

# Comments and Proposed Edits on the Draft Long-Term Renewable Resources Procurement Plan

## Introduction

We - the below-listed Joint Commenters - value the opportunity to provide feedback on the Illinois Power Agency’s (IPA) development of its draft Long-Term Renewable Resources Procurement Plan (LTRRPP or Plan). These comments are intended to address the Diversity, Equity, and Inclusion questions raised by the IPA as well as other questions that relate back to Diversity, Equity, and Inclusion.

The Joint Commenters include members of and participants in the [Illinois Clean Jobs Coalition](#), however the views in these comments are our own and do not necessarily represent the view of that entire coalition.

Central Illinois Healthy Community Alliance	Little Village Environmental Justice Organization (LVEJO)
Prairie Rivers Network	Vote Solar
Chicago Lawyers’ Committee for Civil Rights	Illinois People’s Action
Faith Coalition for the Common Good	Sierra Club - IL Chapter
ONE Northside	Union of Concerned Scientists (UCS)
Central Road Energy	ACES 4 Youth
StraightUp Solar	Climate Reality Project Chicago Metro Chapter
Faith Coalition for the Common Good	Environmental Law & Policy Center
The Strategic Collaboration Group, Inc.	

# Summary

Revising the Plan in the wake of the many changes to IPA programs and procurements in the Climate and Equitable Jobs Act (“CEJA”) involved significant work. We sincerely appreciate the effort the IPA put into this revision. The purpose of these comments is to highlight areas of the draft Plan that can be improved, respond to some of the Agency’s requests for feedback, and indicate support for several of the choices made.

These comments do not address all facets of solar procurement, but instead focus on the issues most closely related to Diversity, Equity, and Inclusion. CEJA contains all the pieces to create a virtuous cycle – equity eligible individuals are trained for solar jobs and contracting opportunities, state solar incentives ensure these new jobseekers and contractors have opportunities to participate in the clean energy economy, and carefully designed programs make solar real in equity eligible communities, helping recruit the next cohort into the training program while reducing energy bills and building wealth in communities often left behind.

The LTRRPP is key to ensuring the CEJA training and contractor development efforts are truly pipelines to jobs and opportunity. We fully support the concepts of an equity eligible contractor designation, an ABP equity eligible category, and minimum equity requirements for participation in any state solar procurement. We also recognize the challenges of implementing these programs in a way that delivers real relief where it is most needed, especially when equity eligibility is defined without referencing race or ethnicity. For the interim, we believe the maps described in CEJA, which are based on the use of EJScreen and the R3 areas, are the best working approximation of communities where jobs, opportunities, and utility bill relief are most needed.

In the short term, we urge the Agency to adopt flexible definitions of equity eligibility that encompass all roles in the contracting ecosystem - Approved Vendors, prime contractors and subcontractors - to catalyze inclusive growth among all participant types. In the longer term, the disparity study will be of utmost importance. It is critical, even in the absence of a “ready, willing and able” Black and Brown workforce and contractor pool, to distribute work in a way that closely mirrors our diverse state and our data collection must reflect that goal. We ask the Agency to continue to collaborate with DCEO and its jobs and contracting programs, with the larger solar industry, and with environmental and social justice advocates to deliver on the promise of CEJA both in terms of renewables build and the vision of an equitable renewable energy space.

We also want to note our support for the depth and breadth of this plan and its alignment with CEJA’s commitment to building a nation-leading renewable energy economy with equity and accountability woven throughout:

- We like the list of resources to be included with the Energy Workforce Database (P. 60) and hope it will expand to be a one-stop-shop linking all the technical support agencies

in the workforce/contracting space including Department of Corrections training programs in renewable energy.

