

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

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This document provides marketing guidelines for Approved Vendors submitting distributed generation projects into the Illinois Power Agency's Adjustable Block Program ("ABP").

Although community solar projects are part of the ABP, this document applies specifically to distributed generation ("DG") projects and not to community solar systems (a different set of guidelines has been published for the marketing of subscriptions to community solar projects). These guidelines apply to systems of all sizes, except where it is specifically stated that certain provisions only apply to transactions involving systems under 25 kW.

As used herein, the term "Approved Vendor" covers not only the entity serving as an Approved Vendor within the ABP, but also that entity's affiliates, employees, contractors and subcontractors, agents, installers, marketers, customer service liaisons, or any other person or entity acting in any way on the Approved Vendor's behalf in connection with the project receiving a REC delivery contract through the ABP. Approved Vendors may be disciplined for the failure of any of these entities to follow the Adjustable Block Program's Marketing Guidelines through suspension of eligibility to receive REC delivery contracts through the Adjustable Block Program.

Relatedly, any of these non-Approved Vendor entities may themselves be suspended from performing services in connection with ABP projects for the violation of these Marketing Guidelines (through subjecting an Approved Vendor to automatic suspension by working with that entity). In assessing discipline, focus will generally be placed primarily on the entity responsible for the violation of Marketing Guidelines, but all entities involved in transactions supported by this state-administered program are ultimately required to ensure that these guidelines are faithfully followed.

Compliance with these guidelines is overseen on a day to day basis by the Program Administrator, InClimate Solutions. These Marketing Guidelines outline the Program Administrator and IPA's anticipated roles in enforcement; however, nothing in these guidelines shall preclude the Agency from undertaking roles specified for the Program Administrator on an as-needed basis.

Illinois Shines is the brand name and consumer-facing brand of the Adjustable Block Program. All marketing guidelines that are applicable to the ABP apply to Illinois Shines as well. Consumer-facing information on the ABP can be found at [illinoisshines.com](http://illinoisshines.com).

This document outlines program guidelines for 1) marketing materials, promotional information or other messages transmitted by an Approved Vendor related to a solar product solar or leased under the ABP, 2) marketing behavior, actions taken by an Approved Vendor as part of its promotion and sales process for solar products sold or leased under the ABP, and 3) disciplinary determinations and process for violations of ABP guidelines and rules. An attestation for Approved Vendors pursuant to Sections 6.13 and 6.13.1 of the Long-Term Renewable Resources Plan is provided in Appendix A, which is executed by an Approved Vendor within the Program portal at the Part II stage of the application process.

## Referenced Terms and Documents

Specific program terms and documents are referenced throughout these guidelines. These terms and documents are described and/or linked to below:

- **Adjustable Block Program:** The Illinois Adjustable Block Program (ABP) supports the development of new photovoltaic distributed generation systems and new photovoltaic community renewable generation projects in Illinois through the purchase of Renewable Energy Credits (RECs). The ABP was established by the Future Energy Jobs Act (Public Act 99-0906, effective June 1, 2017). More information on the Adjustable Block Program can be found in Chapters 6 and 7 the Illinois Power Agency's [Long-Term Renewable Resources Procurement Plan](#).
- **Adjustable Block Program Guidebook:** The [Adjustable Block Program Guidebook](#), released May 31, 2019, describes the structure of the ABP and provides information about the program's operation. Section 10 of the Guidebook provides a glossary of program terms. As of September 16, 2020, the Program Guidebook is under revision. The updated version is expected to be released in September 2020 and will be available at the same location as the prior Guidebook.

**Agency or IPA:** The Illinois Power Agency is a State agency tasked with administration of incentives for qualifying photovoltaic projects. See 20 ILCS 3855/1-1 *et. seq.*

- **Approved Vendor:** An entity approved by the Program Administrator to submit project applications to the Adjustable Block Program and to act as counterparty to the ABP contracts with the utilities. [Approved Vendor Requirements](#), released October 30, 2018, provide information to be collected from prospective Approved Vendors and the evaluation criteria for Approved Vendors.
- **Consumer Complaint Database:** All ABP consumer complaints received by the Program Administrator are published in a [publicly available database](#). Consumer complaints may lead to Approved Vendors being determined to be in violation of Program rules or guidelines or in violation of local, state, or federal laws which could also result in disciplinary action against the Approved Vendor.
- **Designee:** Any third-party entity (i.e., non-Approved Vendor) that has direct interaction on behalf of the Approved Vendor with end-use customers under the ABP. This includes installers, marketing firms, lead generators, and sales organizations. All Designees must register with the program and be listed on the program websites (both [www.illinoisabp.com](http://www.illinoisabp.com) and [www.illinoisshines.com](http://www.illinoisshines.com)) along with the Approved Vendor(s) with whom they are working. Registration also requires the assent of the Approved Vendor(s), and can be withdrawn by an Approved Vendor working with the Designee at discretion of the Approved Vendor, or by the IPA or Program Administrator if the Designee is found to have violated program guidelines and is suspended or has its registration terminated. See Section 6.9.1. of the Illinois Power Agency's [Long-Term Renewable Resources Procurement Plan](#).
- **Distributed Generation ("DG"):** A photovoltaic system which is located onsite, behind a customer's meter, and used primarily to offset a single customer's load; it cannot exceed 2,000 kW AC in size. The ABP has three project categories: Small Distributed Generation for DG systems 10 kW and below, Large Distributed Generation for DG systems above 10 kW up to 2 MW in size, and Community Solar for community solar projects, regardless of size. These guidelines apply to all DG projects.

- **Distributed Generation Contract Requirements:** Pursuant to Section 6.13 of the Long-Term Renewable Resources Procurement Plan, the IPA and its Program Administrator developed a list of contract requirements for Approved Vendors. The [Final Distributed Generation Contract Requirements](#) were released January 23, 2019. Approved Vendors must attest to compliance with these contract requirements as part of a project’s ABP application in the Program Portal (see Appendix A of these guidelines).
- **Illinois Shines:** Illinois Shines is consumer-facing brand name of the Adjustable Block Program. The Illinois Power Agency and its Program Administrator released an [ABP Branding Document](#), which includes information about the use of the “Illinois Shines” brand and logo.
- **Informational Brochure:** Approved Vendors are required to distribute to customers prior to the execution of a contract with them, an [informational brochure](#) in both print and electronic format. The brochure shares information about the ABP and informs consumers of their rights and procedures for filing complaints. It is available in [English](#) and [Spanish](#).
- **Long-Term Renewable Resources Plan:** The Long-Term Renewable Resources Plan is developed by the Illinois Power Agency pursuant to the provisions of Sections 1-56(b) and 1-75(c) of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act and updated every two years. The final [Revised Long-Term Renewable Resources Procurement Plan](#), released April 20, 2020, is the most recent version of the plan. The Long-Term Renewable Resources Plan describes the Adjustable Block Program in Chapters 6 and 7.
- **Program Administrator:** The Illinois Power Agency, under the authority of Section 1-75(c)(1)(M) of the IPA Act, has selected an expert consultant to manage the operations of the ABP. InClima has been designated the Program Administrator.
- **Program Portal:** The secure website where Approved Vendors generate Disclosure Forms, enter project application data, and otherwise manage projects. The Portal may be accessed via the “Login” tab on [www.illinoisabp.com](http://www.illinoisabp.com).
- **Project:** A project refers to a solar photovoltaic array and all associated equipment necessary for its generation of electricity and connection to the distribution grid. Under the ABP, “project” is used synonymously with “system.”
- **Renewable energy credits:** Renewable energy credits (RECs) represent the environmental attributes of the energy produced from renewable energy resources, but not the energy itself. 20 ILCS 3855/1-10. Whoever owns the RECs has the right to say they used that solar power. See the [Illinois Shines Informational Brochure](#).
- **Standard Disclosure Form:** The standard contract disclosure form gives consumers who are considering contracting for a solar photovoltaic (“PV”) system clear information about the system and their transaction. The type of distributed generation contract being entered into—a [system purchase](#), a [system lease](#), a [Power Purchase Agreement](#), or a [contract for a system over 25 kilowatts in size](#)—will determine the standard contract disclosure form required. Execution and submission of the proper Standard Disclosure Form is required for the system to be eligible for the ABP.

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## 1. Guidelines for Marketing Materials

### A. False and Misleading Statements

- 1) Approved Vendors shall accurately portray the nature of solar power, renewable energy credits (“RECs”), and the ABP or Illinois Shines. Approved Vendors shall disclose their intent to sell the project’s RECs into the ABP or through Illinois Shines. Approved Vendors shall not make any demonstrably false or misleading statements.
  - a) Should an Approved Vendor have any questions about whether a particular statement constitutes an accurate portrayal, the Approved Vendor should submit that statement to the Program Administrator for review and the Program Administrator will endeavor to respond within five (5) business days.
  - b) Below is a list of common questions that potential customers may have regarding the ABP and helpful answers that can be communicated to these potential customers.
    - i) What is the Adjustable Block Program?
      - (1) The Adjustable Block Program is a state-administered program for new solar photovoltaic (“PV”) systems. The program provides payments in exchange for 15 years of Renewable Energy Credits (“RECs”) generated by PV systems.
    - ii) What is Illinois Shines?
      - (1) Illinois Shines is the brand name of the Adjustable Block Program. Participation in Illinois Shines is the same thing as participation in the Adjustable Block Program.
    - iii) What are RECs and why are they valuable?
      - (1) RECs represent the environmental value of the electricity generated from solar panels, but not the electricity itself. Whoever owns the RECs has the right to say they used that solar power. Utilities must purchase RECs to meet their obligation to supply a certain amount of power from renewable energy. RECs can also be valuable to businesses seeking to be able to say that they use solar power.
      - (2) If the RECs from a distributed generation project are transferred to a utility through the ABP, then neither the distributed generation project host nor the owner should claim to be using clean or renewable electricity. Thus, consistent with the IPA’s understanding of Federal Trade Commission guidelines, customers of distributed generation projects that sell RECs should generally not state that they are powered by renewable energy.
  - c) Approved Vendors shall not make any demonstrably false or unsubstantiated statements about RECs.
    - i) Below are examples of statements Approved Vendors shall not make related to the energy produced by the system if RECs are already contracted to be transferred.
      - (1) “Your home will run on cleaner, greener energy.”
      - (2) “The sun will provide your electricity.”
    - ii) Examples of statements companies may make related to the energy produced by the system if RECs are already contracted to be transferred.
      - (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 new solar power.”
      - (4) “Go green and support the installation of solar in Illinois.”

