

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

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.¹ These guidelines are written for the use of Approved Vendors and their partners. The first section will also be used by the Program Administrator, who will be reviewing and approving the marketing materials.

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, renewable energy credits ("RECs"), and the ABP. Approved Vendors shall disclose their intent to sell the project's RECs into the ABP. Should an Approved Vendor have any questions about whether a particular statement constitutes an accurate portrayal, the Approved Vendor should first submit that statement to the Program Administrator for review.
 - a. What is the Adjustable Block Program?
 - i. The Illinois Adjustable Block Program is an incentive program that supports the development of new solar photovoltaic ("PV") systems in Illinois through the purchase of RECs. It enables the sale of RECs produced by PV systems to Illinois utilities. 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.
 - v. The ABP program will be releasing consumer-facing branding for the ABP in the near future, and at that time these guidelines will be updated to reflect the usage of that brand.
 - b. What are RECs and why are they valuable?

¹ A separate set of guidelines related to the marketing of community solar subscriptions will be forthcoming.

- i. RECs are created when renewable energy generation, including solar panels, generates electricity, but RECs are not the electricity itself. Instead, RECs represent the environmental attributes of that electricity. RECs can be bought and sold, and whoever owns the RECs has the legal right to say they used that “clean” or “renewable” energy. Under Illinois law, utilities are required to supply a certain amount of their energy from renewable sources through the purchase and retirement of RECs. If the RECs from a customer’s PV system are transferred to a utility through the ABP, then that customer should not claim to be using clean or renewable electricity. Thus, Approved Vendors and their subcontractors may not suggest that customers who sell their RECS will receive or use 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.
 - v. When the consumer-facing branding of the ABP is released, these guidelines will be updated to include examples of statements that may be made related to the brand name.
- 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 Standard 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 Standard 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 ABP Informational Brochure, and, in particular, with the following items from the brochure:
 - 1. That customers are not guaranteed to save money with solar unless the contract includes an explicit savings guarantee;
 - 2. That the Standard Disclosure Form will include a standardized savings estimate that will enable customers to compare offers between vendors.
 - 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.” (This statement is permitted if the contract includes an explicit savings guarantee.)
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. Approved Vendors and their agents shall refrain from making false claims or creating false impressions regarding their identity and/or affiliations.
 - b. Use of utility name and logo
 - i. An Approved Vendor or its agent shall not use the logo of a public utility, the Illinois Commerce Commission (“ICC”), the Illinois Power Agency (“IPA”), the State of Illinois, or the ABP in any manner, except the following:
 1. An Approved Vendor may use the IPA logo on materials that have been created by the IPA, including the ABP Informational Brochure and the Standard Disclosure Form.
 - ii. An Approved Vendor or its agent shall not use the name of a public utility, the ICC, the IPA, or the State of Illinois 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. For avoidance of doubt, an Approved Vendor can state the fact that it is an Approved Vendor under the IPA’s Adjustable Block Program.
 - iii. An Approved Vendor or its agent 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. This does not, however, restrict use of a utility name in describing where an offer is valid.
 - iv. IPA and the ABP Program Administrator will address any requests for exceptions on a case-by-case basis.

Guidelines for marketing behavior

1. These 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. For the purpose of the

following guidelines, any reference to “Approved Vendor” should be understood to apply to their employees, contractors, and subcontracting or partnering solar installers and marketers.

2. Approved Vendors shall comply with all existing local, 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 based on factual, verifiable sources.
 - c. Approved Vendors should be familiar with all advertising laws, rules, regulations and guidance, including Federal Trade Commission 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, 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. Not autodialing or texting 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. Any company marketing, installing, or financing solar projects that will be part of the ABP 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 by requiring its subcontractors to maintain such lists.
 - c. Companies with “do-not-contact” lists that receive customer “do-not-contact” requests through an employee, agent or contractor must add the customer to their “do-not-contact” lists.
 - d. Companies with “do-not-contact” lists must ensure that employees, agents and contractors (e.g., solar lead generators) have access to up-to-date “do-not-contact” lists, and that they comply with all laws and ABP program guidelines regarding sales and marketing interactions.
 - e. Companies with “do-not-contact” lists must have reasonable protocols to ensure that employees, agents and contractors do not initiate contact with customers on their “do-not-contact” lists.
 - f. For companies with “do-not-contact” lists, 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 and their agents and subcontractors must conduct business affairs with the goal of openness and transparency and not seek to take advantage of or otherwise exploit a customer’s lack of knowledge. If an Approved Vendor or its agent or subcontractor 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 shall evaluate the site’s azimuth, orientation, and shading before designing a system. The system must be designed before the customer signs a contract.
8. The following materials and information shall be provided to the customer at the indicated steps of the process:
 - a. The ABP Informational Brochure must be presented to the customer at the first contact between the Approved Vendor and customer that occurs in person or online.
 - b. If first contact between an Approved Vendor and customer is by telephone or direct mail, the ABP Informational Brochure shall be included at first (if any) follow-up that takes place in person or online.
 - c. The ABP Informational Brochure shall be given to the customer again prior to the execution of any contract, at the point in time at which the contract is executed.
 - d. The Standard Disclosure Form is to be completed after system design, and a completed disclosure form must be delivered to the customer before the contract is signed. A representative of the Approved Vendor shall review the disclosure form with the customer before the customer signs it and provide the customer with an opportunity to ask questions about the disclosure form. An electronic signature is permitted.
 - e. The ABP Informational Brochure and Standard Disclosure Form may be delivered to the customer electronically, but these two documents must be delivered to the customer (and not merely hyperlinked).
9. In-person solicitation

- a. An Approved Vendor's agent or representative 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 program or government body (unless the Approved Vendor is a governmental body or consumer group). The agent shall state the company s/he works for.
- b. In the absence of local ordinances or regulations, Approved Vendors and their agents or representatives shall not conduct in-person solicitation at residential dwellings before 9:00 a.m. or after 7:00 p.m. Pre-arranged consultations or meetings outside of these hours are permitted.
- c. The Approved Vendor agent or representative 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 and its subcontractors 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. For in-person solicitations with potential customers, the Agency strongly discourages the use of employees or agents with criminal records for offenses related to fraud or violence, or that are subject to registration under the Illinois Sex Offender Registration Act (730 ILCS 150) or comparable registration requirements from other states. The Approved Vendor or subcontractor should use their reasonable judgement in evaluating the suitability of any other employees or agents with records for other offenses for in-person solicitations and is not prohibited from otherwise employing persons with criminal records or using such persons for in-person solicitations.²

10. Telemarketing

- a. In addition to complying with the Telephone Solicitations Act [815 ILCS 413], an Approved Vendor's agent or representative 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's agent or representative 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 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

² These guidelines are not intended to be inconsistent with Approved Vendors' obligations under the Job Opportunities for Qualified Applicants Act (820 ILCS 75) and any similar local laws as applicable, such as City of Chicago Municipal Code Section 2-160-054.

