that basic information about the project—the project's name, size, physical address, the Approved Vendor's name, any small subscriber commitment status (for community solar projects), and the random ordinal number assigned—should be made publicly available. Additionally, because the lottery process will not allow for project substitution, a primary argument against publishing this information presented by certain project developers (that there would be full awareness of the initial selection of those projects swapped out, potentially creating a loss of goodwill for those developers) has been addressed. The Agency further notes that, for community solar projects, many projects have already been reviewed and approved by County Zoning Committees and Boards and thus a significant public record already exists related to these projects' location, size, and ownership.

Consistent with certain commenters' concerns, the Agency has made a limited exception to publishing full project information for small distributed generation projects. In this case, the system hosts are generally homeowners whose understanding of the system's participation within the program may be limited. Additionally, the participation of residential systems raises legitimate privacy concerns for residential customers. Consequently, while the Agency understands that there is still legitimate public interest in where small photovoltaic projects are being developed, for small DG systems, the Agency will only publish the project's address by city and ZIP code.

#### PRE-BID COLLATERAL

To limit the number of non-viable projects submitted into the lottery, many commenters supported the introduction of a significant pre-bid collateral requirement. Ultimately, the Agency did not adopt this proposal for the following reasons: first, it felt that concerns about non-viable projects could be more effectively managed by a) disallowing project substitution and b) providing more clarity around the technical requirements for projects submitted into the program (including additional information about non-ministerial permits and the requirement that a project be developed substantially in line with the specifications proposed in its program application). Second, the Agency remained concerned that a significant pre-bid collateral requirement would be more easily managed by larger project developers with easier access to capital, while potentially unfairly penalizing smaller developers. Third, during the lottery guidelines comment period, the Agency gained a better understanding of the utilities' interconnection processes; it appears now that deposits will now eventually be required from any project that seeks to move forward with interconnection, thus limiting the progress that any nonviable project may make toward interconnection. Fourth, the Agency felt that collateral requirements were best handled through the post-selection collateral requirements proposed in its Long-Term Renewable Resources Procurement Plan, and the Agency provided clarification that this collateral requirement will be due within 30 business days of Commission approval of a selected project's REC delivery contract. Lastly, the handling of potentially tens of millions of dollars of collateral carries significant administrative complexities—any collateral held by the State itself would require express appropriation authority to refund (as refunds are considered expenditures requiring appropriation under state accounting practices), while holding such funds with the Program Administrator itself would require the development of new accounts, tools, and oversight mechanisms.