Comments to Draft 2024 Long-Term Renewable Resources Procurement Plan

September 29, 2023

Introduction

We, the below-listed Joint Commenters, value the opportunity to provide feedback on the Illinois Power Agency's (IPA or Agency) development of its draft 2024 Long-Term Renewable Resources Procurement Plan (LTRRPP or Plan). These comments are intended to address issues of concern, especially issues involving Diversity, Equity, and Inclusion.

The Joint Commenters include members of 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.

A Just Harvest	
Union of Concerned Scientists	
Environmental Law and Policy Center	
Citizens Utility Board of Illinois	
Illinois Environmental Council	
Vote Solar	
Natural Resources Defense Council	
Blacks in Green	

Italics - IPA language in the LTRRPP
Standard text - ICJC Renewables Subcommittee Responses

Chapter 3: REC Portfolio, RPS Goals, Targets, and Budgets

When discussing the ongoing challenges with the Renewable Portfolio Standard (RPS), it is crucial to acknowledge that the state has been playing catch-up for years, striving to meet goals set to advance clean, renewable energy. The dilemma is not merely about meeting our goals; it is about how swiftly we can overcome the backlog that has accumulated over the years. Since the inception of the RPS, there have been periodic adjustments, both administratively and legislatively, to refine and enhance its implementation, and it is to be expected that such adjustments will continue to be necessary and appropriate.

In the immediate future, there are actionable steps that can be incorporated into the IPA's long-term plan to ameliorate the current situation. In the two years since the enactment of the Climate and Equitable Jobs Act (CEJA), opportunities for improvement have become apparent as the state has implemented many of the important innovations adopted in that landmark bill.

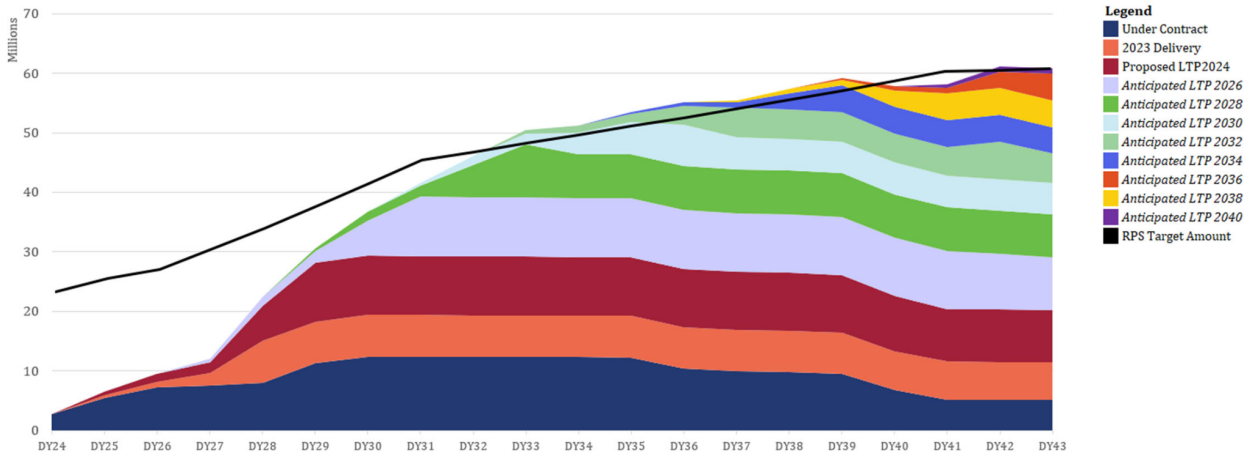
The IPA acknowledges the potential for budget shortfalls beginning in 2030 on pages 115-116 of the Redline. Likewise, the forthcoming need for legislation in new language added to the Draft Plan:

> *"As mentioned elsewhere in this Plan, the Agency believes that legislative action will be needed to make structural changes to the RPS (particularly the Indexed REC procurement model) to reduce the risks and uncertainty identified herein." (Redline of Draft Plan at 105)*

Importantly, however, the Agency does not anticipate budget shortfalls as a result of past procurement activity or what is proposed in this Draft Plan:

> *"It does not appear that there is a risk of a budget shortfall until the end of this decade. As a result, the procurement activities proposed in this Plan (including proposed Illinois Shines REC prices) do not create a significant budget risk. Instead, it would be through activities proposed and conducted under future Plans where potential budget risks could be introduced given the volatility of the market." (Redline at 118)*

Finally, and most graphically, Figure 3-2 of the Draft Plan (Redline at 85) illustrates the "REC gap", which is the difference between our REC Procurement Goals and the sum of completed and planned procurements:



When addressing this issue specifically, it's essential to emphasize that the focus should not solely be on allocating more funds but rather on identifying and implementing effective, sustainable solutions to the underlying challenges hampering the realization of our renewable energy goals. The conversation should revolve around optimizing existing resources, refining strategies, and enhancing the efficiency of current programs to accelerate progress and ensure the successful attainment of the RPS objectives. The solution is not necessarily an influx of more funds but a holistic approach aimed at resolving the foundational issues impeding progress in renewable energy procurement. It is also important to keep in mind that implementation of CEJA's indexed REC procurements have taken place in the context of a period of significant disruption in the energy markets generally, and in renewables specifically.

Economic disruptions caused by COVID-19 and the Russian invasion of Ukraine, commodity market and supply chain disruptions, trade disruptions (both the Auxin Solar anti-circumvention complaint and the Uyghur Forced Labor Prevention Act (UFLPA)), labor market transitions, and interest rate/inflation pressures all combined to create significant challenges in renewable energy project development since 2021. These challenges have been acutely reflected in renewable procurements just at the same time that the new, innovative indexed REC procurement mechanism was introduced. Importantly, the renewable market challenges are not unique to Illinois; clean energy projects in neighboring states (in both regulated and deregulated states) have faced similar challenges. We are directly aware of project cost increases, cancellations, and postponements in Indiana, Wisconsin, Minnesota, and Michigan. Fortunately, we have also begun to see many of the challenges that have led to these disruptions resolve in recent quarters. At this point, we are optimistic that upcoming indexed REC procurements will be more successful, especially if administrative adjustments recommended in the Competitive Procurements section of these comments are adopted.

On August 23, 2023, the IPA announced its plan to conduct a policy study on Illinois' electricity system. The impetus of the study was HB 3445, which would have required the IPA to evaluate the potential impacts of three renewable energy proposals and provide policy recommendations

back to the General Assembly. These proposals include the deployment of energy storage systems, a pilot program for a new utility-scale offshore wind project in Lake Michigan, and a policy requiring the procurement of renewable energy credits from a high voltage direct current (HVDC) transmission line. Governor Pritzker issued an amendatory veto of provisions in HB 3445 other than the study on August 16, 2023, but the Agency wisely decided to initiate the Policy Study regardless of the final disposition of HB 3445. The Agency plans to publish an initial draft of the Policy Study by January 21, 2024, for public comment and publish a final Policy Study no later than March 1, 2024.

The IPA has engaged Levitan and Associates to undertake the modeling and analytical work necessary for the Policy Study, utilizing industry-standard modeling tools to evaluate impacts on various aspects of the energy system, including generation reliability, resource adequacy, transmission reliability, grid resilience, electricity prices, and generation-related emissions. While the study called for in HB 3445 is narrowly focused on three specific questions, the scope of the study as described in the IPA appears to be more broad. The IPA's Announcement indicated:

> *The Agency's Planning and Procurement Bureau will work closely with Levitan on analyzing results from these modeling tools and will develop policy recommendations for the General Assembly that consider:*
>
> - *Support for Illinois' decarbonization goals*
> - *The environment*
> - *Grid reliability*
> - *Carbon and other pollutant emissions*
> - *Resource adequacy*
> - *Long-term and short-term electric rates*
> - *Environmental justice communities*
> - *Jobs, and the economy*[1]

The study will also consider factors such as support for Illinois' decarbonization goals, the environment, grid reliability, carbon and other pollutant emissions, resource adequacy, long-term and short-term electric rates, environmental justice communities, jobs, and the economy. The Agency is actively seeking stakeholder input and feedback to inform the Policy Study and has initiated targeted outreach to companies, organizations, and advocates behind the policy proposals to receive essential information, inputs, and specifications for conducting the modeling.

We view the Policy Study as a potentially significant tool for comprehending the complex and rapidly evolving context in which renewable procurements are unfolding. This study should shed light on the intricate dynamics of renewable energy in our system and potential impacts, providing a clearer, more informed pathway to realizing the state's clean energy, reliability, and

[1] ipa-to-conduct-policy-study-82323.pdf (illinois.gov)

affordability objectives. It has the potential to contribute significantly to our collective pursuit of sustainable, equitable, and cost-effective clean energy solutions, aligning with the broader goals of environmental conservation, economic development, and social equity.

In anticipation of this opportunity to comment on this Draft Plan, we had planned extensive analysis to be presented in these comments of the IPA's proposed pathway to bridge the gap between our current procurement and our established goals, particularly focusing on the uncertainty surrounding the RPS budget. However, the Policy Study will provide a more rigorous and broadly scoped opportunity to review all policy options available, both legislative and administrative.

The Policy Study is especially pertinent at this juncture given the challenges encountered in utility-scale solar and, more prominently, utility-scale wind procurement over the past two years. We hope and anticipate that it will provide a comprehensive understanding of the diverse aspects influencing renewable energy procurement and offer well-informed recommendations to navigate the complexities of the renewable energy landscape.

Nevertheless, we still advocate for some revisions to competitive procurements in Chapter 5, aiming to streamline and enhance the efficacy of indexed REC procurement. We believe that these modifications will contribute to a more coherent and efficient procurement process, optimizing the alignment between procurement activities and renewable energy goals. Lastly, any deliberations regarding the necessity of legislative alterations to address solutions outside of the scope of IPA and the Commission's authority should be examined in the framework of the Policy Study, ensuring a holistic approach to resolving the challenges and advancing Illinois's reliability, clean energy, equity, and affordability priorities.

Chapter 5: Competitive Procurements

IPA Section: *5.4.1. RPS Budgets*

Comments:

1. Post-Bid Contract Changes

The IPA requested comment on viable processes for "*potentially accommodating necessary downstream post-bid REC delivery contract changes*" without compromising the "*...competitiveness of the initial bid process*" (*Section 5.4.1. RPS Budgets, p. 106)*. We recommend that the IPA consider a variety of solutions to allow for contract amendments without undermining competition or cost-effectiveness, including a one-time post-bid price adjustment mechanism and/or third party bid review.

Considering contract flexibility is important because developers face significant uncertainty around many variables–including supply chain costs, labor shortages, and interconnection delays–that can result in unforeseen changes to initial cost estimates. IPA contracts are fixed, which means these unforeseen cost increases are not recovered at the initial strike price. This is particularly significant because developers can seek alternative contracts with private buyers, who provide contracts that offer greater flexibility and assurances. This makes doing business with the IPA less attractive in relative terms and, likely, reduces the pool of project bids submitted to the IPA. The lack of flexibility may be one factor contributing to reduced contract awards in recent IPA procurements.

To attract more bids and increase participation in the IPA procurement process, we recommend that the IPA make contracts more flexible, such that they respond to reasonable future changes to project costs. For example, the IPA could consider implementing a one-time post-bid price adjustment mechanism, similar to the one proposed by the Alliance for Clean Energy in New York.[2] This one-time contract adjustment mechanism would allow successful bids to change their price to reflect drastic or unforeseen disruptions a single time after bid submission but before breaking ground. The adjustment would have to be evaluated and approved by the IPA and be based in discernable necessity. The IPA could further consider extending this mechanism to existing contracts that have yet to be energized.

Alongside this, to guarantee competitiveness, the IPA could institute a clause that requires initial bids to be approved by 3rd party reviewers ahead of the bidding process. A provision such as this one should dampen concerns about unreasonable or inflated bidding, as well as provide a sense of fairness for all participating bidders.

[2] "Petition of the Alliance for Clean Energy New York To Address Post Covid-10 Impacts on Renewable Development Economics and Contract Considerations," Case 15-E-0302, New York Public Service Commission, June 2023.

2. Strategies to Mitigate Non-Payment Risk

The IPA requested comment "*on whether or how the IPA or ICC's administrative authority can help solve for non-payment risks*" (*Section 5.4.1. RPS Budgets, p. 106).* We recommend that the IPA explore all integrated solutions for this structural problem, including but not limited to the consideration of legislative amendments. In the meantime, we recommend that the IPA be transparent about the process for handling a possible budgetary shortfall, to better help renewable developers understand their risks *(*e.g. in the event of a budgetary crisis, what happens to the RECs generated during that period? What happens to the status of the contract?).

IPA Section: *5.4.7. Considering a Price Collar*

Comment:

The IPA requested "*additional feedback as to whether or how a price collar should be instituted*" (*Section 5.4.7. Considering a Price Collar, p. 113).* At the moment, we do not recommend that the IPA institute a price collar because of the risk it poses for developers. A price collar is a tool to mitigate the previously mentioned risk of a budgetary shortfall, but it also has the potential to levy even more risk onto developers. The scenario where wholesale energy prices are so low that the REC price exceeds the collar's upper boundary could result in the developer failing to recover their costs. In a system where risks are already stacked–often asymmetrically–against participation in the IPA's procurement process, it seems unwise to pursue a price collar.

IPA Section: *5.5.1. Utility-Scale Solar and Utility-Scale Wind*

Comment:

The IPA requested comment on *"how to increase transparency to better enable REC procurements from utility-scale wind projects*" *(Section 5.5.1. Utility-Scale Solar and Utility-Scale Wind, p. 115).* We recommend that the IPA disclose as much information as possible about current benchmarking formulation, especially the criteria that the IPA uses to inform the development of benchmarks, and data from prior procurements that it can release. This is important because the IPA's benchmarking formula needs to accurately take into account present energy market challenges–such as recent price volatility and record inflation variance–to guarantee that the evaluation of bids fairly appraises external factors impacting developer costs today.

We want to highlight that the IPA has done a commendable job of including stakeholders in feedback sessions so far. To bolster these efforts, the IPA could consider providing *private* forums for stakeholder feedback. These private forums would actively create opportunities to

increase the IPA's visibility into sensitive constraints developers may be facing that are not currently accounted for in the benchmarking formula.

IPA Section: *5.5.4. Hydropower Facilities*

Comment:
The IPA requested comment on "*the right approaches for distributing the 45% allocation of target REC procurement quantities between utility-scale wind projects and hydropower projects*" (*Section 5.5.4. Hydropower Facilities, p. 117).*

Both approaches offered by the IPA pose challenges to balancing utility-scale wind and hydropower REC procurements. Conducting technology-agnostic REC procurements for both and evaluating bids on the sole basis of strike price has the potential to create a more competitive bidding process, which could be beneficial for REC fulfillment. However, submitting competing bids could potentially give one type of project an unfair advantage if there is a significant difference in bid prices. On the other hand, creating separate procurement processes, each with different evaluation criteria and benchmark prices, could reduce the chance of unfair advantages. However, this approach would require the IPA to put an artificial cap on utility-scale wind procurements.

Given that conducting separate procurement processes has the ability to limit the procurement of wind projects, we recommend that the IPA begin by pursuing a technology-agnostic bidding approach. Alongside this, the IPA should consider putting a cap on the total amount of hydropower that can be procured in a given bidding cycle if it becomes necessary. We further recommend that the IPA revisit this decision after results are available to ensure a balanced portfolio of REC procurements.

IPA Section: *5.8 Benchmarks*

Comment:
The IPA requested comment on whether "*to allow for the release of REC quantities if two or fewer projects in a category are selected in future procurement events*" (*Section 5.8 Benchmarks, p. 123).* We recommend that the IPA disclose as much information as possible about benchmarking within statutory limits; this will promote transparency in the benchmarking process. We mirror the IPA's sentiments and do not expect this decision to put successful projects at risk in this scenario.

Chapter 7: Adjustable Block Program

IPA Section: *7.3.1.1. Group A Oversubscription Challenges*

Background:

Since the Program's launch, the Group A Small Distributed Generation and Large Distributed Generation categories have run out of available capacity at a faster rate than the same categories in Group B. The Agency strives for a transparent and uninterrupted market for solar development statewide, and seeks to ensure that developers in the geographic region represented by Group A are able to participate in the Program with clarity around available capacity for future Program years. As such, the Agency finds it necessary to propose potential solutions to this observed start and stop activity that has now become commonplace in Group A. For the draft 2024 Long-Term Plan, the Agency seeks feedback on the proposed solutions outlined below - including both positive and negative consequences of implementation. As there may not be a singular solution to this challenge, feedback based on combining several of the potential solutions below (or other solutions not contemplated here) is encouraged. While block sizes used elsewhere in this Chapter are based on the traditional 30/70 split between Group A and B, those block sizes may be amended. Additionally, if the 30/70 split between Groups is updated, any other part of the Program that utilizes this percentage split will be updated accordingly…

Below is each option provided by the IPA, with our responses provided.

1. *Altering the 30%/70% capacity split between Group A/Group B to feature a greater percentage split to Group A*
    a. Response: we also share the concerns of the IPA, where if more allocation is given to A, it would "almost certainly result in ComEd ratepayers supporting projects in the Ameren service territory… leading to potential cross-subsidization concerns". Any changes to the split must be done with heavy considerations for ratepayers and how this information could be disseminated to them effectively.
2. *Dropping (or reducing) the distinction between Group A and Group B for the Small DG and Large DG blocks*
    a. Response: we also agree with the IPA on the cross-subsidization as described in Option 1. Additionally, we have one alternative to this Option 2 proposed by the IPA: reduce the size of both Groups A and B, and hold the excess allocation as a "set-aside". This "set-aside" is to be used when either group is full. For example, there are 200 MW for Group A and B collectively in the Small DG category. The "set-aside" capacity is chosen to be 100 MW. Therefore, 70 MW is provided in Group A and 30 MW in Group B. When either Group is fully subscribed, then the 100 MW that was set aside can then be used to fulfill the additional need.
3. *Increasing overall Program size, thus resulting in larger Group A Small DG and Large DG blocks*
    a. Response: We agree that this option will increase the pressure on the RPS budget. Otherwise, we have no other comments on Option 3.
4. *Creating flexibility around capacity allocations with setting aside a specific amount of discretionary capacity*

a. Response: Like Option 3, we see that this discretionary capacity will strain the RPS budget. Otherwise, we have no other comments on Option 4.

5. *Discontinue the netting of waitlisted capacity against a new Program Year's block of capacity*
   a. Response: we believe that there should be more transparency of truly available capacity in a new Program Year, so that Contractors may know if their proposed project could be fulfilled in a specific category for that year, or fulfilled in subsequent years via the waitlist.
6. *Adjustment to the prioritizations for uncontracted capacity at close of Program Year*
   a. Response: we also agree that while this Option helps address any unused capacity for a Program Year, it does not address the oversubscribed issues. Otherwise, we have no other comments on Option 6.

Additionally, we have one more proposed idea for section 7.3.1.1:
During the Program Year, the IPA can potentially shift some allocation from one block to another block. While we do not suggest a percentage reallocation, we believe that this proposal could help the IPA adjust for any issues while in the middle of the Program Year. However, as stated in Options 1 and 2, we must be aware of how much ratepayers in one service territory could be paying into projects within another territory.

IPA Section: *7.4.4. Public Schools*

Background:
…The Agency therefore proposes to further divide the Public Schools category into two sub-categories, one for community solar and one for distributed generation. The Agency proposes a split of 75% capacity of the Public Schools category to be set aside for distributed generation projects while 25% of the category will be set aside for community solar projects…

Comment:
The Joint Commenters support the IPA's decision to sub-divide the Public Schools category into two sub-categories: community solar and distributed generation. Reserving 75% of capacity for distributed generation is an appropriate allocation given the additional benefits public schools will receive from behind-the-meter solar projects. However, we note that some developers have found that a 20 year REC contract for public school DGs projects is not financially tenable and urge the Agency to re-examine this decision.

IPA Section: *7.4.5. Community-Driven Community Solar*

Comment:

Currently, the IPA Act defines “Community” as “a social unit…”; however, the IPA will strictly require CDCS be geographically locked. We believe that this will hinder future CDCS projects, because it will create a requirement that is based solely on location/geography. We agree that geographic proximity can be a strong indicator of community involvement but disagree that the lack thereof should be grounds for disqualifying projects that may otherwise have strong community engagement and benefits. The legislative language of the IPA Act indicates this in requiring that the projects must “provide more direct and tangible connection and benefits to the communities which they serve *or* in which they operate,” with “*or*” being an operative word. The definition of community was clearly designed to accommodate community affiliations that do not obey geographic boundaries.

With this in mind, we propose the following redlines to page 167 of the draft Plan:

> *The Community-Driven Community Solar (“CDCS”) category intends to provide more direct and tangible connection and benefits to communities beyond projects developed via the Program’s TCS category. Section 1-75(c)(1)(K)(v) of the IPA Act states that “[a]t least 5% from community-driven community solar projects intended to provide more direct and tangible connection and benefits to the communities which they serve or in which they operate and, additionally, to increase the variety of community solar locations, models, and options in Illinois.” The CDCS category includes community solar projects up to 5 MW that meet the criteria to be classified as community-driven.* ~~*These projects are intended to provide benefits to the communities in which they operate, meaning that a CDCS project is required to be geographically located within the same community that the project serves.*~~
>
> *The IPA Act defines “community” as a social unit in which people come together regularly to effect change; a social unit in which participants are marked by a cooperative spirit, a common purpose, or shared interests or characteristics; or a space understood by its residents to be delineated through geographic boundaries or landmarks.* ~~*For the purposes of this CDCS category, in Cook, DuPage, Kane, Lake, McHenry, and Will counties, a “community” may be defined by a social unit but also will be geographically limited to township as these are the most populated counties in the State. In all other counties State-wide, “community” may likewise be defined by social unit but will be geographically limited to the county level, as many townships within these counties can be sparsely populated.*~~

While the Joint Commenters do not believe that geographic distance should disqualify a project, we do understand the tangible benefits of geographic proximity and believe they should be rewarded in the point selection process. Therefore we recommend adding the language in red below.This new primary scoring criteria could provide additional points to projects based on the degree of geographic proximity. For example, four points could be awarded to projects in the same or adjacent census tracts, two points for the same township or zip code, and one point for the same county.

- *Whether a project is developed in response to a site-specific RFP developed by community members, or a nonprofit organization or public entity located in or serving the community.*

- *Whether a project is located in the same geographic area as the community served via project ownership, subscriptions, and other benefits.*

Sufficient demonstration of any of the individual primary selection criteria will be worth up to four (4) points each in the scoring system.

IPA Section: *7.4.6. Equity Eligible Contractor Category*

Comment:

The intent of the EEC block was to overcome financing barriers for new and existing EECs by providing capital in advance and to create a "safe harbor" for disadvantaged businesses to protect from block closure. With this in mind, we again suggest an equitable distribution of the available MW capacity between the EECs that requested REC contracts, using an "allocation round" procedure. In the first round, the lowest requested MW amount will be allocated to each of the EECs that requested REC contracts. In the next allocation round, the same procedure would be followed with the next lowest requested MW amount. When allocation of the lowest remaining requested MW results in the total amount of distributed RECs exceeding the MW remaining in that round, the remaining MW would be allocated evenly amongst the remaining developers. The EECs could then assign their allocation to the projects of their choice. The following is an example of how this would work:

EEC Company	MW Requested	Allocation Round 1	Allocation Round 2	Allocation Round 3	Allocation Round 4	Total Allocation
MW available prior to allocation round:		**40**	**38.25**	**36.75**	**14.25**	**0**
A	44.16	0.250	0.250	4.500	3.563	**8.563**
B	22.00	0.250	0.250	4.500	3.563	**8.563**
C	22.00	0.250	0.250	4.500	3.563	**8.563**
D	12.00	0.250	0.250	4.500	3.563	**8.563**
E	5.00	0.250	0.250	4.500		**5.000**
F	0.50	0.250	0.250			**0.500**
G	0.25	0.250				**0.250**
Total MW in Allocation Round:		**1.75**	**1.5**	**22.5**	**14.25**	**40**

While we understand that these exact values in the example are not our "hardline" numbers, if the IPA chooses to explore this proposal further we look forward to providing feedback on allocation values that can better conform to the expected allocations for following Program Years.

Finally, we do not support first come/first served or a lottery, because we believe neither are in the spirit of the program. First come/first served rewards the more experienced businesses (and/or those that team with the more-experienced) that have more knowledge of and familiarity with navigating the application process. A lottery awards the larger and more aggressive companies at the expense of those that cannot afford to develop, or have the manpower to manage, multiple projects. The results of these allocation processes would be antithetical to the very purpose of the EEC program.

IPA Section: *7.4.6.1 Equity Eligible Contractor Advance of Capital*

Background:
In determining what demonstrates genuine need, the IPA has limited experience since CEJA passed, having reviewed only one set of such requests. As such, the IPA believes it needs flexibility to tailor and adjust criteria as it continues to learn what constitutes "need" and how an EEC can most effectively demonstrate that "need." Thus, this draft Plan proposes that, in lieu of a rigid scoring rubric, any advance of capital request should include and will be evaluated on at least the criteria below:

- *The strength of the EEC's narrative description ~~of the need being addressed, and what key~~ outlining the EEC's need for capital advancement due to its status as an EEC, including a discussion of structural barriers faced by that specific EEC, barriers to capital access, and why that specific level of capital advancement is requested;*
- *The specific costs that the capital advancement will address (equipment, permitting, professional services, interconnection costs, REC delivery contract deposits, etc.);*
- *The number and scale of projects previously submitted into IPA programs by the EEC or any of its owners or affiliates;*
- *Planned project partners and subcontractors (and specifically, the scale and sophistication of those firms);*
- *The financial picture facing the EEC, including its owners and affiliates, as demonstrated through balance sheets, cash flow statements, tax returns, and similar documentation;*
- *The degree of Equity Eligible Person involvement in the development, ownership, and management of the applicant EEC.*

Comment:
We are pleased that the Agency is taking steps to find ways for the spirit of the EEC designation to be best supported by the program. We believe that these proposed criteria will help determine which more established larger contractors will not need the maximum available advanced capital (compared to smaller and recently established EECs that show demonstrative need for it). We look forward to the IPA's lessons learned on these criteria, as well as the IPA's November proposal on restarting the advanced capital program for EECs.

IPA Section: *7.4.6.5. EEC Developer Cap*

Comment:
In combination with the aforementioned allocation scheme, we support the Agency's suggested EEC developer cap of 20% in a given program year but also believe strongly, given the unique purpose of this category, that EECs should be subject to a cumulative EEC developer cap over the life of the program. As previously noted, the EEC category was created in CEJA to support EEPs launching new businesses and to enable the growth and stability of existing small EECs that have struggled. If an EEC is flourishing in the EEC ABP, the program has served its purpose for that contractor, and that contractor should make way for others seeking the same opportunity. We suggest the cumulative cap be set at 60% of total program capacity over a period of any 3 years of participation, and operate in tandem with the program year cap of 20%. Once the EEC meets the cumulative cap after 3 years of participation, it is no longer eligible to apply for EEC capacity.

The ultimate maximum EEC allocation based on the IL Power Agency Act is 40% of the total allocation for the Adjustable Block Program, which, for PY6, would be 266.8 MW. Given that the EEC category is designed to scale up over time, we believe that a reasonable average capacity allocation for the category is 20%, or 133.4 MW. A company that claimed 20% of that allocation for three years running would claim approximately 80 MW of capacity. We think that using this number as an "EEC lifetime cap" is more than reasonable. This is the equivalent of 16 5-MW community solar projects or 11,428 7 kW small Residential projects. This many projects should more than adequately launch an EEC into the realm of competitive Approved Vendors.

IPA Section: *7.5.3 Modeling Updates*

Comment:
The Joint Commenters seek clarity on the REC prices and project submission process for Equity Eligible Contractors (EECs) who are developing Community-Driven Community Solar (CDCS) projects. On page 189, the IPA wrote:

> *As discussed in Section 7.4.5.3, the Agency is not proposing separate prices for projects in Equity Eligible Contractor category. Those projects will instead feature the opportunity for the advance of capital. Equity Eligible Contractor projects will receive the applicable REC price and contract structure for a distributed generation or traditional community solar project.* ***If EECs wish to submit CDCS projects to the Program, those projects must be submitted to the CDCS category, as they feature a distinct application window and scoring process. Those CDCS projects will receive the REC price and contract associated with that Program category.*** *Similarly, EECs may submit projects into the Public Schools category and those projects will receive the REC price and contract related to that Program category. In addition, community solar*

projects submitted to the Public Schools category would receive the Traditional Community Solar REC price applicable to the project's size.

The most recent Approved Illinois Shines Vendor manual[3] (published August 3) included some ambiguous language around whether EEC CDCS projects would receive the CDCS REC prices or the traditional community solar REC prices. We believe that the statute is clear (as is the Plan language above) that EEC CDCS projects should receive the CDCS REC prices.

Additionally, we seek clarity on how the EEC category will contribute separate EEC category capacity to a competitive process like that seen in CDCS. It is our understanding that projects submitted by EECs to the CDCS window would be awarded that REC award so long as the project scored high enough to cross the CDCS minimum point threshold. Is this the IPA's understanding as well? If so, it might be less important that EECs submit projects during the same CDCS project submission window, given that they are not competing for the same fixed pool of capacity.

IPA Section: *7.8 Designee Registration*

Background:
The Agency understands that the requirement that a Designee must be approved by and/or connected to an Approved Vendor in order to register as a Designee may pose a barrier to Designees that are small, new entrant businesses that are seeking to participate in the Program, but do not have a pre-existing relationship with an Approved Vendor (particularly those Designees that are seeking EEC certification). The Agency seeks feedback on this potential barrier and appreciates any comments stakeholders may provide on the best way to accommodate new Designees that are seeking to become EEC certified.

Comment:
It has come to our attention that there is currently no place provided by the IPA or DCEO for an EEC that is not connected to an Approved Vendor to list their company and thereby make it known that they are available for work. As we understand it, the list of EECs maintained by Energy Solutions is limited to those EECs with an established Approved Vendor relationship. Similarly, the Energy Workforce Equity Database (EWED) is currently designed to serve only EEPs and their potential employers. Given the mandate in CEJA for the IPA, in consultation with the DCEO, to create an Energy Workforce Equity Database "of suppliers, vendors, and *subcontractors* for clean energy industries," "populated with information including, contacts for suppliers, vendors, or *subcontractors* who are minority and women-owned business enterprise certified or who participate or have participated in any of the programs described in this Act [Energy Transition Act]," (20 ILCS 730-5(c-25 (1), (*emphasis added*)), it seems clear to us that the EWED should include a place for *any* EEC to list itself, regardless of its connection to an Approved Vendor.

[3] https://illinoisshines.com/wp-content/uploads/2023/08/Shines-Program-Guidebook_Aug_3_2023.pdf#page=23

The Energy Transition Act further specifies which people and entities the database shall serve. “[T]he IPA shall coordinate with DCEO to ensure the database includes information on individuals and entities that are or have participated in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Returning Residents Clean Jobs Training Program, or Clean Energy Primes Accelerator Program.” 20 ILCS 730-5 (c-25)(3). Contractors coming out of any of these programs who are certified as EECs, as well as MWBEs should be included in the EWED.

IPA has a responsibility to facilitate connections between Approved Vendors and Equity Eligible Contractors, including those who are not registered as Approved Vendors or designees. The Energy Workforce Equity Database seems the simplest and most effective way to meet that responsibility. In the alternative, the Agency could allow EECs not yet connected with an Approved Vendor to be included on the EEC list maintained by Energy Solutions. Finally, should the Agency determine that allowing such EECs to register as designees without an Approved Vendor relationship, which seems a contradiction in terms, is necessary, such a process should be accommodating to the applicant—in particular, it should not require significantly more of the applicant than the EEC affidavit. We prefer an update to the EWED, but welcome whatever process the Agency decides is best, as long as it is publicly accessible and easy for people to find, list themselves, and use in accordance with statute.

Chapter 9: Consumer Protections

IPA Section: *9.3.1 Registration Requirements*

Comments:
While increased requirements for Designees would greatly benefit consumers, these requirements may also create barriers to entry for new businesses. Therefore we support the Agency's new Consumer Protection Handbook, which includes requirements for Approved Vendors to create Designee Management Plans. The group requests that after 1 year, the Agency reflects on the effectiveness of the DMPs. If the percentage of complaints toward Designees (in respect to total complaints) is not reduced, we request the Agency reconsider increased requirements for Designees. Greater resources for new and emerging businesses looking to join the program could help reduce barriers while protecting consumers.

IPA Section: *9.3.2 Listing of Approved Entities*

Comments: In the interest of transparency and ease for consumers, we suggest the agency create a consumer friendly tool/list to assist potential customers in finding Approved Vendors and Designees, similar to the ILSFA Approved Vendor list.

IPA Section: *9.3.3 Disciplinary Determinations*

Comments: We support this proposal. Ownership should equal responsibility, and common ownership should be sufficient. Holding companies that are related by ownership accountable will prevent a gaming situation in which bad actors can circumvent disciplinary actions by operating under a different but related entity.

IPA Section: *9.4.2.2 Economic Incentive for Stranded Customer Projects*

Background: Agency invites feedback on proposal in response to stranded customer projects (9.4.2.2)

***Process**: Using a stakeholder process, the IPA and the Illinois Shines Program Administrator would begin by developing categories of stranded customers, based on the specific types of situations in which customers are stranded. The Agency would determine a specific REC "adder" amount for each category of customer. The REC adder might be very small when the additional risk and work of taking on a type of stranded customer is minimal (such as when the project is built and functioning properly, and the application materials are available, and the customer just needs a new Approved Vendor to actually submit the application). The REC adder might be much higher when a customer is in a complicated situation or where there could be more risk or work for the new Approved Vendor (and/or Designee), such as when a project is partially installed and the original installer is bankrupt and/or unresponsive. The Agency believes that developing categories of types of stranded customers and associated REC adder values will help ensure consistency in the value of the REC adder across different projects (as compared to a project-by-project REC adder determination) and will provide transparency to Approved Vendors who may be interested in helping stranded customers. If an Approved Vendor takes on a stranded customer, the Approved Vendor will submit a form to the Program Administrator with information about the customer, the project status, how the customer was stranded, and which category and REC adder value the Approved Vendor believes the project is eligible for. The Program Administrator would review the documentation and determine whether the project is eligible for a stranded customer REC adder and, if so, what category and value. If the Approved Vendor disagreed with the determination, it could appeal to the IPA. If the customer is stranded in a situation where it needs a new Designee as well as a new Approved Vendor, the Approved Vendor would still be responsible for submitting the form to the Program Administrator and the Approved Vendor and Designee would determine between themselves how to allocate the REC adder value. The Agency proposes to request that the Commission approve an approach where the possible REC adder is available even for REC Contracts that pre-date the Agency's 2024 Plan; this will allow the proposal to assist current stranded customers, not just future stranded customers whose projects are under future REC Contracts. The Agency also proposes that the REC adder be available even after the original or "base" REC incentive payments were made. This would be relevant, for example, if an Approved Vendor went bankrupt several years into the REC Contract—after the REC incentive was paid—but the project still needs an Approved Vendor to ensure REC delivery and file annual reports (and the customer may potentially have put up the collateral that is at risk in the case of underperformance), or the customer needs a new Approved Vendor or Designee to provide maintenance or warranty coverage. There are some customers who become partially "stranded" when a Designee goes out of business, but the intended Approved Vendor for the project is still available. The Agency believes that in many cases, it is appropriate in those circumstances for the Approved Vendor—who is ultimately responsible for its Designees—to assist the customer. However, the Agency is aware that there are varying models and approaches to the division of roles between Approved Vendors and Designees. Some Approved Vendors serve only as "aggregators." Aggregators do not sell or install solar projects, and may not even interact much or at all with the customer; aggregators generally submit the project application to the Program and serve as the Seller of RECs under the REC Contract (and pass through any promised REC incentive payment). The Agency's understanding is that aggregators may not even learn about specific customers or projects until the seller Designee submits application materials to the Approved Vendor. While aggregator Approved Vendors, like all Approved Vendors, are ultimately responsible for the conduct of their Designees, the Agency understands that there are pragmatic differences in the roles and business practices of the entities involved. The Agency proposes that if a customer becomes stranded by its Designee becoming unavailable, that the stranded customer REC adder is available only if the Designee is the entity with which the customer entered into the installation contract. If the customer signed an installation contract with the Designee, and the Designee subsequently became unavailable, the customer's project would be considered an eligible stranded project. However, the Agency notes that it would expect the value of the REC adder to be primarily retained by the new Designee, and not the Approved Vendor aggregator. If the customer's installation contract was with the Approved Vendor (and for example, the Designee was a subcontracted installer), the Approved Vendor would be responsible for following through with its contractual commitments to the customer, regardless of whether the Designee installer went out of business, and the REC adder would not be available. The Agency also notes that there may be synergies between this proposal and the proposed restitution fund (see Section 9.9). Stranded customers may be able to use payments from the restitution fund to fix installation or other system issues, such that their solar project is then in a better position to be "unstranded."*

Comment:

We agree with the Agency's proposal to request the Commission to approve an approach where the REC adder is available even for REC contracts that pre-date the Agency's 2024 Plan.

1. *Question: Should there be any restrictions on the terms of the new contract between the new Approved Vendor (or Designee) and the stranded customer?*
    a. **Comment:** The terms should be equivalent to, or better than, the terms of the original contract to qualify for the REC adder.
2. *Question: Should the new Approved Vendor be required to pass through the originally promised amount of the REC incentive in order for the project to be eligible for the REC adder?*
    a. **Comment:** An Approved Vendor Aggregator should pass through the REC incentive to the Approved Vendor Designee, assuming the Aggregator has already been paid. An Approved Vendor that is completing a project should not be required to pass through the REC adder.
3. *Question: What categories of stranded customers would be appropriate? What would an appropriate REC adder value be for each category?*
    a. **Comment:** Below are the proposed categories (in order from smallest to largest REC adder value):
        i. The project is built and functioning properly, and the application materials are available, and the customer just needs a new Approved Vendor to actually submit the application. In this situation, the Approved Vendor is acting as an aggregator and the adder should be equivalent to the typical aggregator fee. Aggregegrator fees are typically a percentage of the total REC contract value with a lower % for larger projects.
        ii. The project is partially installed and the original installer is bankrupt/unresponsive.
        iii. Deposit provided by buyer but the system installation was never started and the installer is bankrupt/unresponsive.
    b. However, we recognize that pricing adders for scenarios ii and iii will be difficult. We would like to highlight that any attempt at creating REC adder values must balance some form of consumer protection and risk.
4. Question: Are there alternative ways to incentivize Approved Vendors and/or Designees to take on stranded customers?
    a. **Comment:** Yes; one potential is to offer points or preference in competitive subcategories in exchange for taking on stranded projects. For example, for every 100 kW of stranded projects that an Approved Vendor takes on, the program could allocate 500 kW of Traditional Community Solar. This allocation would take precedence over waitlisted projects in the next program year. The Approved Vendor would be allowed to transfer that allocation to another Approved Vendor. This could be done in addition to, or in place of, the REC adders.
5. *Question: Should the Agency consider case-by-case requests for exceptions to any of the generally applicable requirements and restrictions for an economic incentive?*

a. **Comment:** Because unique scenarios have and will continue to occur, the Agency should consider case-by-case requests for exceptions.

IPA Section: *9.4.2.3 Escrow Process for Approved Vendors that Do Not Pass Through Promised Incentive Payments*

Background: The Agency is proposing to develop an escrow process to be activated in situations where an Approved Vendor is very likely not going to pass through promised incentive payments to customers. An outline of the Agency's proposal is provided on page 444 (9.4.2.3), and the Agency encourages comments on all aspects of the proposal.

1. *Question: Should the Program Administrator serve as escrow agent, or should a third-party escrow service be used?*
   Comment: We are concerned that the Program Administrator lacks the capacity or staff to serve as escrow agent.

2. *Question: What are the benefits and drawbacks of each?*
   Comment: As stated in the previous response, we are concerned with overburdening the Program Administrator; however, adding the escrow agent role to the Program Administrator's duties would keep the process centralized within an already-established role. Regarding using a third party, while such a service could be more costly, a third party could be better equipped for the escrow agent role.

3. *Question: What is the appropriate activation point for the escrow process?*
   Comment: While we do not have definitive recommendations for activation points, we list out some options that the IPA can consider:
   - The contractor files for bankruptcy.
   - The contractor fails to show timely progress on their project buildout.

   Additionally, we have been provided an idea of the IPA creating a "rating or ranking system" for contractors. This system would keep track of how well a contractor has done in completing prior projects, as well as how customers rank them. While this does not directly relate to the escrow process, this rating system could become a good indicator of the likelihood of necessitating the start of the escrow process. While we are not endorsing this idea, we are optimistic that, if this were to be considered, the IPA would request feedback and we would have time in the future to fully consider the benefits and downsides.

4. *Question: Should the escrow process be activated for closely affiliated Approved Vendors, pursuant to the proposal described in Section 9.3.3?*
   Comment: Yes, we support this proposal.

IPA Section: *9.4.2.5 Other Illinois Shines DG Consumer Protection Issues*

1. *Background: At this time, the Agency is therefore proposing the REC adder for "rescued" projects and the development of an escrow process to address consumer protection concerns, rather than limiting the delayed pass-through business model. Pg 447 (9.4.2.5)*
    a. **Comments**: We support the Agency's proposal to develop the REC adder for "rescued" projects and the escrow process rather than limiting/prohibiting the delayed-pass through business model, for now. As the Agency described, the delayed pass-through model creates many consumer protections issues, as it puts most of the risk on the consumer. We would like to see the agency develop a plan for the future that could help businesses transition away from this model.

2. *Background: Agency wishes to better understand the benefits and drawbacks of restrictions on passing through the underperformance risk before proposing changes to Program requirements. Pg 447 (9.4.2.5)*
    a. **Comments**: Consumer advocates in the group have spoken to several consumers who went solar and then decided not to sign their SREC contract in fear of being on the hook for potential underperformance. Putting the risk on the consumer creates uncertainty for the consumer and is a huge disincentive. We urge the Agency to conduct a study on the benefits and drawbacks of restrictions on passing through the underperformance risk to consumers. We believe this study will show a need to reduce the amount of risk we require consumers to take on.
    b. Some consumer advocates provided a possible solution: for the Agency to create a "Pay-as-you-produce" REC contract, whereby the IPA pays for a certain amount of the contract as the contractor demonstrates certain progress in their projects. However, we also recognize that creating this program will require much thought around how to standardize degrees of progress, as well as managing payments on these more frequent schedules. While we do not endorse this solution at this time, we hope that the Agency will request feedback on this in the future so that we can take the time to consider all benefits and downsides to this.

IPA Section: *9.4.2.7 Illinois Shines Community Solar Consumer Protection Concerns*

Comments:
We are concerned by the lack of transparency we have seen in bills from Community Solar providers who take over management of their customers' utility accounts. Although the

regulated electric utilities' bills can be challenging for consumers to decipher, they still contain a great deal of info that can be useful to the consumer. Without this information readily available, it can be difficult for the customer to determine whether the community solar deal is beneficial to them, or whether there has been a spike in their usage or other concerns. We have also seen cases of oversubscription and the rapid build up of excess credits for customers whose provider has taken over management of their bills. Without regular access to their utility bills, consumers are not able to spot an issue and have it rectified in a timely manner. This has resulted in customer overpayment, increased consumer distrust in the program, and canceled subscriptions. Finally, in cases where a Community Solar provider takes over management of the customer's electric account, the customer is implicitly trusting that provider to pay the utility on their behalf consistently and on-time. We are very concerned about problems (such as disconnections, late payment fees, and damage to customers' credit scores) that may arise in the event a Community Solar provider goes out of business, suffers a glitch, or otherwise fails to make a payment to the utility on time on the customer's behalf. We support the new requirements for Community Solar providers who take over customers' utility accounts as a temporary solution, while also urging the Agency to consider a future prohibition of this model. Once consolidating billing is implemented for community solar customers, this utility account takeover model will offer zero benefits.

IPA Section: *9.8 Consumer Protection Working Group*

Comments:
We propose that the Agency allow Consumer Protection Working Group attendees to submit written comments on topics discussed in the meeting after the meeting is held. We believe this will allow attendees to comment more thoughtfully on the agency's proposed topics.

IPA Section: *9.9 Solar Restitution Fund*

1. *Question: Are the proposed customer eligibility requirements appropriate?*
    a. **Comment**: We support the Agency's proposal to allow consumers affected by unregistered entities (which an Approved Vendor or Designee hired) to utilize restitution funding.

2. *Question: Should the restitution fund only be available for individuals (and not businesses or nonprofits)?*
    a. **Comments**: We do not yet know the full scope of the magnitude of the problem for businesses and/or non-profits; therefore, we do not have any direct response

to the Agency. If businesses/nonprofits could also benefit from being included in the restitution fund, then we believe they should be included.

3. *Question: Should the fund only be available with respect to distributed generation projects (and not community solar)?*
    a. **Comments**: We believe that community solar customers should also be eligible to apply for restitution funding.

4. *Question: Should there be a cap on the amount of restitution payments triggered by violations by a single company?*
    a. **Comment**: We believe there should not be a cap on the amount of restitution payments triggered by violations by a single company. Customers should not be penalized by inability to receive maximum restitution payment, just because there may be several cases tied to a single company.

5. *Question: Should the Agency use a phased approach to implementing a restitution fund?*
    a. **Comment**: We support the Agency's proposal to use a phased approach, in order to ensure ability to adjust the program based on experience. We request that the Agency set dates for which we can expect the later phases to be rolled out.

6. *Question: Should entities whose conduct leads to a successful restitution fund claim be automatically suspended from the Program until they repay the fund?*
    a. **Comment**: We believe entities should be automatically suspended from the Program until they repay the fund. This will incentivize Approved Vendors and Designees to come up with a solution, which should hopefully reduce the need for the restitution fund in the future.

7. *Question: How can the Agency best defend against the presence of a restitution fund potentially encouraging Approved Vendors or Designees to act with less diligence, knowing that legal exposure is arguably more limited if the customer has an alternative means for being made whole?*
    a. **Comment**: Suspending Approved Vendors or Designees from the program until they repay the fund will incentivize them to continue to act with diligence.

8. *Question: Should there be a limit on how much time can elapse between the harm occurring and the customer submitting a claim?*
    a. **Comment**: From our communication with consumers, Consumer advocates have discovered that many consumers have a very poor understanding of how their SREC contracts function. It may take a while for a consumer to realize that they have not received their incentive money. We believe that any eligible customer who participates in Illinois Shines or Illinois Solar for All should have access to the restitution fund.

Comment on Ameren Rebill issue

Comment:
During late fall of 2022, there was an issue with community solar billing within Ameren territory. