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## Equity Eligible Contractor Proposed Process Request for Stakeholder Feedback

October 14, 2021

### Background

On September 15, 2021, Governor Pritzker signed the Climate and Equitable Jobs Act ([Public Act 102-0662](#)) into law. This Act includes significant changes to the Adjustable Block Program. As this Act also frees up additional funding for supporting new renewable energy project applications, those changes include requirements that certain Adjustable Block Program categories reopen (or open for the first time, in the case of new categories) within 90 days after the effective date.

The Illinois Power Agency ("IPA" or "Agency") is seeking feedback on certain provisions of the law in order to prepare for opening of additional blocks on December 14, 2021 in compliance with P.A. 102-0662. This feedback will be utilized by the Agency to develop interim requirements for the opening of blocks in December; such requirements may ultimately be revised and/or modified in accordance with the approval of the Agency's next Long-Term Renewable Resources Procurement Plan by the Illinois Commerce Commission, which is expected to occur in the summer of 2022. The Act creates a new category in the Illinois Adjustable Block Program ("ABP") for projects from Equity Eligible Contractors ("EECs"). Section 1-10 of the IPA Act defines an EEC as:

*"Equity eligible contractor" means a business that is majority-owned by eligible persons, or a nonprofit or cooperative that is majority-governed by eligible persons, or is a natural person that is an eligible person offering personal services as an independent contractor.*

Section 1-10 further defines an Eligible Person as:

*"Equity eligible persons" or "eligible persons" means persons who would most benefit from equitable investments by the State designed to combat discrimination, specifically:*

*(1) persons who graduate from or are current or former participants in the Clean Jobs Workforce Network Program, the Clean Energy Contractor Incubator Program, the Illinois Climate Works Preapprenticeship Program, Returning Residents Clean Jobs Training Program, or the Clean Energy Primes Contractor Accelerator Program, and the solar training pipeline and multi-cultural jobs program created in paragraphs (a)(1) and (a)(3) of Section 16-108.21 of the Public Utilities Act;*

*(2) persons who are graduates of or currently enrolled in the foster care system;*

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- (3) persons who were formerly incarcerated;
- (4) persons whose primary residence is in an equity investment eligible community.

Finally, Section 1-10 defines an equity investment eligible community as:

*"Equity investment eligible community" or "eligible community" are synonymous and mean the geographic areas throughout Illinois which would most benefit from equitable investments by the State designed to combat discrimination. Specifically, the eligible communities shall be defined as the following areas:*

- (1) R3 Areas as established pursuant to Section 10-40 of the Cannabis Regulation and Tax Act, where residents have historically been excluded from economic opportunities, including opportunities in the energy sector; and
- (2) Environmental justice communities, as defined by the Illinois Power Agency pursuant to the Illinois Power Agency Act, where residents have historically been subject to disproportionate burdens of pollution, including pollution from the energy sector.

Section 1-75(c)(1)(G)(iv)(6) describes the block opening for this category, stating:

*The Agency shall open the first blocks of annual capacity for the category described in item (vi) of subparagraph (K) of this paragraph (1), with allocations of capacity within the block generally matching the historical share of block capacity allocated between the category described in items (i) and (ii) of subparagraph (K) of this paragraph (1). The first two blocks of annual capacity for item (vi) shall be for at least 75 megawatts of total nameplate capacity. The price of renewable energy credits for the blocks of capacity shall be 4% less than the price of the last open blocks in the categories described in items (i) and (ii) of subparagraph (K) of this paragraph (1). Pricing for future blocks of annual capacity for this category may be adjusted in the Agency's second revision to its Long-Term Renewable Resources Procurement Plan. Projects in this category shall be subject to the applicable contract terms outlined in items (ii) and (iii) of subparagraph (L) of this paragraph (1).*

Section 1-75(c)(1)(K)(iv) provides the following category description:

*At least 10% from distributed renewable energy generation devices, which includes distributed renewable energy devices with a nameplate capacity under 5,000 kilowatts or photovoltaic community renewable generation projects, from applicants that are equity eligible contractors. The Agency may create subcategories within this category to account for the differences*

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*between project size and type. The Agency shall propose to increase the percentage in this item (vi) over time to 40% based on factors, including, but not limited to, the number of equity eligible contractors and capacity used in this item (vi) in previous delivery years.*

*The Agency shall propose a payment structure for contracts executed pursuant to this paragraph under which, upon a demonstration of qualification or need, applicant firms are advanced capital disbursed after contract execution but before the contracted project's energization. The amount or percentage of capital advanced prior to project energization shall be sufficient to both cover any increase in development costs resulting from prevailing wage requirements or project-labor agreements, and designed to overcome barriers in access to capital faced by equity eligible contractors. The amount or percentage of advanced capital may vary by subcategory within this category and by an applicant's demonstration of need, with such levels to be established through the Long-Term Renewable Resources Procurement Plan authorized under subparagraph (A) of paragraph (1) of subsection (c) of this Section.*

*Contracts developed featuring capital advanced prior to a project's energization shall feature provisions to ensure both the successful development of applicant projects and the delivery of the renewable energy credits for the full term of the contract, including ongoing collateral requirements and other provisions deemed necessary by the Agency, and may include energization timelines longer than for comparable project types. The percentage or amount of capital advanced prior to project energization shall not operate to increase the overall contract value, however contracts executed under this subparagraph may feature renewable energy credit prices higher than those offered to similar projects participating in other categories. Capital advanced prior to energization shall serve to reduce the ratable payments made after energization under items (ii) and (iii) of subparagraph (L) or payments made for each renewable energy credit delivery under item (iv) of subparagraph (L).*

**The Agency seeks stakeholder feedback on an approach to implementing the requirements for establishing a classification for Equity Eligible Contractors. Responses to this Request for Stakeholder Feedback should be submitted to the Agency by November 4, 2021 by emailing written responses to [IPA.Solar@illinois.gov](mailto:IPA.Solar@illinois.gov) with the subject "Responder's Name - Response to EEC Feedback Request"**

In general, responses will be made public and published on the websites of both the [Adjustable Block Program](#) and the [Illinois Power Agency](#). Should a commenter seek to designate any portion of its response as confidential and proprietary, that commenter should provide both public and redacted versions of its comments. Independent of that designation, if the Agency or the Program

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Administrator determines that a response contains confidential information that should not be disclosed, the IPA reserves the right to provide its own redactions.

## Proposed Approach

Certification of Equity Eligible Contractors (“EECs”) will occur at the Approved Vendor (“AV”) level. Any project submitted by an Approved Vendor that is certified as an EEC will be classified as an EEC project and included in the block allocation for EEC projects.

The EEC certification process will be a supplemental application to the Program’s existing Approved Vendor application. This supplemental application will be optional and will only be required by Approved Vendors seeking qualification as an EEC. This supplemental application will require the applicant to:

1. Indicate if the entity is a business, non-profit, or individual;
2. Provide ownership structure up to natural persons, public ownerships, or board composition;
3. Provide information for each individual listed in response to item 2, above, that the applicant believes satisfies the criteria of an eligible person.
  - a. The application will specify the qualifying criteria and provide links to the Illinois Solar For All [Environmental Justice \(“EJ”\) map](#) as well as a [map of R3](#) (Restore, Reinvest, and Renew) communities, which are used to determine the qualifications of an eligible person.

As quoted above, Section 1-75(c)(1)(G)(iv)(6) specifies that the initial block opening pursuant to P.A. 102-0662 shall allocate 75 MW of nameplate to the EEC block. The Agency proposes to allocate 70% of this capacity to Group B and the remaining 30% Group A, or 52.5 MW and 22.5 MW, respectively.

Provisions related to advancing of capital pre-energization will be established through the update of the Long-Term Renewable Resources Procurement. That Plan is expected to be approved by the Illinois Commerce Commission in July of 2022. At this time, EEC certification will be limited to Approved Vendors, and the Agency plans to seek stakeholder feedback as part of the Long-Term Plan on if, or how, EEC certification could be extended to Designees.

## Stakeholder Feedback Questions

Commenters should also feel free to address this proposed approach more generally, as well as other issues related to equity eligible contractor block opening implementation, as part of their response.

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A. Registration process

1. What information submitted through the in the EEC application process should be designated as confidential, if any?
2. Will an affidavit from the applicant certifying that the information submitted is complete and accurate be sufficient to verify eligibility, or should some other verification process take place to confirm that the documentation provided by the applicant meets EEC criteria? If some other verification process is needed, please specify how the proposed verification process would work and identify what entity or entities would be best suited to provide documentation that would support verification .
3. What will the qualifying criteria be for eligible persons?
  - a. What documentation should be required for those seeking to verify their classification as an eligible person? Specifically:
    - i. What approach to verification of provided materials should be used to confirm a person is a graduate of or currently enrolled in the foster care system? What approach to verification should be used to confirm graduation from or current enrollment in a foster care system outside of Illinois?
    - ii. What documentation should be required, and which verification method should be used, to verify persons who were formerly incarcerated? Should there be minimum time and level at which a person was incarcerated in order to qualify for eligibility? If so, please explain the rationale for the minimum time/level and how such information could be verified.

B. Duration of Certification

1. How long should EEC certification last? Should it coincide with the AV renewal process thus requiring reverification each year?
2. How long does eligibility need to be maintained?
  - a. Until project is Part I verified, Part II verified, for the duration of the project's contracted delivery term under the Program, or for the life of the project?
  - b. If certification isn't maintained, what will the impact be to the project?
  - c. What is the impact to projects that are assigned from an EEC AV to a non-EEC AV? Should this be allowed?

C. EEC Marketing

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1. Should EECs be provided with a unique Program badge that they can use to identify themselves as Program-approved EECs? Are there any other unique identifiers that should be provided to EECs?
2. Should Designees of EECs be provided with a Program badge or other unique branding? Additionally, should these Designees be subject to limitations in identifying themselves as the Designee of an EEC to avoid customer confusion? How will Designees of multiple Approved Vendors identify themselves with respect to the potentially different EEC status of the varied Approved Vendors with whom they work?

D. Block Sizes and Group Allocation

1. Is the Agency's proposed allocation of the nameplate capacity for the EEC blocks (70% to Group B, and 30% to Group A, respectively), a reasonable allocation? If not, what would a more appropriate allocation be? Please include an explanation of the reasoning supporting this response.
2. Should the capacity allotted for EECs be further divided across the Small DG, Large DG, and Community Solar have separate allocations, or should the allocation only exist at the Group level?

## Next Steps

Stakeholder feedback received on the proposals discussed herein will be considered for use in the opening of new blocks of Program capacity, and possible inclusion in the development of the new draft Long-Term Renewable Resources Procurement Plan.

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