

Monday, February 28th

Climate Jobs Illinois
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To the Illinois Power Agency:

Climate Jobs Illinois is a growing coalition of labor unions united to combat climate change and reverse inequality. We are educating our fellow workers, building alliances, and advocating for policy solutions demonstrating that we do not have to choose between a healthy planet and good jobs.

This historic passage of the Climate and Equitable Jobs Act (“CEJA”) (Public Act 102-0662) places Illinois on a path toward 100% clean energy and makes meaningful investments in training a diverse workforce for the emerging green energy economy. We urge the Illinois Power Agency (“Agency”), as it adopts rules and regulations to implement CEJA, to promote the creation of high-road jobs that provide family-sustaining wages, access to affordable health care, attention to worker safety, and opportunities for skills training and advancement.

We appreciate the opportunity to submit comments on the 2022 Long-Term Renewable Resources Procurement Plan and thank the Agency for doing the necessary work to propel the state’s clean energy sector.

I. RECOMMENDATIONS FOR COMPETITIVE PROCUREMENT PROCESS

a. The Agency should require that project labor agreements must be filed with a bid application.

Section 1-75(c)(1)(Q)(2) of the Illinois Power Agency Act (“IPA Act”) provides that REC procurements from new utility-scale wind, utility-scale solar, and brownfield site photovoltaic projects must be built by general contractors that have entered into a project labor agreement prior to construction. We understand that the Agency is interested in feedback about whether a project labor agreement (“PLA”) must be filed with a bid application or six months to one year after submission of the bid, with a winning bidder then losing its posted collateral should it fail to provide an acceptable PLA within that time frame.¹

We urge that the Agency require that a PLA be filed with a bid application. PLAs promote job stability and prevent costly delays by 1) providing uniform contract terms, 2) promoting labor peace by guaranteeing no-strikes and no-lockouts, 3) providing alternative dispute resolution procedures, and 4) assuring that contractors get immediate access to a pool of well-trained and highly-skilled workers through union referral procedures during the hiring phases and throughout the life of the project.² PLAs help employers attract and retain more skilled workers who do higher quality work and avoid delays.

¹ Illinois Power Agency, Draft 2022 Long-Term Renewable Resources Procurement Plan, pg. 114.

² Fred B. Kotler, J.D., Cornell University ILR School, *Project Labor Agreements in New York State: In the Public Interest*, (March 2009), https://ecommons.cornell.edu/bitstream/handle/1813/74340/Project_Labor_Agreements5_26_091.pdf?sequence=1&isAllowed=y (last accessed February 22, 2022).

b. The Agency should require competitive bidders to submit a plan demonstrating compliance with the minimum equity standards that apply to the Agency’s noncompetitive procurement programs under Section 1-75(c-10).

The IPA Act requires that all applications for the Agency’s noncompetitive procurement must comply with specific minimum equity commitments. 20 ILCS 3855/1-75(c-10)(1). Starting in the delivery year immediately following the next long-term renewable resources procurement plan, at least 10% of the project workforce for each entity participating in a procurement program must be done by equity-eligible persons or equity-eligible contractors. *Id.* For each delivery year thereafter, the Agency must increase the minimum percentage to ensure that 30% of the project workforce for each participating entity (measured as a statewide average) is performed by equity-eligible persons or contractors by 2030. *Id.* Section 1-75(c-10)(3) of the IPA Act directs the Agency to develop requirements for applications and to include in its bid evaluation methodology preferences for bidders that utilize a higher percentage of equity-eligible contractors.