- a. Each Approved Vendor offering sale or lease of solar systems to customers online, or seeking to sign up customers for PPAs online, shall clearly and conspicuously make available the ABP 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, representatives, and contractors
- a. An Approved Vendor's agent or representative shall be knowledgeable of the requirements applicable to the marketing and sale of PV systems service to the applicable customer class.
 - b. All Approved Vendor agents or representatives must be familiar with the PV systems that they sell, including the fundamentals of how the PV systems work, types of contracts offered (e.g., sale, lease, PPA), payment and billing options, the customers' right to cancel, and applicable termination fees, if any. In addition, the Approved Vendor agents must 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 and representatives shall not utilize false, misleading, materially inaccurate or otherwise deceptive language or materials in soliciting or providing services. Should an Approved Vendor have any questions about whether a certain language or materials would be considered false, misleading, inaccurate, or deceptive, please submit that statement to the Program Administrator for review.
 - d. Account numbers can be collected incidental to collection of historical usage information. Account numbers or information obtained for this purpose shall not be used to solicit or offer any ARES supply service. If the customer does not sign a contract with the Approved Vendor or subcontractor, the Approved Vendor must delete all information related to and including that customer's account number.
 - e. All Approved Vendor agents or representatives engaged in any solicitation behavior connected to systems participating in the Adjustable Block Program 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 representatives and provide a certification to the Program Administrator showing that an agent or representative completed the training program prior to an agent being eligible to market or sell PV systems under 25 kW that will be part of the ABP. Upon request by the Program Administrator or the IPA, an Approved Vendor shall provide requested 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 subcontractor 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, including these marketing guidelines.
14. Records retention
- a. An Approved Vendor must retain each customer's sales or lease contract or PPA for fifteen years and six months after the energization of the system, or for six months longer than 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 twenty-one calendar days.
 - b. Upon the customer's request, the Approved Vendor shall provide the customer a copy of the fully executed contract via e-mail, U.S. mail or facsimile within twenty-one calendar 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 or interpreter 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's agent or representative making an in-person visit or solicitation shall immediately leave the premises at the customer's, owner's or occupant's first request.
 - b. An Approved Vendor's agent or representative making a telephone call to a prospective customer shall terminate the phone call at the request of the prospective customer.
 - c. An Approved Vendor's agent or representative 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.
17. Identification of salespeople
- a. Approved Vendor agents or representatives who engage in in-person solicitation for PV systems under 25 kW 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 a clear and 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 company 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 company the agent is representing), this identification is not required to be submitted to the Program Administrator for review as marketing materials. If the identification displayed by Approved Vendor agents includes additional information, that identification is subject to Program Administrator review to ensure that it does not conflict with the guidelines for marketing materials.
- 18. Terms of the underlying contract between a customer and an Approved Vendor or its subcontractor must be consistent with terms of the required Standard 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. Such forms of progressive discipline include temporary suspension from program participation, limitations on the extent of program participation, and a prohibition on the ability to serve as an Approved Vendor for customers below 25 kw in size.
- 20. The ABP Program Administrator may follow up with customers to confirm that the customer received, understood, and signed the Standard Disclosure Form. If, after the Program Administrator's reasonable investigation and subject to affirmation by the IPA, a customer is found not to have received, understood, and signed the Standard Disclosure Form, the Approved Vendor may be subject to discipline for the violation of marketing guidelines.
- 21. The Program Administrator and/or the IPA may refer any instances of potentially misleading or deceptive marketing to the Office of the Illinois Attorney General, consumer protection groups, local authorities, and/or others.
- 22. Some distributed generation projects submitted as batches into the Adjustable Block Program will involve marketing, sales, disclosures, contracts, and other arrangements that were completed prior to the full development and final publication of these marketing guidelines on December 27, 2018.
 - a. See the IPA's Long-Term Renewable Resources Procurement Plan at Section 6.13.1 for details of how these systems will be approved. In short, for such systems (and only those systems that were energized on or after June 1, 2017 and before these marketing guidelines were issued on December 27, 2018), the Commission's Order in Docket No. 17-0838 requires the following for consumer protection:
 - i. A signed contract amendment, that brings the contract into full compliance with the minimum contract requirements from the Plan;

- ii. The Standard Disclosure Form, signed by the customer post-contract execution;
and
 - iii. Proof that the ABP Informational Brochure was provided to the customer.
- b. The above-mentioned materials must be provided by the Approved Vendor at the time the project applies to the ABP.
- c. Attached at the end of this document is an attestation form that Approved Vendors must complete for any distributed generation project energized on or after June 1, 2017 and before the issuance of these final marketing guidelines on November 26, 2018. This attestation form has been drafted mindful of the possibility that the home or building owner is not responsive to good-faith attempts to contact him/her for this purpose or refuses to sign an amended contract or disclosure form. If the Approved Vendor claims that the customer could not be reached and/or refused to sign a revised contract or Standard Disclosure Form, then the Program Administrator may attempt to contact that customer or system host to confirm this claim.
- d. The IPA and its Program Administrator retain the ability to exclude projects that, in their determination, represent deceptive marketing or bad faith business practices through complaints or other information brought to their attention (whether or not customers have signed contract amendments or disclosure forms), and will “monitor, to the extent possible, potential Approved Vendors’ conduct to ensure good-faith attempts of compliance with the spirit of pending consumer protection requirements.” (See ICC Order of April 3, 2018 at 107).

Adjustable Block Program

Distributed Generation Project Application

Attestation for Approved Vendors Pursuant to Section 6.13.1 of the Long-Term Renewable Resources Procurement Plan ("Plan")

Approved Vendor: _____

Project Location: _____

Name of project host: _____

Date of project energization: _____

As part of the Approved Vendor's application of this project, energized on or after June 1, 2017 and before December 27, 2018, to the Adjustable Block Program, the Approved Vendor is providing the following materials:

- A signed contract amendment with the system host, bringing the contract into full compliance, if not already compliant, with all minimum contract requirements from the Plan
- Disclosure form using Illinois Power Agency's approved template, signed by the system host
- Proof that the ABP Informational Brochure was provided to the system host

If fewer than all three of the items above are checked, please check one of the following explanations:

The Approved Vendor's diligent, good-faith efforts to contact the system host using all known contact information, following the release of the IPA's final marketing guidelines, were unsuccessful.

The system host refused to sign the contract amendment and/or disclosure form.

Other (please explain):