- We agree with the Agency's decision to start slowly with an across-the-board Minimum Equity Standard (P. 300), and not set different standards for different parts of the state.
- We think the outlined Compliance Plan Requirements (P. 301) will be a workable starting point.
- We agree with the intent of the three-point Compliance Plan Assessment (P. 302) and the flexible approach to helping all contractors remedy deficiencies in their plans.
- We see the Compliance Plan Timeline (P. 303) as very reasonable, assuming there will be ongoing initial education webinars and training sessions so new procurement participants are constantly being onboarded.
- We see the Agency's Compliance Plan Reporting (P. 304) requirements as reasonable but encourage the agency to adopt an expanded mid-year check-in during the early years of the program to help paint a clearer picture of actual equity performance and allow for course corrections.
- We appreciate the detailed Minimum Equity Standard Waiver Process (P. 304) and the thoughtful list of interventions and remedies. We believe it is essential to review this data at the end of each delivery year to see where in the state waivers seem to be most needed and which approaches are most successful in boosting equity performance to acceptable levels.
- We believe the recommended enforcement (P. 305) actions for contractors not complying with minimum equity standards are tough but fair as long as the Agency establishes, on a case-by-case basis, the circumstances behind the noncompliance and limits these harsh penalties to flagrant cases.
- The suggestions for recruitment (P. 306) of a diverse and equitable workforce are comprehensive and in line with our thinking, but we do hope the Agency will specifically call out the Returning Residents Clean Jobs Training Program as well as the other CEJA offerings.
- The plans for ongoing stakeholder engagement (P. 306) to ensure that Illinois is progressing toward CEJA's equity goals are much appreciated.

# Targeted Comments and Proposed Edits

## Energy Equity Workforce Database

Page 60

Further down in our recommendations, we will suggest that the Agency develop a standard certification process for Equity Eligible Persons that allows individual job-seekers to claim that status, and the preferential treatment it confers, without volunteering sensitive information.

We would also like to see the Database feature a list of agencies and organizations that can provide technical assistance to new and disadvantaged contractors.

We recommend the following additions to the Agency's descriptive feature list for the Energy Equity Workforce Database on page 60 to achieve these goals:

This online tool shall include a broader set of capabilities and information, including:

1. "a map of environmental justice and equity investment eligible communities
2. job postings and recruiting opportunities;
3. a means by which recruiting clean energy companies can find and interact with current or former participants of clean energy workforce training programs and job seekers certified as Equity Eligible Persons;
4. information on workforce training service providers and training opportunities, including the Returning Residents Clean Jobs Training Program;
5. renewable energy company diversity reporting;
6. a list of equity eligible contractors;
7. reporting on outcomes of the workforce programs of the Energy Transition Act; ~~and~~
8. information about the Jobs and Environmental Justice Grant Program, the Clean Energy Jobs and Justice Fund, and other sources of capital, and—
9. A list of agencies and organizations that can provide technical support and assistance to EECs and EEPs.

## Competitive Procurements

Page 115

### **Optimizing Energy Transition Community Grant Areas**

The Clean Jobs Coalition proposes that projects located in Energy Transition Community Grant communities be on a level playing field with projects that feature high commitments to equitable

workforce and contracting. Therefore, we recommend that a “beneficial bid price adjustment” be applied to projects located in Energy Transition Community Grant areas.

Proposed Red Lines to Page 115:

Other amendments to the IPA Act through Public Act 102-0662 create obligations for the Agency to “encourage participating projects to use a diverse and equitable workforce and a diverse set of contractors.” Under new subparagraph (P) of Section 1-75(c)(1), the Agency must optimize the procurement of RECs from utility-scale projects located in communities eligible to receive Energy Transition Community Grants. To “optimize” procurement from those areas, the Agency proposes that bids received through competitive procurements for proposed projects located in Energy Transition Community Grant communities receive a beneficial bid price adjustment, ~~that meet price benchmarks and otherwise qualify would be selected first, regardless of price, prior to selecting other bids.~~

### **Equity Accountability in Competitive Procurements**

We believe that this component of the Equity Accountability System - namely, its applicability to competitive procurements - is best served by a beneficial bid price adjustment. Using the Equity Accountability System to break ties between two projects that bid the same price is unlikely to incentivise equitable behavior to the same degree that a beneficial price adjustment would. We support the Agency’s proposal to use a 10% price adjustment to bids and recommend that it apply to bidders that can demonstrate that 50% or more of the work will be done by Equity Eligible Persons or Equity Eligible Contractors. Alternatively, the Agency could consider a sliding scale of bid price adjustment based on the relative degree of equity commitments.

