



Stakeholder Feedback Request for the 2024 IPA Long-Term Plan Chapter 10: Diversity, Equity, and Inclusion

June 8, 2023

The Illinois Power Agency is soliciting feedback on various topics as the Agency develops the 2024 Long-Term Renewable Resources Procurement Plan. Stakeholders are invited to comment on as many of the following items as they would like and may provide comments beyond the scope of these specific questions. Responses will be published on the IPA website under the “Plans Under Development” section of the Procurement Plans page. A draft of the plan will be released for public comment on August 15, 2023.

Please note that the Illinois Power Agency is exploring many ideas and points of view as it considers how to improve its programs, procurements, and operations. The inclusion of an idea or question does not necessarily imply that the IPA intends to take a specific approach in its Long-Term Plan.

How to Reply

Please provide comments via email attachment to IPA.ContactUs@Illinois.gov with the subject “[Responder’s Name] – Chapter 10 LTP Feedback” by June 29, 2023.

Topics

1. [Definition of “project workforce”](#)
2. [Certifying Equity Eligible Persons](#)
3. [Certifying Equity Eligible Contractors](#)
4. [Minimum Equity Standard for Non-Illinois Shines programs and procurements](#)
5. [Other Minimum Equity Standard Issues](#)
6. [EEC Category in Illinois Shines](#)
7. [EEC Requests for Advance of Capital](#)
8. [Data Collection and Reporting](#)

Note: Due to the cross-cutting nature of the IPA’s equity provisions, some of the questions listed below may overlap with questions included in the request for feedback for other chapters. If a comment or proposal has already been submitted in feedback on another chapter, that information does not need to be repeated in response to this request.

TOPIC 1: Definition of “project workforce”

Background

The IPA adopted several definitions of key terms in Section 1-75(c-10) and Section 1-10 of the IPA Act in developing the program requirements for the Equity Accountability System. The current definition of “project workforce” as included in the 2022 Long-Term Plan is:

Employees, contractors and their employees, and subcontractors and their employees, whose job duties are directly required by or substantially related to the development, construction, and operation of a project that is participating in or intended to participate in the IPA-administered programs and procurements under Section 1-75(c) of the IPA Act. This shall include both project installation workforce and workforce in administrative, sales, marketing, and technical roles where those workers’ duties are performed in Illinois. (2022 LTP at 328).

The Agency adopted this definition to ensure the greatest access to the diverse range of economic opportunities created by solar development in Illinois. In addition, the IPA currently interprets the Minimum Equity Standard as a percentage of the number of persons in the workforce – whole persons, regardless of the number of hours worked on that project.

Questions

1. If the Agency were to refine or change the definition of project workforce, what factors should it consider? Are there types of work that should be excluded?
2. What would be the benefits or risks of moving to a hours-worked basis instead of a total number of individuals basis for the MES?
 - a. Would some combination of hours-worked and number of individuals be possible or preferable?

TOPIC 2: Certifying Equity Eligible Persons

Background

The IPA Act defines an “equity eligible person” as “persons who would most benefit from equitable investments by the State designed to combat discrimination,” and lists four specific criteria that meet that standard. However, the IPA has faced challenges in applying this definition and ensuring that those qualifying as EEPs under those criteria are also “persons who would most benefit from equitable investments by the State designed to combat discrimination.” The IPA seeks feedback on that challenge and on balancing the need to prevent gaming with increasing participation.

Questions

1. IPA currently only requires supporting documentation to verify two of the bases for qualifying as an Equity Eligible Person: primary residence in an equity investment eligible community and former or current participant in a listed workforce training program. Should the Agency also require documentation to support certification for the other two criteria: formerly incarcerated and former participant in the foster care system? If so, what documentation should the Agency accept?

2. Individuals that qualify as EEPs based on a “primary residence in an Equity Investment Eligible Community” (EIEC) may move residences over time.
 - a. How could the Agency track any changes in residence?
 - b. What would be the advantages or disadvantages to allowing a “grace period” so that an individual that qualified as an EEP based on primary residence in an EIEC but subsequently moved remains EEP-certified for a certain amount of time?
3. Relatedly, stakeholders have expressed concern that the “primary residence” criterion is too broad, given the rapid change in demographics in many EIECs. To prevent gaming or benefits flowing to those that do not actually face barriers to entering the solar market, one stakeholder proposed learning from the Social Equity Applicant model in the cannabis sector. To qualify as an SEA, an entity had to demonstrate that a majority of its owners had lived in a qualifying community for at least 5 of the last 10 years (though it did not need to be the same address or community for all 5 years).
 - a. What could be the benefits or risks of such an approach?
 - b. What would be a reasonable threshold or minimum number of years?
4. The map of EIECs is a combination of the Illinois Solar for All (SFA) Environmental Justice Communities and the R3 Communities. The IPA has recently updated the SFA Environmental Justice map based on 2020 census data and other updated sources of data. The Agency will accept EEP certification requests based on the previous map for the 2023-2024 Program Year.
 - a. Is one year of accepting both maps sufficient?
 - b. How should this transition work for utility-scale projects with longer timelines?
5. Individuals may use the Energy Workforce Equity Portal to receive certification as an Equity Eligible Person without disclosing sensitive information to their employer or to potential employers. To verify the EEP status of the minimum number of individuals in their project workforce to satisfy the MES, entities will submit a Year-End Report that includes either the certification from the Portal or an EEP application for each individual EEP.
 - a. What would be the advantages or disadvantages of moving all EEP certification to the Energy Workforce Equity Portal?

TOPIC 3: Certifying Equity Eligible Contractors (EECs)

Background

The IPA issued a [request for stakeholder feedback](#) on the criteria for certifying Equity Eligible Contractors in April 2023, with [responses](#) due on May 5, 2023. These questions build on the responses to that request and seek additional perspectives.

Questions

1. Some commenters raised the potential for “sleeving” and “pass throughs” in EECs - where a non-EEC company partners with an EEP as the majority owner, but that EEP has little involvement in of the management of the company, or where an EEC subcontracts out most of the development and construction, such that only a small portion of the state incentives flow to the EEP.
 - a. Do such structures further the objectives of the Equity Accountability System, which 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”? If so, how?
 - b. If they do not, how might the Agency prevent such structures?
 - c. Are there other states or local government programs that have model requirements to verify disadvantaged business that the IPA could look to?
2. What benefits or risks might be posed by requiring that registered EECs be listed publicly, even if only by company name? (Currently, EECs can decline to be listed on the Illinois Shines website.)

TOPIC 4: Minimum Equity Standard for Non-Illinois Shines Procurements and Programs

Background

Section 1-75(c-10) creates a new requirement for entities participating in IPA programs and procurements included in Section 1-75 (Illinois Shines, Self-Direct, and Indexed REC) such that at least 10% of their project workforce is comprised by Equity Eligible Persons, with that percentage set to increase to 30% in 2030. Not all of the statutory requirements of the Minimum Equity Standard align with the timelines and structures of utility-scale projects seeking REC payments through IPA procurements and programs. For example, the statute requires participating entities to submit a Compliance Plan and Year-End Report every program year, but neither Self-Direct nor utility-scale projects are likely to be developed within a single year.

Questions

1. In the stakeholder feedback questions related to Chapter 6 on Self-Direct, the Agency requested input on the application of the MES to projects participating in the Self-Direct program.
 - a. How should the IPA apply MES to Self-Direct, which has a unique timeline in which entities apply after the project is already operating?
 - b. Should the applicable MES be that in place during the year of construction, or of application (which will occur after construction)? What if the project is constructed across multiple years?
 - c. How could the IPA adjust the compliance plan requirement for Self-Direct participants, who will not “participate” in an IPA “program or procurement” until after the project is built and energized?
2. Section 1-75(c-10) authorized the IPA to create “distinct equity accountability systems for different types of procurements or different regions of the State if the Agency finds that doing so will further the purposes of such programs.” Although it is still early in the implementation of the current approach, the IPA seeks feedback on potential changes to the equity accountability system:
 - a. What would be the benefits or risks of establishing a different Minimum Equity Standard for the Self-Direct program or utility-scale projects that receive an Indexed REC contract?
 - b. How might the Agency adjust the MES requirements for utility-scale developers to accommodate the longer development timeline of those projects and the different workforce structure?

TOPIC 5: Other Minimum Equity Standard Issues

Background

Integrating the Minimum Equity Standard into existing programs and procurements has required significant new reporting and verification processes. Entities must provide a Compliance Plan and Year-End Report to the Program Administrator, the latter of which demonstrates that the entity in fact met the Minimum Equity Standard (MES). The Agency has developed [significant guidance](#) on how to calculate which employees or contractors make up the project workforce, how to count Equity Eligible Contractors (EECs) within the MES, requesting a waiver of the MES, and the potential disciplinary consequences of failing to meet the MES. As a new program requirement, the Agency seeks feedback on potential levers to make the MES more effective while accounting for practical realities faced by entities with diverse structures and resources. In designing the program rules for the first year of implementing the MES, the Agency has encountered several issues where the practical, on-the-ground process of developing and constructing a solar project may not align with the broad language of the statute, or may not be addressed by the statute.

Questions

1. The 2022 Long-Term Plan proposed to increase the MES for the 2024-2025 Program Year from 10% to 12%. Is this increase still reasonable?
 - a. If so, should the Agency increase the MES to 15% for the 2025-2026 Program Year? Or would another level be more appropriate?
2. Should the Agency create different Minimum Equity Standards for projects in different areas of the state? If so, which areas?
 - a. If the Agency were to adopt differing MES for distinct geographic areas, what criteria or factors should the IPA consider in setting those Standards?
3. The current MES of 10% may result in fractional targets, especially for small businesses (<10 employees). How should the Agency calculate a company's MES in that case? Should the Agency round to the nearest whole number?
4. Current Illinois Shines guidance requires that entities interacting directly with customers should register as Designees. Designees must submit their own Compliance Plan and Year-End Report and must meet the MES for their workforce. Given the variety of entities that might employ the majority of workers on a given project, should the Agency allow a wider range of firms to register as Designees in order to allow subcontractors that do not interact with customers the ability to report on MES compliance?
 - a. If so, how should the Agency define which entities must register as a Designee?
 - b. Should that registration be mandatory?
 - c. Would subcontractors without direct interaction with end-use customers be required to meet the same requirements applicable to current Designees?
5. Currently, the Agency considers EECs to be in compliance with the MES by virtue of their ownership. Should the Agency narrow or adjust that interpretation, and if so, how? Should the Agency require that EECs also submit Compliance Plans?

TOPIC 6: Equity Eligible Contractor Category in Illinois Shines

Background

Illinois Shines includes a project category reserved for projects submitted by Equity Eligible Contractors. Section 1-75(c)(1)(K)(vi) of the IPA Act required that 10% of the total program capacity be reserved for this category, with that percentage increasing to 40%. In the 2022-2023 Program Year, the applications submitted to the EEC Category Group A exceeded the available capacity on day one, and Group B also filled its capacity. The Agency is considering various methods for prioritizing or differentiating projects when applications exceed available capacity.

Note: Some of these items are also included in the request for feedback on Chapter 7 regarding Illinois shines. Commenters do not need to provide the same comments to both chapters.

Questions

1. Considering that the Category received more applications than available capacity in the 2022-2023 Program Year, the IPA seeks feedback on a potential developer cap of 20% across all project types applicable for the entire Program Year, to mirror the developer cap in the Traditional Community Solar category.
 - a. Is 20% the right level?
 - b. One stakeholder responded to the IPA's request for feedback on May 5, 2023, that the IPA should apply a cumulative cap on the amount of capacity awarded to a single developer (and its affiliates) across the life of the EEC category. What would be the advantages and disadvantages of that approach?
2. Also due to the oversubscription in PY 2022-2023, the Agency seeks to develop a method for selecting projects should applications exceed capacity on the first day. The Traditional Community Solar category uses a point system to prioritize projects with qualitative aspects that reflect policy objectives in the IPA Act. Would it be appropriate to use a similar scoring system for project selection in the EEC Category?
 - a. If so, what would be the advantages or disadvantages of awarding points based on elements such as:
 - i. Status as a small and emerging business or MWBE
 - ii. Number of EEPs employed
 - iii. Amount of capacity awarded to the EEC AV in previous program years (providing points to those that have not previously received a REC contract)
 - iv. Whether the majority-owner EEP qualifies under multiple criteria
 - v. Amount of REC contract value flowing to EECs
 - b. Another option would be to create carveouts or "lanes" for certain project types or EECs, similar to the point categories listed above.
 - c. Are there other characteristics that the Agency should or could prioritize in such a project selection method for the EEC category?

TOPIC 7: EEC Requests for Advance of Capital

Background

Section 1-75(c)(1)(K)(vi) allows the Agency to create a payment structure within the EEC category of Illinois Shines such that, “upon a demonstration of qualification or need, applicant firms are advanced capital disbursed after contract execution but before the contracted project's energization.” In the 2022 Long-Term Plan, the Agency established that an application for an advance of capital must include “a short narrative description of the need being addressed, and what key project development milestone will trigger the disbursement” (2022 Long-Term Plan at 175). The Agency has interpreted that “narrative description of the need being addressed” as directly related to the statutory purpose of the advance of capital, which is “to overcome barriers in access to capital faced by equity eligible contractors” (20 ILCS 3855/1-75 (c)(1)(K)(vi)).

Questions

1. What types of barriers might EECs face in accessing capital?
2. How could an EEC demonstrate “need” for an advance of capital? Should that need be tied to the AV’s status as an EEC?
3. The 2022 Long Term Plan allows for up to 50% of the contract value to be paid before energization. Is this a reasonable amount?
4. The 2022 Long-Term Plan requires that applications for an advance of capital include a list of expected costs that would be met by the advance. Should the Agency limit the types of costs that may be included in the request for advance of capital? If so, what types of costs should or should not be eligible? Note that Section 1-75(c)(1)(K)(vi) of the IPA Act expressly allows the advance to cover “increase[s] in development costs resulting from prevailing wage requirements or project-labor agreements.”

TOPIC 8: Demographic and Geographic Data Collection

Background

Section 1-75(c-20) of the IPA Act directs the IPA to “collect data from program applicants in order to track and improve equitable distribution of benefits across Illinois communities for all procurements the Agency conducts.” Currently, the Agency collects the workforce demographic information (race and gender) for projects participating in Illinois Shines and Illinois Solar for All at the Part II application phase. The Agency also collects demographic information on project workforce members as part of the MES Compliance Plan and in the Annual Report from Approved Vendors.

Questions

1. Are there other workforce characteristics or data that the IPA should collect and monitor? For example, veteran-status, disability, other?



2. Are there ways the Agency could streamline the data collection on these topics?