## B. Customer Savings

- 1) Approved Vendors shall accurately portray prospective customers' anticipated costs and savings. Approved Vendors shall not make any demonstrably false or unsubstantiated statements about whether installing solar will save customers money, including false or unsubstantiated statements about levels of savings.
  - a) 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.
  - b) All terms and values related to system production that are used to estimate the economic benefits for the customer 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.
  - c) All marketing materials must be generally consistent with the Illinois Shines Distributed Generation Informational Brochure, and, in particular, with the following items from the brochure:
    - i) That customers are not guaranteed to save money with solar unless the contract includes an explicit savings guarantee;
    - ii) It is acceptable to make claims about saving money. The Program Administrator reserves the right to inquire about any savings claims made in marketing materials for prospective Program participants.
  - d) All marketing materials must explain that the customer will remain a utility customer responsible for a utility bill.
  - e) Below are examples of statements that Approved Vendor shall not make related to whether customers will save money.
    - i) Statements that indicate that customers may eliminate or zero out their utility bill are inaccurate and not acceptable.
      - (1) "Eliminate your electric bill."
      - (2) "Fire your utility."
      - (3) "No more utility bills."
      - (4) "Your electric bill will be reduced to \$0"
  - f) Approved Vendors shall not state that systems are "free", "no cost", or "\$0" in oral or written marketing or sales discussions unless the customer is guaranteed to not have a financial obligation for the PV system or the energy it generates (including lease payments).
    - i) Free/no cost/\$0 may only refer to offers in which there is a guarantee the customer will not pay anything (including, but not limited to, enrollment fees, ongoing monthly fees, early termination fees, or tax obligations). For example, a "free consultation" can be offered to help a customer learn more about solar, but a claim of "free solar" cannot be made unless the customer is guaranteed to have no financial obligation for the project.
    - ii) Below are examples of acceptable marketing statements:
      - (1) "The installation of your leased system may be covered by your forfeiture of federal and state incentives."
      - (2) "Your system's installation is free, but you will pay a monthly fee associated with installation."
    - iii) Below are examples of unacceptable marketing statements:

- (1) “The government will pay for your solar panels.”
- (2) “Your system is free and you will pay a cost unassociated with your system to your Approved Vendor.”
- g) Guarantees about customer savings are only permitted in marketing materials if a customer’s contract includes an explicit savings guarantee.
  - i) Below is an example of a statement that an Approved Vendors may only make conditionally if a customer’s contract contains an explicit savings guarantee.
    - (1) “You are guaranteed to save money if you get solar panels.”
      - (a) The Program Administrator may follow up with an Approved Vendor seeking supporting materials, including the customer’s contract, to verify the veracity of this statement.
- h) Below are examples of acceptable marketing statements related to whether customers will save money.
  - i) “Lower your electric bills.”
  - ii) “Reduce your electric bill.”
  - iii) “Save money by switching to solar.”
  - iv) “We expect that by installing solar you will save money.”
  - v) “Offset your electric bill.”
- i) In the context of marketing distributed generation projects, the Program Administrator reserves the right to seek supporting materials (including customer contracts) to demonstrate that these claims are not false, unsubstantiated, or misleading. (For example, an Approved Vendor shall not provide a marketing claim of “Reduce your electric bill” while providing a lease agreement with monthly payments that on average a greater than the expected decrease on the customer’s electric bill through reduced usage and net metering credits.)

### C. False Representation

- 1) Approved Vendors and their agents shall accurately portray their identities and affiliations. Approved Vendors and their agents shall not make false claims or create false impressions regarding their identity and/or affiliations.
  - a) Approved Vendors—including their agents, subcontractors, and Designees, unless such agent is in fact a municipality, village, or other type of local government—shall not represent, make claims, or act on behalf of any government agency or program, including but not limited to the ABP or Illinois Shines.
    - i) Approved Vendors may reference a project participating in or receiving benefits from the ABP or Illinois Shines, but Approved Vendors shall not claim to represent or to be acting on behalf of the ABP or Illinois Shines.
      - (1) Below are examples of statements companies shall not make related to the ABP or Illinois Shines.
        - (a) “The ABP [or Illinois Shines] guarantees that you will save money.”
        - (b) “We represent the ABP [or Illinois Shines].”
      - (2) Below are examples of statements companies may make related to the ABP [or Illinois Shines].
        - (a) “The ABP [or Illinois Shines] is a state program that provides an incentive for solar PV systems.”



- (3) “If you sign a contract with us, and our application to the ABP [or Illinois Shines] is successful, the PV system we install on your roof will be part of the ABP [or Illinois Shines].”
- b) An Approved Vendor and its Designees may state the fact that it is an Approved Vendor under the IPA’s Adjustable Block Program/Illinois Shines either with a text-based statement or by using a uniquely assigned Illinois Shines Approved Vendor logo or Illinois Shines Designee logo as described below.



- i) The Illinois Shines Approved Vendor logo and the Illinois Shines Designee logo were created by the Program Administrator to help potential customers easily distinguish between Approved Vendors (and their Designees) and those companies that are not approved to submit applications to the ABP. The Program Administrator will provide a unique Illinois Shines Approved Vendor or Designee logo containing identifying information to each Approved Vendor or Designee upon request.
- ii) Both the Illinois Shines Approved Vendor logo and the Illinois Shines Designee logo may be used only by an Approved Vendor or (with the Approved Vendor’s authorization) its Designees.
- (1) Designees shall only use an Illinois Shines Approved Vendor logo with the express approval of the Approved Vendor.
- (2) Neither the Illinois Shines Approved Vendor logo and the Illinois Shines Designee logo may be modified. Approved Vendors shall not use other forms of the Illinois Shines logo. This restriction does not apply to dissemination of materials created by the IPA and its Program Administrator as described in Section 1.C.1).d).i.(1) below.
- c) In the case that a governmental body (including, but not limited to, a municipality, group of municipalities, or county government) or consumer group is assisting an Approved Vendor in marketing or otherwise promoting a solar offer, the specific requirements listed below shall apply.
- i) As the governmental body or consumer group is acting as the agent of an Approved Vendor, all requirements as outlined in these Guidelines shall apply to governmental



- bodies or consumer groups assisting in the marketing of a solar offer that is being offered by or through an ABP Approved Vendor.
- ii) Any solar offer that is marketed by a governmental body to its residents and businesses must make clear that the offer being marketed is not an exclusive offer, and those residents and businesses may choose offers from other Approved Vendors.
  - iii) Any endorsement or promotion made by the Approved Vendor or any agent operating on its behalf must strictly follow the authorized scope of endorsement or promotion provided by the governmental body or consumer group. The Program Administrator reserves the right to request documents and communications, including contracts or other authorizing agreements, outlining the scope of that authorization. The Approved Vendor must provide those materials to the Program Administrator as soon as practicable to facilitate the Program Administrator's review as to whether any such endorsement or promotional activity is indeed so authorized by the governmental body or consumer group.
- d) Materials shall not state or otherwise imply that the Approved Vendor is employed by, represents, 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
- a) the Approved Vendor is in fact itself a consumer group or governmental body, or
  - b) that endorsement or promotion is made in accordance with the provisions of Section 1.C.1).c). above.
- i) An Approved Vendor shall not state or otherwise imply that it is endorsed by, represents, or is acting on behalf of the Illinois Commerce Commission ("ICC"), the Illinois Power Agency, the State of Illinois, the ABP, Illinois Shines, any municipality, or any other governmental agency in any manner.
    - (1) An Approved Vendor may only use the IPA logo or the general Illinois Shines logo on materials that have been created by the IPA, including the Illinois Shines Distributed Generation Informational Brochure and the Standard Disclosure Form. These materials must be provided in their entirety and not edited or modified by the Approved Vendor.
  - ii) Marketing materials shall not refer to the ICC, the IPA, the State of Illinois, the ABP, Illinois Shines, any municipality, or any other governmental agency or program 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. An Approved Vendor may 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 utilize the name or logo of a public utility in any manner that is deceptive or misleading, including, but not limited to, implying or otherwise leading a consumer to believe that the Approved Vendor or its agent is soliciting on behalf of or is an agent of a utility.
  - iv) 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, or its services, to identify, label, or define any of its offers.
  - v) An Approved Vendor may use of a utility name in describing where an offer is valid.
    - (1) Graphics, photographs, or other images that include a utility logo (for example, an image of a sample bill) are discouraged, and if utilized, must include a disclaimer that the Approved Vendor or its agent is not affiliated with or endorsed by the utility.

#### D. Use of Testimonials

- 1) Approved Vendors may use testimonials to advertise customer experience, but any testimonial used shall be provided by an actual customer and must include a disclaimer that user experience may differ.
  - a) The use of testimonials is subject to the follow conditions:
    - i) The Program Administrator may request documentation to validate the accuracy of testimonials including verification of the identity of the testifier.
    - ii) Testimonials shall not include language that make false claims or promise savings or otherwise violate any of the requirements of these Guidelines. (For example, using a utility executive to endorse an Approved Vendor or a subscription offer or a customer saying that they eliminated their electric bill is prohibited.)
    - iii) Any testimonial that references a customer experience from outside of Illinois must clearly state the location of the customer who had this experience.
  - b) The Program Administrator will address any requests for exceptions to the guidelines related to the use of testimonials on a case-by-case basis. Any request for an exception should provide an explanation of why the Approved Vendor believes an exception is warranted and should be made via email to the Program Administrator at [admin@illinoisabp.com](mailto:admin@illinoisabp.com).

#### E. Social Media

- 1) Marketing materials and content provided on social media must include information about the company or companies providing the underlying offer.
  - a) If an employee or agent posts marketing materials or offers a system sale or lease on a social media platform from a personal account, the post shall identify the entity or entities through which the offer is made.
- 2) The listing price for ABP-related offers on platforms like Craigslist, Facebook Marketplace, and others shall not be “free”, “no cost”, or “\$0” unless they only refer to offers in which there is a guarantee the customer will not have a financial obligation for the system as described in Section 1.B.1).f).(1). above.

#### F. Designees, Agents, and Subcontractors

- 1) Approved Vendors are responsible for ensuring compliance with these marketing guidelines by their Designees, agents, and subcontractors, and are expected to proactively review such materials and practices.
  - a) The Program Administrator may request to review all marketing materials created by Approved Vendors and their Designees, agents, and subcontractors that are relevant to the Illinois ABP and Illinois Shines.
    - i) The determination of whether to request materials rests with the Program Administrator and/or the IPA and must be complied with by an Approved Vendor.
  - b) Upon review of marketing materials, the IPA or its Program Administrator may request that these materials be altered to ensure that the content of the materials are not deceptive, confusing, or misleading, and to further ensure that they do not feature misrepresentations about the relationship between the IPA, the ABP, Illinois Shines, and the Approved Vendor.

- i) The determination of whether to require changes be made to marketing materials rests with the Program Administrator and/or the IPA and must be complied with by an Approved Vendor.

#### G. Language Used in Marketing Materials

- 1) Marketing materials shall be provided in a language in which the customer subject to the marketing is able to understand and communicate.

#### H. Local Rules and Restrictions

- 1) Approved Vendors and their Designees, agents, and subcontractors marketing to potential customers are under an obligation to be familiar with any local restrictions on projects that may be sold, financed, or interconnected within those areas.
  - a) These restrictions include, but are not limited to, restrictions on system size, financing options, net metering, or other local utility or governmental requirements.
  - b) Approved Vendors shall not market systems, or financing options for systems, that would not allow that system to be operated to the customer's benefit (such as a system that cannot be interconnected, or which would not allow a customer to utilize net metering) under that utility or co-operative's rules or by-laws, or consistent with local governmental requirements.
  - c) Marketing photovoltaic systems which cannot be operated to the customer's benefit within that geographic area or service territory constitutes misleading marketing and may subject an Approved Vendor to disciplinary action.

## 2. Guidelines for Marketing Behavior

### A. Compliance with Existing Laws, Rules, and Regulations

- 1) Approved Vendors must comply with all existing local, state, and federal laws, regulations, and ordinances.

### B. Unfair, Deceptive, or Abusive Acts or Practices

- 1) Unfair, deceptive, or abusive acts or practices (“UDAAP”) by Approved Vendors are not permitted in relation to their involvement in the Program.
  - a) Approved Vendors shall conduct all aspects of their business that address customers or their interests without any 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.

### C. Advertising

- 1) Advertising claims by Approved Vendors shall not be deceptive or misleading, whether by affirmative statement, implication, or omission. This applies to all marketing claims, including those:
  - a) About products or services.
  - b) About pricing, quality, and performance.
  - c) Made in print, electronic, verbal, and through any other medium.
- 2) All claims made by Approved Vendors shall be based on factual, verifiable sources.
- 3) Approved Vendors should be familiar with all advertising laws, rules, regulations, and guidance, including Federal Trade Commission guidance on advertising and marketing.

### D. Sales and Marketing Interactions

- 1) Approved Vendors shall conduct business affairs with the goal of openness and transparency and shall not seek to take advantage of or otherwise exploit a customer’s lack of knowledge.
  - a) 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.
- 2) Approved Vendors shall inform customers that the employee/agent is not affiliated with a utility, that the offer is not a utility program, and that the customer will continue to be responsible for a utility bill prior to execution of an installation contract with a customer.
- 3) An installer’s representative shall evaluate the site’s azimuth, orientation, and shading before designing a system. The system shall be designed before the customer signs an installation contract.
- 4) The following materials and information shall be provided to the customer at the indicated steps of the process:
  - a) The Illinois Shines Informational Brochure shall be presented to the customer at the first contact between the Approved Vendor and customer that occurs in person or online. A customer signature is not required at this stage.

- b) If first contact between an Approved Vendor and customer is by telephone or direct mail, the Illinois Shines Informational Brochure shall be included at first (if any) follow-up that takes place in person or online.
  - c) The Standard Disclosure Form should be completed after system design, and a completed Disclosure Form shall be delivered to the customer before the installation 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.
  - d) The Illinois Shines 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, as part of the Standard Disclosure Form.
  - e) For offers where some, or all, of the REC incentive value is paid to the customer after system energization, the Illinois Shines Program Timeline shall be provided to the customer at the same time as the Standard Disclosure Form. A representative of the Approved Vendor shall review the Program Timeline with the customer and provide the customer with an opportunity to ask questions about the Program Timeline.
  - f) The Illinois Shines Informational Brochure, Standard Disclosure Form, and Program Timeline (if applicable) may be delivered to the customer electronically, but these documents must be delivered to the customer as an attachment, or otherwise fully displayed for the customer's review, and not merely hyperlinked for access.
- 5) 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 and the Distributed Generation Contract Requirements for the ABP. Any statements made verbally must be consistent with the customer's contract and the Standard Disclosure Form.
  - 6) The Program Administrator may follow up with customers to confirm that the customer received the Informational Brochure, and received 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, or not to have received and signed the Standard Disclosure Form after having signed an installation contract, the Approved Vendor may be subject to discipline for the violation of these Marketing Guidelines.

#### E. In-Person Solicitation<sup>1</sup>

- 1) The employee or agent shall state the name of the company they represent. If that company is an Approved Vendor, they shall state that the company is an Illinois Shines Approved Vendor. If the company is a Designee, they shall identify the name of the Approved Vendor (for example, "I represent ACME Solar; we are a Designee of Illinois Shines Approved Vendor ABC Aggregator.")
- 2) An Approved Vendor's employee or agent conducting any in-person marketing or solicitation shall state that they represent an independent seller or third-party owner ("TPO") of PV systems and that they are 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

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<sup>1</sup> Note that as of the date of publishing these Marketing Guidelines, emergency in-person marketing restrictions enacted in response to the COVID-19 pandemic remain in effect. As updates on these emergency marketing provisions are being made on an ongoing basis, Approved Vendors should check for clarifications or changes of these prohibitions on the [Updates section](#) of the ABP website.

- body or consumer group, or otherwise compliant with the process outlined in Section 1.C.1).c) above).
- 3) 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:
    - a) The Approved Vendor agent's full name in a clear and reasonable size font;
    - b) An agent ID number;
    - c) A photograph of the Approved Vendor agent; and
    - d) The trade name and logo of the company the agent is representing.
  - 4) 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.
  - 5) In the absence of local ordinances or requirements, Approved Vendors 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.
    - a) To the extent that local ordinances or requirements are more restrictive, those local ordinances or requirements must be followed.
  - 6) An Approved Vendor 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.
  - 7) 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.
  - 8) 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.
  - 9) Each Approved Vendor, or its subcontractor, shall perform criminal background checks on all employees and agents engaged in in-person solicitation.
    - a) 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.
    - b) 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—assuming not otherwise prohibited by local, state, or federal law—is not prohibited from otherwise employing persons with criminal records or using such persons for in-person solicitations.<sup>2</sup>

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<sup>2</sup> 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.

- c) For the avoidance of doubt, the IPA or Program Administrator may request documentation to demonstrate that Approved Vendors are operating in compliance with this requirement.

## F. Telemarketing

- 1) 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, the Telephone Solicitations Act (815 ILCS 413), and any analogous state or local laws. This includes provisions related to:
  - a) Prohibitions against automatically dialed calls to cellular telephone numbers;
  - b) Call time restrictions;
  - c) Call curfews and banning calls to customers on statutory holidays or during a declared state of emergency;
  - d) Not autodialing or texting wireless numbers without prior express written consent;
  - e) Limitations on the length of time callers may allow phones to ring;
  - f) 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;
- 2) All Approved Vendors that engage in outbound marketing activities shall 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.
  - a) Companies with “do-not-contact” lists that receive customer “do-not-contact” requests through an employee, agent, or contractor shall add the customer to their “do-not-contact” lists.
  - b) Companies with “do-not-contact” lists shall 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.
  - c) Companies with “do-not-contact” lists shall have reasonable protocols to ensure that employees, agents and contractors do not initiate contact with customers on their “do-not-contact” lists.
  - d) 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.
- 3) In addition to complying with the Telephone Solicitations Act, an Approved Vendor that contacts customers by telephone for the purpose of selling or leasing PV systems, advertising, or soliciting customers for PPAs shall provide the agent's name and a unique identification number that can be used to identify the agent. The Approved Vendor’s representative shall state that they represent an independent seller or TPO of PV systems, and shall not state or otherwise imply that they are 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, or otherwise compliant with the process outlined in Section 1.C.1).c) above).



- 4) 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.
  - a) Call logs must be maintained for all outgoing marketing or solicitation calls. The logs shall be provided upon request to the Program Administrator.

#### G. Language Used in Solicitations

- 1) All in-person and telephone solicitations shall be conducted in a language in which the customer subject to the marketing or solicitation is able to understand and communicate. An Approved Vendor shall terminate a solicitation if the consumer subject to the marketing or solicitation is unable to understand and communicate in the language in which the marketing or solicitation is presented.
- 2) If any sales solicitation, agreement, contract, or verification is translated into another language and provided to a customer, all of the documents shall be provided to the customer in that other language.
- 3) 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 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 (815 ILCS 505/2N) must be completed.
- 4) 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 shall transfer the customer to a representative or interpreter who speaks the customer's language, if such a representative is available, or terminate the call.

#### H. Conduct and Training of Agents, Representatives, and Contractors

- 1) Each Approved Vendor shall conduct training for individual representatives engaged in in-person solicitation and telemarketing to residential consumers on behalf of that Approved Vendor prior to conducting any such solicitations on the Approved Vendor's behalf.
  - a) Each Approved Vendor shall submit a copy of its training materials to the Program Administrator on an annual basis.
    - i) The Program Administrator and/or the IPA shall have the right to require updates or modifications to the material.
  - b) Training materials must feature content covering the applicable sections of these marketing guidelines.
  - c) 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 distributed generation projects under 25 kW that will be part of the ABP.
  - d) After initial training, each Approved Vendor shall conduct refresher training for its individual representatives every six months.
  - e) Independent of its annual disclosure, upon request by the Program Administrator, 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 Approved Vendors and their agents 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.
- 2) An Approved Vendor's agents and representatives shall be knowledgeable about the PV systems that they sell, including the fundamentals of how the PV systems work, types of contracts offered (for example, sale, lease, PPA), payment and billing options, customers' right to cancel, and applicable termination fees, if any.
  - 3) An Approved Vendor's agents shall have the ability to provide customers with a toll-free number for billing questions, disputes and complaints, as well as the Program Administrator's toll-free phone number for complaints.
  - 4) An Approved Vendor's agents and representatives shall not utilize false, misleading, materially inaccurate or otherwise deceptive language or materials in soliciting or providing services.
  - 5) 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.

#### I. Online Marketing

- 1) Each Approved Vendor offering PV system sale or financing online shall clearly and conspicuously make available the Illinois Shines Informational Brochure prior to collecting any personal information other than a zip code or electric service territory. 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, or otherwise compliant with the process outlined in Section 1.C.1).c) above).
- 2) If sales representatives use their personal social media accounts to post online advertisements, any marketing and solicitation statements must identify the Approved Vendor(s) on whose behalf the sales representative is advertising.
- 3) 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 contacting customers via email including but not limited to, requirements related to properly identifying the type of email and opt-out provisions.

#### J. Direct Mail

- 1) 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, or otherwise compliant with the process outlined in Section 1.C.1).c) above).

#### K. Association with Alternative Retail Electric Suppliers

- 1) Customers shall not be required to sign up for service from any specific Alternative Retail Electric Supplier as part of their solar contract.
- 2) Utility account numbers may be collected incidental to collection of historical usage information. Utility account numbers or information obtained for this purpose shall not be used to solicit or offer any Alternative Retail Electric Supplier supply service.
  - a) If the customer does not sign a contract with the Approved Vendor, the Approved Vendor must delete all information related to and including that customer's account number as soon as reasonably possible after the customer has decided not to contract with the Approved Vendor.

#### L. Records

- 1) An Approved Vendor shall retain each customer's sales or lease contract or PPA for at least fifteen years and six months after the energization of the system, or for at least six months longer than the duration of the lease or PPA, whichever is longer.
  - a) Upon request by the IPA or Program Administrator, the Approved Vendor shall provide these records to the IPA or Program Administrator within twenty-one calendar days.
- 2) Upon the customer's request, the Approved Vendor shall provide the customer with a copy of that customer's 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.
- 3) Approved Vendors shall promptly provide a complete list of agent names and ID numbers upon request by the Program Administrator.
- 4) With respect to information submitted by Approved Vendors into the ABP, the IPA and Program Administrator will provide confidential treatment to any commercially sensitive information submitted by Approved Vendors in connection with participation in the ABP. This includes the assertion of Freedom of Information ("FOIA") exemptions for commercially sensitive information or for personally identifying information when applicable in response to a FOIA request, and to otherwise protect the confidentiality of commercially sensitive information in response to any discovery request or other request made in connection with formal investigation or litigation. Approved Vendors must expressly designate any commercially sensitive information as "confidential or proprietary" to maximize the likelihood that such information would be protected from disclosure by a reviewing body (such as a reviewing court or the state's Public Access Counselor) in response to an appeal of the Agency's determination that such information should not be disclosed in response to a FOIA request.

### 3. Disciplinary Determinations and Process

#### A. Disciplinary Process

- 1) At a minimum, and with the exception of situations which the IPA deems an emergency, Approved Vendors or entities acting on behalf of Approved Vendors will be afforded the following:
  - a) In the event that the Program Administrator identifies that it believes an entity is not acting, or has not acted, in compliance with Program requirements in connection with the Program, the Program Administrator will notify the Approved Vendor through an e-mail that:
    - i) Outlines the problematic behavior
    - ii) Explains how the behavior is non-compliant with program requirements
    - iii) Requests more information about the issue
  - b) With the limited exception of emergency situations requiring immediate action (as determined at the discretion of the IPA), no disciplinary determination (such as the suspension or revocation of the ability to participate as or on behalf of an Approved Vendor) will be made by the Program Administrator without the allegedly offending party having the opportunity to offer a written or oral explanation of the problematic behavior for review and analysis by the Program Administrator.
  - c) The Program Administrator reserves the right to contact an Approved Vendor's customers to understand the breadth of a disciplinary issue.
  - d) All disciplinary determinations made by the Program Administrator will be communicated through a written explanation of the determination featuring at least the following:
    - i) A brief explanation of the infractions for which the entity is being disciplined.
    - ii) A timeline of communications between the offending entity and the Program Administrator.
    - iii) Specific reference to which specific Program requirement(s)/guideline(s) the offending entity violated.
    - iv) An explanation of any disciplinary action, including what specific conduct is no longer permitted in connection with the Program through the length of the suspension.
    - v) An explanation regarding how the Approved Vendor and/or Designee can appeal the disciplinary determination to the IPA and the deadline for submission applicable to any appeal.
  - e) The Program Administrator's determinations of discipline may be appealed to the IPA, and the opportunity to appeal (as a well as a deadline by when such appeal should be made) will be communicated by the Program Administrator as part of its determination of discipline.
    - i) To appeal to the IPA, an Approved Vendor should provide to the IPA a request for reconsideration of discipline in writing on company letterhead explaining its rationale for why it believes the Program Administrator's determination is in error, as well as sharing any supporting information, documents, or communications.
    - ii) The IPA may request additional information and materials from the Approved Vendor, and/or seek to schedule a call or informal discussion with the Approved Vendor to learn more about the basis for the Approved Vendor's position.

- f) The IPA will endeavor to issue final determinations on discipline, including a supporting rationale for its decision, as soon as practicable after the receipt of an appeal and review of relevant information.
- g) Disciplinary actions will be listed on a publicly available [Disciplinary Actions Report](#).

## B. Consequences for Violation of Marketing Guidelines

- 1) Approved Vendors may be barred from ABP participation 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.”
- 2) Approved Vendors may also be subject to forms of progressive discipline. Such forms of progressive discipline include temporary suspension from Program participation, limitations on the extent of Program participation, a prohibition on the ability to serve as an Approved Vendor for customers below 25 kW in size, and other restrictions on program participation as deemed warranted by the Program Administrator or the IPA.
- 3) Approved Vendors may also be subject to conditional approval, or denial of status as Approved Vendors, upon the demonstration of a pattern of negative customer experiences or ongoing misrepresentations to customers (whether in Illinois or other jurisdictions) or violations of these requirements.
- 4) Approved Vendors may be subject to other limitations on program participation as the IPA deems appropriate based on the record supporting the disciplinary determination.
- 5) The Program Administrator and/or the IPA may refer any instances of potentially misleading or deceptive marketing, or other violations of Adjustable Block Program requirements that implicates the jurisdiction or interests of other entities, to entities including the Office of the Illinois Attorney General, the Illinois Commerce Commission, consumer protection groups, local authorities, and/or others.
- 6) Consumers are able to file complaints with the Program Administrator using the Consumer Complaint Center on both the Adjustable Block Program website ([ABP website Consumer Complaint Center](#)) and the Illinois Shines website ([Illinois Shines website Consumer Complaint Center](#)). Consumer complaints that are received by the Program Administrator are published in abridged format on the [Consumer Complaints Database](#). Complainant information is not made public in this database.

*\*\* Some distributed generation projects submitted into the Adjustable Block Program may involve marketing, sales, disclosures, contracts, and other arrangements that were completed prior to the initial publication of these Marketing Guidelines on December 27, 2018, or prior to the final publication of Distributed Generation Contract Requirements on January 23, 2019. In such cases, the Marketing Guidelines released December 27, 2018 shall apply. The Marketing Guidelines dated December 27, 2018 provide information about the compliance pathway for distributed generation projects fully or partially completed before the publication of the initial ABP Marketing Guidelines and Contract Requirements.*

## Appendix A

### Adjustable Block Program

#### Distributed Generation Project Application

##### Part II Attestation for Approved Vendors Pursuant to Sections 6.13 and 6.13.1 of the Long-Term Renewable Resources Procurement Plan

Approved Vendor: \_\_\_\_\_

Project Location: \_\_\_\_\_

Name of system host: \_\_\_\_\_

Date of installation contract execution: \_\_\_\_\_

Date of installation contract amendment (if any): \_\_\_\_\_

Date of project energization: \_\_\_\_\_

As part of the Approved Vendor's application of this project to the Adjustable Block Program, the Approved Vendor attests to all of the following:

- With respect to this project, any and all marketing activity that occurred after the IPA released its final Distributed Generation Marketing Guidelines on November 26, 2018 was fully compliant with those Guidelines.
- The installation contract signed between the Approved Vendor (or its agent) and the system host is fully consistent with information in the Standard Disclosure Form provided to the system host and Program Administrator.
- The installation contract signed between the Approved Vendor (or its agent) and the system host is fully compliant with all minimum contract requirements published by the IPA on January 23, 2019.

*\*\* If an installation contract was executed between the Approved Vendor (or its agent) and the system host prior to the IPA's publication of final Distributed Generation Contract Requirements on January 23, 2019, the Part II Attestation for Approved Vendors attached in the Marketing Guidelines released December 27, 2018 shall apply. The Part II Attestation for Approved Vendors attached to the initial Marketing Guidelines (dated December 27, 2018) provides compliance and attestation information for projects with an installation contracts executed prior to January 23, 2019.*