Proposed edits to Page 115:

Section 1-75(c-10)(3) directs the Agency to develop requirements for applications and 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) (described in more detail in Chapter 10). 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. Also under consideration is providing~~ a beneficial price adjustment of 10 percent for bidders that have submitted a comprehensive compliance plan and not just a plan that meets minimum commitments. For these purposes, the Agency defines comprehensive compliance as having more than fifty percent of the work done by Equity Eligible Persons or Equity Eligible Contractors. Similar to the requirements above regarding Project Labor Agreements, the applicant will forfeit their posted collateral should they fail to demonstrate compliance with their commitments.

## Reallocation of Uncontracted Capacity

*Page 152*

We support the Agency's proposed prioritization of uncontracted capacity set forth on page 151 of the Plan, but urge the Agency to allow more time for the DCEO contractor programs to get up and running before redistributing unused EEC capacity. The first cohort of contractors in the prime contractor accelerator may not be ready for any project work for a year or more after the cohort is selected. We suggest the Agency allow an additional 12 months before redistributing funds from the first few EEC blocks, which is captured in the following suggested edits to page 152:

The Agency will first determine the amount of uncontracted capacity across all program categories, with the exception of the EEC category, within one week after the closing date of that year's annual blocks. Uncontracted capacity in the EEC category will not be reallocated until 12 months after the closing date of that year's annual blocks. Uncontracted capacity in the Small DG, Large DG, Community Driven Community Solar, Traditional Community Solar, and Public School categories from the most recent year and uncontracted capacity from the EEC category from the prior delivery year will be summed to a total amount, with distribution of that total amount made according to the prioritization below.

## Equity Eligible Contractor Advance of Capital

*Page 160*

We see provisions for advancing capital prior to energization as critical to growing a thriving pool of equity eligible contractors. Rather than relying on hard and fast limits like 25%, we encourage the Agency to make determinations on a case-by-case basis by looking at contractor years in business, contractor history with past capital advances, equity commitments, and type and location of project. We believe it is within the spirit of the Act for the Agency to use its resources to underwrite any type of necessary capitalization until the full suite of inclusive financing (e.g. the Clean Energy Jobs and Justice Fund) and contractor grant programs (e.g. the Jobs and Environmental Justice Grant Program) are up and running. We propose the following changes to page 160:

For this draft 2022 Long-Term Plan, the Agency proposes that up to ~~25%~~100% of contract value may be advanced under this provision.

## Defining Eligibility for the Equity Eligible Contractor Category

*Page 160*

We urge the Agency to reconsider its interpretation of Section 1-75(c)(1)(K)(iv) of the IPA Act for the following three reasons. First, the intent of the legislation is to support businesses owned by Equity Eligible Persons and to facilitate their advancement. Second, contrary to the IPA's interpretation, the term "applicant" remains undefined and in no way limits EEC eligibility to Approved Vendors. Third, the Agency's proposed approach already expands the definition of "applicant" beyond the interface with the state by requiring all Designees to be EECs.

First, the spirit of the law is designed to prioritize businesses run by Equity Eligible Persons. See Section 1-75(c-10):

"It is the purpose of this subsection (c-10) to create an equity accountability system, which includes the minimum equity standards for all renewable energy procurements, the equity category of the Adjustable Block Program, and the equity prioritization for noncompetitive procurements, that is successful in advancing 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. Further, it is the purpose of this subsection to ensure that this equity accountability system is successful in advancing equity across Illinois by providing access to the clean energy economy for businesses and workers from communities that have been historically excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes."

