

Consumer Protections Request for Stakeholder Feedback

November 12, 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 Illinois renewable portfolio standard, with the requirement a new Long-Term Renewable Resources Procurement Plan be published no later than 120 days after the effective date of the Act.

The Illinois Power Agency (“IPA” or “Agency”) is seeking feedback on certain topics in preparation for publishing its updated Long-Term Renewable Resources Procurement Plan on January 13, 2022, in compliance with P.A. 102-0662. This feedback may be utilized by the Agency to help form the content of that draft Plan, with stakeholders having additional opportunities for comment after that draft Plan is published.

Public Act 102-0662 specifies through changes to Section 1-75(c)(1)(M) of the IPA Act that the Agency, along with its Program Administrators for both the Adjustable Block Program (“ABP”) and the Illinois Solar for All (“ILSFA”) Program, shall propose various program terms, conditions, and requirements applicable to participating entities and project applications. In some instances, the requirements for Approved Vendors and their subcontractors mirror consumer protections currently in place under the Agency’s programs. Through this Request for Stakeholder Feedback, the Agency is seeking feedback on proposed changes to those consumer protections currently in place.

Section 1-75(c)(1)(M) of the Illinois Power Agency Act states in relevant part:

The Agency and its program administrators for both the Adjustable Block program and the Illinois Solar for All Program, consistent with the requirements of this subsection (c) and subsection (b) of Section 1-56 of this Act, shall propose the Adjustable Block program terms, conditions, and requirements, including the prices to be paid for renewable energy credits, where applicable, and requirements applicable to participating entities and project applications, through the development, review, and approval of the Agency's long-term renewable resources procurement plan described in this subsection (c) and paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. Terms, conditions, and requirements for program participation shall include the following:

(i) The Agency shall establish a registration process for entities seeking to qualify for program-administered incentive funding and establish baseline qualifications for vendor approval. The Agency must maintain a list of approved entities on each program's website, and may revoke a vendor's ability to receive program-administered incentive funding status upon a determination that the vendor failed to comply with contract terms, the law, or other program requirements.

(ii) The Agency shall establish program requirements and minimum contract terms to ensure projects are properly installed and produce their expected amounts of energy. Program requirements may include on-site inspections and photo documentation of projects under construction. The Agency may require repairs, alterations, or additions to remedy any material deficiencies discovered. Vendors who have a disproportionately high number of deficient systems may lose their eligibility to continue to receive State-administered incentive funding through Agency programs and procurements.

(iii) To discourage deceptive marketing or other bad faith business practices, the Agency may require direct program participants, including agents operating on their behalf, to provide standardized disclosures to a customer prior to that customer's execution of a contract for the development of a distributed generation system or a subscription to a community solar project.

(iv) The Agency shall establish one or multiple Consumer Complaints Centers to accept complaints regarding businesses that participate in, or otherwise benefit from, State-administered incentive funding through Agency-administered programs. The Agency shall maintain a public database of complaints with any confidential or particularly sensitive information redacted from public entries.

(v) Through a filing in the proceeding for the approval of its long-term renewable energy resources procurement plan, the Agency shall provide an annual written report to the Illinois Commerce Commission documenting the frequency and nature of complaints and any enforcement actions taken in response to those complaints.

(vi) The Agency shall schedule regular meetings with representatives of the Office of the Attorney General, the Illinois Commerce Commission, consumer protection groups, and other interested stakeholders to share relevant information about consumer protection, project compliance, and complaints received.

(vii) To the extent that complaints received implicate the jurisdiction of the Office of the Attorney General, the Illinois Commerce Commission, or local, State, or federal law enforcement, the Agency shall also refer complaints to those entities as appropriate.

Responses to this Request for Stakeholder Feedback should be submitted to the IPA by December 3, 2021. Written responses should be emailed to IPA.Contactus@illinois.gov with the subject "Responder's Name – Response to Consumer Protection Feedback Request."

In general, responses will be made public and published on the [Illinois Power Agency](https://www.ipa.gov) 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 or the Program Administrator determines that a response contains confidential information that should not be disclosed, the IPA reserves the right to provide its own redactions.

Stakeholder Feedback Questions

1. Under Section 1-75(c)(1)(M)(i), the Agency may revoke an Approved Vendor's ability to receive program-administered incentive funding status upon a determination that the vendor "failed to comply with contract terms, the law, or other program requirements."
 - a. Do the current disciplinary processes under the Adjustable Block and Illinois Solar for All Programs¹ establish a sufficient process for revocation of the ability to receive state-administered incentives? If not, in what areas is the process outlined deficient, and how can the process be improved?
 - b. The Agency will include the names of entities whose status within the programs is revoked through inclusion in the disciplinary report. Should the Agency and/or Program Administrators also include the names of entities whose Approved Vendor applications are denied and are therefore unable to participate in the Program?
 - c. Many of the entities participating in the Agency's programs that directly interact with customers are Designees; that is, subcontractors of Approved Vendors. Currently, the Designee registration process is a streamlined registration paired with approval by Approved Vendors to serve as their designees. The Agency is considering whether Designees shall also apply for program participation, using a similar application as Approved Vendors. The Agency seeks feedback on which items of the Approved Vendor application are inapplicable to the proposed Designee registration process.
2. Under Section 1-75(c)(1)(M)(ii), the Agency plans to expand the minimum contract terms and conditions found in the Marketing Guidelines of both the Adjustable Block Program and Illinois Solar for All² in order to ensure that there are minimum contract terms in place for each sub-program (e.g., community solar subscriptions, etc.).
 - a. In the development of minimum contract terms for community solar contracts, should the Agency consider differences between traditional and community-driven community solar terms and conditions?
 - b. The Agency is considering including minimum system design criteria on customer disclosure forms for distributed generation projects. Should certain system efficiencies also be included in the minimum contract terms and conditions for distributed generation projects?
3. Under Section 1-75(c)(1)(M)(ii), vendors who "have a disproportionately high number of deficient systems may lose their eligibility" to participate in the program. The Agency will require that repairs, alterations, and additions to remedy deficient systems be brought to the Agency's attention either through customer complaints or through on-site inspections. The Agency proposes that systems which are not meeting their expected output, cause damage to

¹ For the Adjustable Block Program, see <https://illinoisabp.com/wp-content/uploads/2021/06/ABP-Program-Guidebook-Final-6.4.21-2.pdf>; for the Illinois Solar for All Program, see: <https://www.illinoisfsa.com/app/uploads/2020/06/ILSFA-Approved-Vendor-Manual.pdf>

² ABP consumer protection guidelines and disclosure forms are available at <https://illinoisabp.com/program-guidelines-disclosure-forms/>. ILSFA Program guidelines for community solar are available at <https://www.illinoisfsa.com/app/uploads/2019/05/ILSFA-Consumer-Protections-Guidelines-CS- v.2.pdf>, while guidelines for low-income distributed generation are available at <https://www.illinoisfsa.com/app/uploads/2019/05/ILSFA-Consumer-Protections-Guidelines-DG- v3.pdf>.

a customer's property, and/or are materially non-conforming with the REC Contract may be considered as deficient systems.

- a. The Agency is interested in stakeholder feedback on what would be a "disproportionately high number of deficient systems." What percentage would warrant suspension from the program, and over what time period should it be calculated?
 - b. Are there additional categories of deficient systems which the Agency should consider?
 - c. For purposes of this threshold, should the Agency consider valid complaints from a customer about a transaction (such as payment delays, lack of communication, hidden charges and fees) to constitute a "deficient" system?
 - d. Should systems failing to meet baseline energy production levels (such as shaded systems and north-facing systems which meet expected output, but have unusually low expected output) be considered "deficient"?
4. Under Section 1-75(c)(1)(M)(iii), the Agency may require standardized customer disclosures. While this is already a requirement for participation in the ABP and ILSFA, the Agency is rethinking the format and scope of the disclosure forms.
- a. Should the standardized disclosure form take the format of a more limited document that contains necessary information specific only to the customer's system/subscriptions and the associated financial obligations? Under this scenario, the Agency would propose an accompanying document which explains the disclosure form and its contents also be provided to customers with the standard disclosure form.
 - b. Is the current format of the distributed generation disclosure form, which varies by financing type, sufficient to educate customers? Is further differentiation between financing structures necessary? Is differentiation between project categories appropriate?
 - c. The Agency currently requires ILSFA disclosure forms to include price information on net metering rates, which are necessary for determining minimum savings requirements, while the ABP disclosure forms do not include these rates. Should the net metering rates be provided to Approved Vendors and Designees by the Program Administrators for all forms? Or should those rates be posted to the program websites for customer reference?
5. Under Section 1-75(c)(1)(M)(iv), the Agency shall establish one or multiple Consumer Complaint Centers and maintain a disciplinary database.
- a. The current disciplinary process includes the provision of warning letters to entities who have violated program requirements but do not warrant a suspension. The Agency proposes the database which the IPA maintains pursuant to 1-75(c)(1)(M)(iv) be expanded to include identification not only of entities which have received a suspension but also entities that are warned for violations of program requirements. This would include a description of the type of violations and number of warnings received. The Agency seeks feedback on what additional information should be included in the complaint database.
 - b. Should the ABP Program administrator develop a page on the Illinois Shines website to which Approved Vendors and Designees may provide standardized offers for distributed generation projects and community solar subscriptions, similar to the

standardized offers posted under the ILSFA program? Such a “solar marketplace” may would allow customers to compare offers as well as receive information and education on solar development. The Agency seeks feedback on whether this approach would be valuable to entities participating in the program, from Approved Vendors/Designees to customers. Are there exemplary examples from other states?

Next Steps

Stakeholder feedback received on the proposals discussed herein will be considered while developing guidelines for opening new blocks of Program capacity and may also inform development of the new draft Long-Term Renewable Resources Procurement Plan.