



PROPOSED APPROACH FOR COMMENTS

Q: Can a Part I applicant project that's been waitlisted or otherwise not yet selected for a REC contract change Approved Vendors?

A: Yes. A project that has been waitlisted or otherwise not yet selected for a REC contract may change its Approved Vendor ("AV"). To be clear, this switch of Approved Vendors could be for an individual project that is a subset of a larger batch (although minimum batch size requirements would still apply).

While it is not necessary to seek Program Administrator approval in advance of commencing this transaction, the Approved Vendor transferring the project and the Approved Vendor receiving the project ("Transferee") must provide the Program Administrator with a binding document wherein both agree that the Transferee shall have rights to the RECs produced by the project and the authorization to represent the project for an ABP application. The documentation also must show that the project host and the project owner, if different, consents to the change of Approved Vendor.

Please note that if a project was submitted co-located with another project, it will continue to be deemed co-located after any change of Approved Vendors. As a result, any co-located pricing or array layout requirements will still apply after a potential change of Approved Vendor. The transferred project, if community solar, could, if applicable, be newly considered co-located after being taken by the Transferee AV.

Q. What if the Approved Vendor *itself* is sold to a new entity—is that permissible, and what requirements or conditions apply?

The sale of an Approved Vendor is permissible. A change in ownership of the Approved Vendor (e.g., the sale of the entire LLC to a new entity) with no change of the AV-project pairings would not have to adhere to an additional process of submitting documentation as in the case of a change in Approved Vendors. Rather, the Approved Vendor should provide an update to its Approved Vendor profile within the ABP Approved Vendor portal with its new ownership information.

Q. What if the *project* is sold, but the Approved Vendor does not change—is that permissible, and what requirements or conditions apply?

A sale of the project itself (or a majority equity share in the project) that results in a new system owner but not a new Approved Vendor is allowed while the project remains unselected for a REC contract; in such a case, the Approved Vendor is expected to contact the Program Administrator in order to update the ownership data for the project in the ABP portal. This project ownership change would not change any previous determination that the project was co-located, and it could, if applicable, cause the project to newly be considered co-located.

Q. What if applications are submitted by two different Approved Vendors for the same project?

In a case where one Approved Vendor submits a Part I application for a project, and then (before the first application is reviewed and approved by the Program Administrator and its batch submitted to the ICC for approval) a second Approved Vendor submits a new Part I application for a project at the same location, the Program Administrator will proceed as follows to resolve the potential conflict:

The Program Administrator will first investigate (including potentially contacting the site host) whether there is an intent that the multiple project applications be for separate, co-located projects (and if so, whether the co-location would be allowed under Program terms and conditions).

- If co-location is intended and feasible, then the Program Administrator will allow for co-location.
- If co-location is not both intended and feasible (i.e., if the two applications appear to represent the same project), the Agency will review the documents submitted with the Part I applications to determine which Approved Vendor is premising its control of RECs on an earlier-executed site control agreement (or, if both Approved Vendors rely on the same site control agreement, then which Approved Vendor has an earlier-executed REC control agreement); this Approved Vendor will be presumed to be the proper representative of the project.
 - An Approved Vendor with a later-executed site control or REC control agreement (as applicable) will be given an opportunity to furnish documentation showing that the earlier-executed instrument was properly terminated prior to that Approved Vendor's Part I ABP application. If acceptable documentation is provided (subject to confirmation with the other Approved Vendor), then the application from the Approved Vendor with the later-executed agreement would proceed (subject to any other review and approvals of the application).