The Act states very clearly the priority of supporting disadvantaged businesses. It is therefore hard to imagine that the language was designed to only include Approved Vendors, who may only see 5-15% of the total contract value and are limited in number. In addition, the Act's additional emphasis on the importance of a fully functional Equity Accountability System, of which the EEC category of the Adjustable Block Program is an integral component, also renders this limited interpretation insupportable. We believe that an interpretation that restricts qualifying projects to those submitted by EEC Approved Vendors will hinder the Equity Accountability System's success. This harm will be even more acute over the period covered by this Plan, as it will take time for the contractor development programs to be fully operational, with graduates who are ready to go through the Approved Vendor process. Other contractors from the communities described in Section 75 of the Act should be given the opportunity to certify as EECs and work with Approved Vendors to submit applications under the new EEC category.

Second, the language around "applicant" does not specify Approved Vendor. Elsewhere in the legislation the terms "Approved Vendor" and "Designees" are used and the language makes those references explicit. The term "applicant" is undefined in Public Act 102-0662 and therefore open for interpretation.

Third, the Agency is already using an interpretation of the term “applicant” in the Draft Plan that includes requirements beyond just the Approved Vendor interface. The Agency’s proposed approach requires that all entities - from the Approved Vendor down through all Designees - are registered as EECs. We appreciate that this proposal eliminates the risk that a handful of pass-through entities could serve as EEC Approved Vendor Aggregators. But this means that the Agency is already interpreting the language to not only refer to the Approved Vendor interface but to also make requirements of Designees, thereby invoking an interpretation of “applicant” that represents a broader definition. To simplify this, the term “applicant” should refer to the sum total of entities working to develop and advance projects.

The consequences are significant. This is a cornerstone of the equitable procurement policies in the Climate and Equitable Jobs Act and is designed to provide additional support for EECs in whatever form they take, from installation subcontractors to Approved Vendor Aggregators. We believe that a system that grants eligibility to projects or portfolios of projects that provide more than 50% of the contract value to EECs should be eligible, and that the Agency should retain the discretion to adjust this number over time as necessary.

We therefore submit the proposed edits to pages 160-161:

#### 7.4.6.2. EEC Eligibility

Section 7.7.2 describes in detail the requirements for an Approved Vendor to become certified as an Equity Eligible Contractor. At this time the Agency believes that eligibility should be limited to Applicants that commit to and demonstrate that 50% or more of the REC contract value goes to Equity Eligible Contractors. This commitment can take the form of Memoranda of Understanding or Joint Venture Agreements between EECs and non-EECs. The Agency intends to ratchet up this percentage over time and may increase this percentage by up to 25% (to 75%) for the 2023 delivery year based on the pace of uptake of the EEC category of the ABP in the 2022 delivery year. Additionally, the following Applicants would be automatically approved to participate in the equity category of the Adjustable Block Program: ~~the following:~~

1. Approved Vendors who qualify as an Equity Eligible Contractor and do not use Designees for the construction and installation of projects
2. Approved Vendors who qualify as an Equity Eligible Contractor and use a Designee (or Designees) for the construction and installation of projects who also meet the requirement to be an Equity Eligible Contractor. This would include Approved Vendors serving as aggregators.

~~While the Agency understands that there may be interest in models where a Designee is an Equity Eligible Contractor, but they operate under an Approved Vendor who is not an Equity Eligible Contractor, the Agency cannot reconcile that with Section 1-75(c)(1)(K)(iv) of the IPA Act’s requirement that this category is for projects “from applicants that are equity eligible contractors.” Applicants in the Adjustable Block Program are Approved Vendors, as they are ultimately the entity that holds the REC delivery contract with a utility. The concept of a Designee was developed by the Agency to ensure that program requirements and accountability flow through to the entities involved in sales, marketing, subscriber~~

acquisition, construction, and installation. It does not change who is the applicant into the program, as Designees are not permitted to submit project applications to the program. The Agency also hopes that this approach will minimize the risk that entities that are not Equity Eligible Contractors inappropriately benefit from this category.

For these purposes, “applicant” will be defined as the combined total of businesses and entities that participate in the development and advancement of renewable energy projects eligible for the Adjustable Block Program.

## Prevailing Wage Exemptions

*Page 168*

We note that the Agency’s process for determining whether a project falls within the multifamily residential or the house of worship prevailing wage exemptions is nonetheless important to clarify. As noted in comments on the now withdrawn Second Revised Plan, the requirement to pay prevailing wage can be an onerous burden for small or fledgling clean energy businesses, especially those in or serving underserved or historically disinvested communities, and could in fact, serve as a roadblock to participation in the ABP. As such, it is important that we get the residential and house of worship exemptions right so that a broad range of businesses can compete in Illinois’ vastly expanded renewable energy market. We believe contractors should be provided an array of approaches to meet the exemption. We suggest multiple avenues for demonstrating that a facility is residential for purposes of PW exemption.

1. At least 75% of the site’s electric use must be used for residential purposes; or
2. At least 75% of square footage of building is dwelling units<sup>1</sup>; or
3. At least 75% of gross rental income if from dwelling units; or
4. At least 75% of total number of units are dwelling units.

We also have significant concerns about an overly narrow application of the House of Worship exemption. Throughout history, houses of worship have been a major provider of social and community services such as schooling, athletic clubs, medical care, day care, meal and grocery provision, banking and financial services, and musical instruction. IPA should defer to the house of worship in determining which activities conducted at a House of Worship constitute religious exercise or religious worship and which do not. The Agency should require an officer of the House of Worship to attest that the activities conducted within the facility constitute religious exercise or worship pursuant to the House’s religious doctrine, beliefs, or values.

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<sup>1</sup> The U.S. Tax Code (26 USC Sec. 168(e)(2)) defines “dwelling unit” as a house or apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, or other establishment where more than one-half of the units are used on a transient basis, and defines a rental property as residential where 80% or more of the rental income is from dwelling units.

## Equity Eligible Contractor and Equity Eligible Person Application Process

Pages 172-173

The Clean Jobs Coalition urges the Agency to provide a pathway for job seekers and employees to self-certify themselves as Equity Eligible Persons (EEPs). We envision a web form or survey that individuals could complete to determine if they qualify. This certification process will assist EEPs in seeking and securing employment without needing to introduce sensitive topics into the application or interview process. Whether it's through an interview process or through the new employer/employee matchmaking portal designed in CEJA, disadvantaged job-seekers would be supported by this type of certification as it signals to potential employers that the individual could help them comply with the Equity Accountability System.

This is not a substitute for the Agency's proposal to collect demographic data during Part II applications. That remains critically important for the disparity study, among other things. This would, however, give Approved Vendors and their Designees better visibility into who among their workforce is qualified as Equity Eligible Persons. This would allow Approved Vendors and Designees to report whether or not workers are EEPs in addition to demographic and geographic data, without ever requiring employees to disclose potentially sensitive information to their employers.

Given that this certification process will be complementary with the Energy Workforce Equity Database, we urge the Agency to consider incorporating this certification pathway into that database when it launches in late 2022.

On pages 172-173, we recommend the following changes:

### 7.7.2. Equity Eligible Contractor and Equity Eligible Person Application Process

A person can qualify for an Equity Eligible Person (EEP) certification by having status under at least one of the following four categories:

- Persons who graduated 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
- Persons who are graduates of or currently enrolled in the foster care system
- Persons who were formerly incarcerated
- Persons whose primary residence is in an equity investment eligible community.

An entity participating in qualifying REC incentive programs can qualify as an Equity Eligible Contractor if the majority of its ownership is by Equity Eligible Persons. The Agency and its Program Administrators will create a pathway for individuals to complete a web-based form to determine if they are Equity Eligible Persons. If they are Equity Eligible Persons, this process will provide them with a certification that they can use in seeking employment or to support Approved Vendors and Designees in submitting compliance plans for the Equity Accountability System. Job seekers who have EEP certification should be able to advertise themselves accordingly on the Energy Workforce Equity Database.

In cases where that person qualifies based on being a returning resident, foster care alumni, or having participated in an approved workforce or contractor development program, that self-certification should never expire. For those that qualify based on residency, that qualification should last for at least two years before it must be renewed.

Approved Vendors and designees that wish to submit projects into the Equity Eligible Contractor (“EEC”) category must first apply to be certified as an EEC. They Approved Vendors may do so in conjunction with their Approved Vendor application or at any time after submitting their initial Approved Vendor registration. Other entities may do so via the web portal created to process applications for EEC and EEP certifications.

If the Approved Vendor is organized as a corporation, general partnership, limited liability partnership, limited liability company, or limited partnership, the applicant will be asked to designate which owners, partners, or proprietors meet the EEC eligibility criteria. Similarly, if the Approved Vendor is organized as a non-profit, the applicant will be asked to provide the board membership of the non-profit and designate which board members meet the EEC eligibility criteria. However, if the Approved Vendor is a sole proprietor, no additional designations are required.

~~An Approved Vendor can qualify for an EEC certification by having status under at least one of the following four categories:~~

- ~~● Persons who graduated 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~~
- ~~● Persons who are graduates of or currently enrolled in the foster care system~~
- ~~● Persons who were formerly incarcerated~~
- ~~● Persons whose primary residence is in an equity investment-eligible community.~~

EEC applicants will be required to complete an EEC certification in addition to the general ~~Approved Vendor~~ attestation and application. This certification must be completed by each owner or board member in the organization used to establish EEC status.

The applicant will be asked if it would like to be identified as an Equity Eligible Contractor on the public list of Approved Vendors on the illinoisabp.com and illinoisshines.com web sites as well as the Energy Equity Workforce Database; willingness to be publicly identified as an Equity Eligible Contractor on those sites is not required for maintaining EEC status.

All certified EEC ~~entities~~ ~~Approved Vendors~~ will be listed on public project application reports and potential other public reports.

As part of the EEC and EEP certification process, the Program Administrator may follow up with the applicant with additional questions to clarify EEC or EEP eligibility and reserves the right to seek additional information or other documents to confirm EEC or EEP eligibility.

## Racial Assessment & Disparity Study

*Page 307*

The Clean Jobs Coalition supports the Agency's goal of selecting a consultant by June 1, 2023 to help inform data collection needed for the disparity study. The Coalition reiterates its earlier recommendation that the Agency retain, or at a minimum consult, legal counsel experienced with the use of disparity studies and the design and legal defense of race-conscious remedies prior to the selection of a consultant. This is a highly litigious area and the disparity study is not simply a social science study, it is functionally the expert report that would be used to defend any race-conscious remedies from legal challenge in the courts. Retaining legal counsel experienced with the design of disparity studies and the defense of resultant measures is critical to protecting the Agency and the Act's equity goals from legal challenge. Experienced legal counsel will also have important knowledge of accepted methods for conducting disparity studies and the pros and cons of such methods from a legal and efficacy standpoint. This expertise will help the Agency craft an effective RFP, select from the pool of firms that respond, and work with the chosen firm to ensure that the resultant study stands on solid ground.

The Coalition also emphasizes that Section 1-75(c-15)(2)(B) requires the commissions of a disparity study to "measure the presence and impact of discrimination on minority business and workers in Illinois' clean energy economy." While the Draft Plan notes this in Section 10.2, the subsequent discussion suggests that the Agency may be focusing only on discrimination in contracting and not also on discrimination in hiring and employment in Illinois' clean energy economy. For example, Section 10.2 goes on to state that the study will assess "access, participation, and utilization of contractors." (p.307) Section 10.2.2 describes an "assembly of

randomly chosen minority business owners” to understand their experiences but does not describe a similar assembly of workers. Section 10.2.4 emphasizes the importance of having minority-owned businesses participate in the study, but again does not note the similar importance of participation by minority workers in the clean energy sector or seeking to participate in the clean energy sector. Public Act 102-0662 is clear that the disparity study is intended to evaluate the need and establish the foundation, if necessary, for more aggressive equity programs for contractors and workers. Given this, the Coalition strongly urges the Agency to amend Section 10.2 of the Draft Plan to make this scope clear and ensure it is followed through upon.

We propose the following edits to Sections 10.2, 10.2.2, and 10.2.3 starting on page 307:

The study will review the State’s renewable energy sector regarding access, participation, and utilization of contractors and other workers with a special emphasis on minority owned business enterprises and minority workers, with the goal of analyzing whether race or gender has been a barrier to equitable access for all business owners and workers.

Section 1-75(c-15)(2)(B) of the IPA Act expressly exempts the selection of a consultant to conduct this study from the bidding requirements contained in Section 20-10 of the Illinois Procurement Code. Like other selection processes for consultants conducted by the Agency that are exempt from those requirements (e.g., Procurement Administrators, Procurement Planning Consultants, and Program Administrators), this process will be conducted in two parts consisting of an initial Request for Qualifications and a subsequent Request for Proposals issues to qualified respondents to the Request for Qualifications. The Agency will retain legal counsel experienced with the use of disparity studies and the design and legal defense of race-conscious remedies prior to the selection of a consultant and will endeavor to have the consultant selected by June 1, 2023. This will allow the consultant to be in place at the time of the launch of the Equity Accountability System which will be a critical data input into the study.

## Section 10.2.2

The methodology used to assist the Agency with assessing the efficacy of the equity accountability system will include but will not be limited to the following:

- i. Analysis of data collected by the Agency through its programs, procurements, and Equity Accountability System.
- ii. Interviews with area and regional businesses.
- iii. Community outreach to include townhall meetings, email correspondence, and public hearings open to the public for transparency.
- iv. Focused assemblies of randomly chosen minority business owners and workers to articulate their experiences in doing business in the industry with the State of Illinois.

The methodology of the disparity study will be determined by the legal and consulting firms retained by the Agency to conduct the study.

## Section 10.2.4

A critical element of a successful disparity study is a representative set of data to obtain a true reflection of the state of inequitable practices and procedures. Specifically, participation by minority-owned business and minority workers in the clean energy sector or seeking to participate in the clean energy sector participation would provide valuable insight to the efficacy and challenges in the Agency's efforts to increase inclusion and may highlight previously unknown barriers to participation by such entities. Substantive input from diverse entities will inform changes to policies, procedures, and procurements going forward.

## Disparity Study Data Collection

*Page 308-309*

To fully understand progress toward equity goals, we recommend that the Plan be amended to clarify that data collected will also include information about the type and value of contracts and subcontracts, as well as information about the nature of the employment, including compensation and hours provided; and that such information about the quality and value of contracts and employment shall be open to disaggregation by race and ethnicity.

## Redlines Section 10.3

The Agency will collect demographic and geographic data for each entity awarded contracts under any Agency-administered program:

- i. Demographic information, including racial or ethnic identity for real persons employed, contracted, or subcontracted through the program and owners of businesses or entities that receive contracts through Agency programs or procurements
- ii. Geographic location of the residency of real persons employed, contracted, or subcontracted through the program and geographic location of the headquarters of the business or entity is awarded a contract through an Agency program or procurement; ~~and~~
- iii. Information on the type and value of contracts and subcontracts;
- iv. Information about the nature of the employment, including compensation and hours provided; and
- v. Any other information the Agency determines is necessary for the purpose of achieving the purpose of this subsection.

Information about the quality and value of contracts and employment shall be able to be disaggregated by race and ethnicity.

## Comments on the Data Collection Rationale [Announcement from IPA](#)

Issued on February 15, 2022

Although beyond the scope of the latest Plan, the Joint Commenters wanted to also submit comments on the recently released document entitled *Rationale Document – ABP Collection of Demographic and Geographic Data*. We primarily do so to emphasize the importance of creating a system for the self-certification of Equity Eligible Persons and Equity Eligible Contractors.

Creating this system helps pull all of the pieces together. It allows for consolidated data collection that is easily accessible to the Agency and its partners. It supports the functionality of the Energy Workforce Equity Database and helps program participants find the subcontractors and workers needed to meet the Minimum Equity Standards. It helps avoid sensitive conversations between employers and employees. In short, it becomes the engine of equitable hiring and contracting that the legislation intended.

We therefore submit the following illustrative edits to that document:

In order to facilitate the ongoing tracking and collection of information from Approved Vendors' employees and subcontractors, the Part II application will now collect information on the race, gender, and residential ZIP code of all employees or employees of subcontractors involved in the construction/installation of a particular project and the approximate hours worked.

Approved Vendors will also be required to indicate whether any of the workers involved in the construction/installation of the project are graduates from the Solar Training Pipeline Program, Solar Craft Apprentice Program, Multi-Cultural Job Training Program, or another job training program. As additional workforce development programs established by Public Act 102-0662 come online, they will be added to the options available for selection. Additionally, they will be required to report how many of the workers involved in a construction/installation of a project are certified Equity Eligible Persons.

The Part II application will ask Approved Vendors to provide the aggregate hours worked by employees and/or subcontractors in construction and installation of the project by 1) race, 2) ethnicity, 3) residential ZIP code of the worker, ~~and~~ 4) status as a graduate of a qualifying job training program, and 5) status as an Equity Eligible Person. This data will not be requested at the employee level. For example, an Approved Vendor will submit the total hours worked on a project by employees or subcontractors from a certain ZIP code. Those projects which were Commission-approved or constructed prior to the enactment of Public Act 102-0662 (i.e., on or before September 15, 2021) will be eligible for a waiver of this requirement if the information is not available for the project.

The Agency received stakeholder feedback surrounding the heightened sensitivity of disclosures surrounding foster care history and former incarcerated status. Accordingly, the Agency will not require Approved Vendors to submit this information as part of a project application at Part II. Instead, the Agency will require Approved Vendors to submit the number of Equity Eligible Persons without specifying the employee's pathway to eligibility. We understand that it will be up to individual employees, not the Approved Vendor or Designee, to self-certify as an Equity Eligible Person. We encourage employers to support employees to pursue this self-certification, and believe that doing so will support Approved Vendors and Designees in complying with the Equity Accountability System. ~~during the initial Approved Vendor application and annual reporting processes, Approved Vendors will have the option to submit the number of employees who are graduates of or currently enrolled in the foster care system and the number of employees who were formerly incarcerated. This information request will be limited to employees for the Approved Vendor's Illinois-based workforce.~~

### **Additional Comments on Data Collection**

In addition to the detailed proposals on data collection made above, we wish to make two important points about data collection to support our goals and initiatives around equity in the renewables and solar industry:

**First, while comprehensive data collection is critical, the Agency should create alternative data reporting compliance pathways for smaller companies and those focusing on smaller, more numerous projects. We recommend that these entities be allowed to report across a portfolio of similar projects rather than for each project.** Requiring data to be submitted on a project-by-project level can be particularly onerous for small projects and small companies and is not necessary as long as we still collect data across all projects. In the hypothetical example of a company that installed 100 small DG projects over a given period of time, data on the project level is actually much less meaningful than data on the portfolio level. While companies should be allowed to enter data on the project level if that is easier for them, portfolio-level reporting should also be allowed. The Agency should take all reasonable steps to lower the potential burden of this reporting, particularly for small and emerging businesses.

**Second, as part of comprehensive data collection, it is important to look beyond the employees that actually install panels to other aspects of the industry, including sales, back office, and other functions.** Our diversity and equity goals do not stop on the rooftops. Neither should our reporting.