The Agency is considering whether applications should require bidders to submit a plan demonstrating compliance with the minimum equity standards that apply to the Agency’s noncompetitive procurement programs under Section 1-75(c-10) of the IPA Act.³ Based on a review of the plan submitted by a bidder, the Agency would then identify bids that demonstrate comprehensive compliance above and beyond minimum requirements and give such bids priority over other bidders that bid the same price. *Id.* Also, under consideration is whether the Agency should provide a beneficial price adjustment of 10 percent for bidders who have submitted a comprehensive compliance plan and not just a plan that meets minimum commitments. *Id.*

We recommend that the Agency require bidders to submit a plan demonstrating compliance with the minimum equity standards that apply to the Agency’s noncompetitive procurement programs under Section 1-75(c-10). A recent EPA analysis demonstrates that the most severe harms from climate change fall disproportionately upon underserved communities who are least able to prepare for, and recover from, heat waves, poor air quality, flooding, and other impacts.⁴ Competitive bidders should be given the strongest possible incentives to hire workers from communities hardest hit by the climate crisis.

For these same reasons, we recommend that the Agency give priority to and provide a beneficial price adjustment of 10 percent to bidders who demonstrate comprehensive compliance exceeding minimum requirements. When determining whether a bidder has a comprehensive compliance plan that exceeds minimum equity requirements, the Agency should take into consideration a number of factors such as 1) the number of equity-eligible persons or contractors hired above the minimum equity standard, 2) the amount of wages and health benefits being paid to workers, and 3) available training and mentorship opportunities such as apprenticeships for equity eligible persons.

II. RECOMMENDATIONS SELF-DIRECT RENEWABLE PORTFOLIO STANDARD COMPLIANCE PROGRAM

³ Illinois Power Agency, Draft 2022 Long-Term Renewable Resources Procurement Plan, pg. 115.

⁴ Environmental Protection Agency, Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts, pg. 6, (September 2021) https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability_september-2021_508.pdf, (last accessed February 22, 2022).

a. The Agency should give priority to projects located in Energy Transition Community Grant Communities.

Section 1-75(c)(1)(R) of the IPA Act requires that the Agency “establish a self-direct renewable portfolio standard compliance program for eligible self-direct customers that purchase renewable energy credits from utility-scale wind and solar projects through long-term agreements for purchase of renewable energy credits.”

We understand that the Agency is interested in feedback for how to better sync Section 1-75(c)(1)(R)’s application and selection processes with the prevailing wage and PLA requirements found in subparagraphs (P) and (Q) of Section 1-75(c), as well as the minimum equity standards found in subsection (c-10). We support the Agency’s proposal to give priority to projects located in Energy Transition Community Grant communities. We believe this is the best and easiest way to sync these paragraphs.

III. RECOMMENDATIONS FOR THE ADJUSTABLE BLOCK PROGRAM

a. The Agency should expand opportunities for diverse individuals to participate as Approved Vendors and Designees in the Adjustable Block Program.

Participation in the Adjustable Block Program takes place through the Approved Vendor process.⁵ Approved Vendors serve as the contractual counterparty with the utility and are responsible for submitting necessary paperwork to the Program Administrator, maintaining collateral requirements, and providing ongoing information and reporting. *Id.* Approved Vendors are responsible for coordinating downstream information from installers/developers as well as individual system owners. *Id.*

Designees are third-party entities working with or on behalf of Approved Vendors for participating projects. *Id.* They have direct interaction with end-use customers on behalf of the Approved Vendor or another Designee such as installers, marketing firms, community solar subscriber agents, lead generators, and sales organizations. *Id.*

We support the Agency’s proposal to expand the Adjustable Block Program Administrator’s role by establishing a mentorship/training program for new Approved Vendors and Designees that are minority-owned, woman-owned, veteran-owned, disability-owned, or considered a small business. It is important that the Agency encourage diverse candidates to participate as Approved Vendors and Designees.

Moreover, we support the Agency’s proposal to require Approved Vendors and Designees to indicate if they are minority, women, disabled, or veteran-owned, and provide an estimate of the percentage of staff at the time of registration and subsequent annual renewals who are women, disabled, veterans, or minorities. Collecting and maintaining demographic information allows the Agency to identify needed improvements in the Approved Vendor and Designee application and approval process. The resultant analyses can be used, for example, to plan specific features of interventions – such as outreach and mentorship programs – to increase the participation of historically underrepresented communities.

⁵ Illinois Power Agency, Draft 2022 Long-Term Renewable Resources Procurement Plan, pg. 170.

b. The Agency should prioritize uncontracted capacity for public schools.

CEJA makes significant changes to the Adjustable Block Program. As the program shifts to a schedule of annual blocks of capacity and away from a structure where blocks remain open until block capacity is exhausted, there is a potential for unused or uncontracted capacity to remain at the close of a delivery year. To the extent there is uncontracted capacity from any block in any categories at the end of a delivery year, the Agency must redistribute that capacity to one or more other categories giving priority to categories with projects on a waitlist. 20 ILCS § 3855/1-75(c)(1)(K).

In its 2022 proposed long-term renewable resource procurement plan, the Agency has proposed to prioritize awarding uncontracted capacity to Equity Eligible Contractors, Small DGs, and Community-Driven Community Solar. However, our coalition recommends that the Agency should consider giving public schools priority for uncontracted capacity.

Currently, the “public schools” category comprises at least 15% of the Adjustable Block Program capacity. 20 ILCS § 3855/1-75(c)(1)(K)(1)(k)(iv). Schools represent an untapped source of potential for increasing renewable energy. Schools have a unique advantage when it comes to solar energy due to the structure of their facilities. Many school buildings in the United States have large, flat rooftops that are ideal for rooftop solar photovoltaic (PV) or solar thermal systems.⁶ Additionally, schools often have parking lots where solar PV canopies can be installed to harness the sun’s power. *Id.* Similarly, schools that have vacant land areas as part of their campus can create modest solar PV farms to further maximize their energy output. *Id.*

c. The Agency should consider a different pricing model or mechanism to reflect the increasingly diverse array of participants included in the Adjustable Block Program.

The Agency proposes to continue using the REC Pricing Model, a modified version of the National Renewable Energy Laboratory’s (“NREL”) Cost of Renewable Energy Spreadsheet Tool (“CREST”), to calculate REC prices under the Adjustable Block Program. However, we believe that the current REC Pricing Model has several shortcomings.

First, the REC Pricing Model fails to take into account the diverse array of participants in the Adjustable Block Program. CEJA expands program participation to include both private and public sector participants. With the diversification of the Adjustable Block Program, the Agency must be cautious that its REC Pricing Model does not favor or disfavor particular systems or ownership structures available to participants. For example, with some exceptions, the REC prices for public schools were modeled using the same assumption as distributed generation.⁷ The REC prices reflect adjustments for the Federal Investment Tax Credit (“ITC”) and bonus depreciation. As a result, REC pricing favors third-party ownership and a leasing arrangement where the third party can take advantage of the ITC and bonus depreciation.

However, the preference for third-party ownership and leasing arrangements limits ownership structures and arrangements available to public school participants. Because public schools cannot take advantage of the ITC or bonus depreciation, REC prices will not incentivize

⁶ The Solar Foundation, *Brighter Future: A Study on Solar in U.S. Schools*, pg. 6, (September 2014) https://www.seia.org/sites/default/files/2017-09/brighter-future-a-study-on-solar-in-us-schools_0.pdf (last accessed February 23, 2022).

⁷ Illinois Power Agency, *Draft 2022 Long-Term Renewable Resources Procurement Plan*, App. D, at 16.

public school ownership of the system. Furthermore, the REC Pricing Model fails to take into consideration the unique funding opportunities available to public schools, such as governmental debt financing or federal grant funding.

Secondly, the Commission has previously expressed concerns that the REC prices were too high which resulted in oversubscriptions and burdensome waitlists.⁸ The Commission concluded that “REC prices must be lower to both efficiently invest ratepayer money and limit oversubscription resulting in a lottery process.”⁹ Furthermore, the Commission held that “the IPA must recognize market signals rather than solely relying on its cost modeling approach.”¹⁰

We recommend that the Agency develop a different pricing model or mechanism, one that is better suited to setting prices for the increasingly diverse array of participants included in the Adjustable Block Program. Alternatively, if the REC Pricing Model proposed in the Draft Plan were to be adopted in the short term, the Agency should calculate separate REC prices for owned systems and leased systems to reflect the unique economics and incentives available under each arrangement. We believe that these changes will avoid preferences for third-party ownership and leasing arrangement as well as address the Commission’s previous concerns of lowering REC prices. Furthermore, calculating separate REC prices for owned systems and leased systems allows public schools to take advantage of their own unique financing opportunities.

d. The Agency should require Approved Vendors and Designees to report detailed workforce information.

The Program Administrator currently requests Approved Vendors to report on the planned usage of job training program graduates as part of the project application process and requires reporting on job trainee hiring as part of the annual reports submitted by each Approved Vendor.¹¹ However, the Agency should also require applicants to provide other workforce information as part of the application process, including the following information:

- **Identify whether project owners have executed a project labor agreement.** The coordination achieved through PLAs can significantly enhance the economy and efficiency of the project. PLAs help eliminate costly delays by encouraging labor peace and offering a dispute resolution mechanism on a wide range of issues.¹² PLAs also help ensure compliance with laws and regulations governing workplace safety and health, equal employment, opportunity and labor and employment standards. *Id.*
- **Identify whether projects owners have committed to hiring a specified number of local workers.** Hiring local workers ensures that communities, where renewable energy projects are located, can glean the highest economic benefit. Studies have shown that

⁸ *In re Illinois Power Agency*, ICC Docket No. 19-0995, Final Order, at 46 (Feb. 18, 2020).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Illinois Power Agency, Draft 2022 Long-Term Renewable Resources Procurement Plan, pg. 172.

¹² Fred B. Kotler, J.D., Cornell University ILR School, *Project Labor Agreements in New York State: In the Public Interest*, (March 2009)

https://ecommons.cornell.edu/bitstream/handle/1813/74340/Project_Labor_Agreements5_26_091.pdf?sequence=1&isAllowed=y (last accessed February 22, 2022).

most out-of-state workers take their income back home with them upon project completion, whereas local workers tend to spend more locally.¹³

- **Identify whether project owners have executed Community Workforce Agreements.** Community Workforce Agreements (CWAs) describe a substantive package of high-road benefits by the project developer that addresses real community needs. CWAs are similar to PLAs but can be more expansive in scope, often including community organizations as signatories. According to the AFL-CIO, CWAs “go well beyond the traditional experience and use of PLAs” to “explicitly address the legitimate needs and interests of urban communities that have historically been excluded from the benefits of economic development.”¹⁴ Additionally, CWAs frequently include local hire provisions, targeted hire of low-income or disadvantaged workers, and the creation of pre-apprenticeship pathways for careers on the project.
- **Identify whether projects owners have incorporated responsible contractor standards.** Responsible contractor standards typically require contractors to show proof of participation in apprenticeship training programs, proof of certificates of insurance, prequalification surveys, and compliance with all local, state, and federal laws. These provisions ensure that projects are built by professional, competent contractors with proven track records.

Furthermore, we urge the Agency, if it determines that it has authority to do so, to bar entities from participating in the Adjustable Block Program if they do not demonstrate compliance with the above requirements.

- e. **The Agency should ensure that participants in the Community-Driven Community Solar block provide “direct and tangible and connection and benefits to the communities they serve.”**

The Community-Driven Community Solar (“CDCS”) category includes community solar projects up to 5 MW that meets the criteria to be classified as community-driven. The CDCS category will comprise at least 5% of the ABP generally and these projects are intended to provide a more direct and tangible connection and benefits to the communities in which they operate.

Section 1-75(c)(1)(K)(v) of the IPA Act, details the following additional selection criteria, that may be used to give priority to certain CDCS projects:

¹³ A recent study in Wisconsin showed that 19 proposed solar projects could generate more than \$195 million in economic activity in the regions in which they are built if local workers are used. In contrast, employing an out-of-state workforce for these projects would generate between \$83 and \$120 million less economic activity. See Dale Knapp, Forward Analytics, *Capturing The Sun: The Economic Benefits of Using Local Workers on Wisconsin Solar Projects*, pg. 1, (October 2021) https://www.wisbusiness.com/wp-content/uploads/2021/10/Solar-Project-Report-Reduced.FINAL_.pdf last accessed February 22, 2022).

Similarly, a recent study in Minnesota showed that wages earned by in-state construction workers are re-circulated in the economy, creating additional jobs at stores, restaurants, and local businesses. Conversely, out-of-state workers tend to limit spending to a small portion of their disposable income while working, saving major purchases like cars, clothing, and fine dining for businesses in their home states. See Katie Hatt and Lucas Franco, *Catching the Wind: The impact of local vs. non-local hiring practices on construction of Minnesota wind farms*, pg. 1, (June 2018), <http://northstarpolicy.org/wp-content/uploads/2018/06/Catching-the-Wind-North-Star.pdf> (last accessed February 23, 2022).

¹⁴ Emerald Cities Planning Committee and Building and Construction Trades Department AFL-CIO Community Workforce Agreements: The Pathway to Coalitions Between Labor and Community, March 26, 2010.

- Whether they have been developed in collaboration with or to provide complementary opportunities for the Clean Jobs Workforce Network Program, the Illinois Climate Works Preapprenticeship Program, the Returning Residents Clean Jobs Training Program, the Clean Energy Contractor Incubator Program, or the Clean Energy Primes Contractor Accelerator Program
- Whether they will increase the diversity of locations of community solar projects in Illinois, including by locating in urban areas and population centers
- Whether they are located in Equity Investment Eligible Communities
- Whether they are developed by an equity eligible contractor; or
- Whether they will otherwise meaningfully advance the goals of providing more direct and tangible connection and benefits to the communities which they serve or in which they operate and increasing the variety of community solar locations, models, and options in Illinois.

The Agency seeks feedback on how best to accomplish these evaluations. When making these evaluations, we recommend that the Agency consider the following:

- Whether a CDCS project owner has partnered with preapprenticeship or workforce development programs that have written agreements with registered apprenticeship programs,
- Whether a CDCS project owner is committed to locally hiring from Equity Investment Eligible Communities, and
- Whether a CDCS project owner has signed a Community Workforce Agreement.

IV. RECOMMENDATIONS FOR ILLINOIS SOLAR FOR ALL PROGRAM

a. The Agency should track trainees’ demographic information along with other trainee information.

CEJA provides that the Illinois Solar For All program creates a job training program, known as the “solar training pipeline program.” The job training program is to be “designed to ensure that entities that offer training are located in, and trainees are recruited from, the same communities that the program aims to serve and that the program provides trainees with the opportunity to obtain real-world experience.” 220 ILCS § 5/16-108.12(a)(1).

Additionally, all Illinois Solar For All sub-program descriptions direct that “[c]ompanies participating in this program that install solar panels shall commit to hiring job trainees for a portion of their low-income installations” and further that, “an administrator shall facilitate partnering the companies that install solar panels with entities that provide solar panel installation job training.” 20 ILCS § 3855/1-56(b)(2)(A), (B), (C) and (E).

The Agency seeks stakeholder feedback on these annual trainee worker requirements including whether to track trainee demographic information. We recommend that the Agency track demographic information along with other trainee information gathered on current trainee information forms. Collecting demographic data is important for a several reasons. First, collecting more data helps with decisions on resources allocation. For example, failing to collect demographic data may inadvertently lead to resources being funneled to programs or outreach activities that fail to reach underserved communities most impacted by climate change such as minorities or impoverished communities. Furthermore, collecting demographic data can show the Agency whether certain groups are more or less likely to apply or gain admission to training

programs, which can help create more understanding and better streamline resources for training and funding.

CONCLUSION

Workers are significant stakeholders in policy development and implementation of energy and climate goals. The transition to clean energy should include complementary policies that address economic inequalities, high road job preservation, and development and access to good-paying jobs in the green economy.

Again, we appreciate the opportunity to submit comments on the 2022 Long-Term Renewable Resources Procurement Plan.