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ILLINOIS POWER AGENCY

## Stakeholder Feedback Request – Enhancements to Equity Eligible Contractor Certification

April 1, 2025

The Illinois Power Agency (IPA or Agency) seeks stakeholder feedback on potential strategies to enhance the certification process for Equity Eligible Contractors (EEC). This feedback will inform new requirements as part of the IPA’s upcoming update of its Long-Term Renewable Resources Procurement Plan (to be finalized in 2026).

Stakeholders may comment on as many or as few of the items outlined within this document as they would like. Stakeholders should not feel limited by the questions offered below and may provide comments on these proposals beyond the scope of these specific questions as it relates to refinements to the EEC certification process.

**Please provide comments via email attachment to [IPA.EnergyEquity@illinois.gov](mailto:IPA.EnergyEquity@illinois.gov) with the subject “[Responder’s Name] – Stakeholder Feedback on EEC Certification” by April 18, 2025.**

In general, responses will be made public and published on the IPA’s website. 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 determines that a response contains confidential information that should not be disclosed, the IPA reserves the right to provide its own redactions.

### Background

The statutory definition of an “equity eligible contractor” is “a business [or organization] that is majority-owned [or majority-governed] by equity eligible persons,” where equity eligible persons are “persons who would most benefit from equitable investments by the State designed to combat discrimination.”<sup>1</sup> The intent behind the designation is to advance “priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes.”<sup>2</sup>

As part of its approval of the [2024 Long-Term Renewable Resources Procurement Plan](#), the Illinois Commerce Commission’s [Final Order](#) directed the Agency to conduct a stakeholder feedback process to identify the best and most appropriate, balanced methods to prevent manipulation of the EEC category without overly burdening Equity Eligible Persons (EEPs).<sup>3</sup> While the EEC category was created in Illinois Shines to expand access to clean energy economy for historically excluded individuals and businesses,

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<sup>1</sup> 20 ILCS 3855/1-10

<sup>2</sup> 20 ILCS 3855/1-75(c-10).

<sup>3</sup> Final Order at 144, ICC Docket No. 23-0714, Feb. 20, 2024

concerns have emerged that the current eligibility requirements may be allowing entities to qualify for the category despite not aligning with the intended beneficiaries of the designation. This has raised questions about whether refinements to the certification process are needed to ensure that EEC category of the Illinois Shines program is reserved for businesses that genuinely face structural barriers to economic participation in the clean energy sector and that the Program's equity goals are being advanced.

The IPA is committed to ensuring that the EEC certification process remains aligned with statutory intent, promotes equitable participation, and maintains Program integrity. To that end, the Agency seeks stakeholder input on potential refinements to the EEC certification process to:

- Ensure meaningful ownership and control by EEP majority-owners of EECs.
- Prevent gaming or manipulation of the EEC category while allowing for legitimate business partnerships.
- Assess whether socio-economic status should be a factor in EEC eligibility.
- Minimize administrative burdens on businesses that qualify for EEC status in good faith.

The IPA has received feedback that some EEC-certified businesses may not be actively managed or controlled by EEPs, raising concerns about ownership arrangements where EEPs serve as passive majority-owners while non-EEP entities manage operations. Additionally, reports of "sleeving" or "pass-through" structures, where non-EEP firms enter into superficial partnerships with EEPs to gain access to EEC benefits, have raised questions about the need for stronger safeguards to prevent manipulation.

Further discussion is also needed on whether the current EEC eligibility criteria sufficiently align with the category's broader equity objectives. While EEC qualification is currently based on majority ownership by EEPs, the IPA is seeking input on whether additional verification, such as demonstrating socio-economic disadvantage, should be considered to ensure the Program prioritizes businesses that truly face structural inequities in the clean energy sector.

The IPA recognizes that it is important to minimize administrative burdens on small and emerging clean energy businesses. Strengthening certification requirements must be balanced with ensuring accessibility and transparency so that businesses that genuinely qualify as EECs are not unintentionally excluded due to overly complex requirements.

Through this Stakeholder Feedback Request, the IPA seeks input on potential refinements to the EEC certification process. This feedback will help the Agency develop enhancements for the 2026 Long-Term Renewable Resources Procurement Plan, ensuring that the EEC category continues to support equitable access to Illinois' clean energy economy while maintaining the integrity and effectiveness of the Equity Accountability System. The ideas and questions presented in this document are intended as starting points for discussion. The IPA welcomes stakeholder recommendations, alternative approaches, and new ideas that can strengthen the EEC certification process while remaining true to the statutory intent of advancing equity in the clean energy sector.

**Questions for Stakeholder Feedback:****A. Ownership and Control by Equity Eligible Persons**

The current EEC certification process requires that a business be majority-owned by EEPs. However, the Agency is concerned about ownership arrangements where the majority-owner EEP is a silent partner with limited involvement in the business, while the minority owner is a large, established company managing all business operations.

1. In the 2026 Long-Term Plan, should the Agency propose requiring additional documentation or evidence to demonstrate that the majority-owner EEP(s) has/have active control and management of the business? If so, what types of governance documentation would be appropriate (e.g., operating agreements, bylaws)?
  - a. What should the Agency consider as qualifying criteria for demonstrating 'active control and management' of a business by majority-owner Equity Eligible Persons (EEPs)? Are there specific roles, responsibilities, or decision-making authorities that should be used to define this standard?
2. Should the IPA propose requiring periodic re-certification or audits to confirm that EEPs remain actively involved in business operations? If so, how frequently should these reviews occur?
3. What alternative approaches could be used to ensure EEPs are not being used as figureheads to qualify businesses for EEC status in a way that conflicts with the equity objectives of CEJA? Please include detail related to any suggestions made in response to this question.

**B. Verifying the Socio-Economic Status of Majority-Owner EEPs**

During the development of the 2024 Long-Term Plan, the ICC's Final Order rejected the IPA's proposal to require majority-owner EEPs to demonstrate socio-economic status that signifies disadvantage. However, concerns remain regarding whether all EEPs benefiting from the EEC category align with the intent of CEJA to support historically disadvantaged individuals and businesses.

1. In the 2026 Long-Term Plan, should the Agency propose requiring EEP majority-owners to demonstrate their socio-economic status (e.g., income documentation) to ensure they are individuals who would most benefit from equitable investments? If so, what types of documentation would be appropriate?
  - a. What should be considered when determining proper income cut-offs for eligibility, and how might those thresholds be set to balance inclusivity with the intent of prioritizing individuals facing systemic economic barriers?
  - b. What sources of verification should be utilized to authenticate socio-economic status, and what challenges might arise in collecting and assessing this information?
2. Are there other alternative measures that the Agency should consider to ensure the EEC certification process is fair and effective? Please include detail related to any suggestions made in response to this question.

### **C. Preventing Manipulation of the EEC Category**

The Agency is concerned about potential manipulation of the EEC category, such as through “sleeving” or “pass-through” arrangements, where non-EEC companies form partnerships with EEPs to access EEC benefits without genuinely advancing equity goals. Additionally, the Equity Accountability System Assessment highlighted that some EECs are relegated to superficial roles in project development, such as equipment procurement, rather than engaging in substantive project management or operations. These issues undermine the purpose of the EEC category, which is intended to promote meaningful participation and economic opportunity for businesses owned and controlled by EEPs.

1. Should the Agency require EECs to demonstrate a minimum level of involvement in project development, construction, or operations to qualify for the EEC category in Illinois Shines? If so, what criteria should be used to measure involvement?
2. Should the Agency create a scoring or prioritization system within the EEC category in Illinois Shines to reward projects where EECs serve as the primary developer or operator? If so, what factors should be included in such a system?
3. Should the Agency implement a scoring or prioritization system within the EEC category in Illinois Shines to reward EECs that demonstrate a stronger commitment to equity (e.g., by employing a higher percentage of EEPs or operating in EIEC areas)? If so, what criteria should be used for scoring?
4. Should additional disclosure and transparency be required regarding EEC ownership structures and subcontracting arrangements?
5. What additional measures could help deter sleeving or pass-through structures, where EEP ownership is nominal but non-EEC entities control operations and enjoy most of the financial benefits?
6. What best practices should the IPA consider to ensure legitimate EEC participation without placing undue burdens on EEP majority-owners?

### **D. Other Enhancements to the EEC Certification Process**

The Agency welcomes additional suggestions for improving the EEC certification process to ensure it aligns with the statutory goals of advancing equity in the clean energy economy.

1. Are there other changes or enhancements to the EEC certification process that the Agency should consider? Please provide specific recommendations.
2. Are there any best practices from other industries or programs that could serve as a model for strengthening the EEC certification process?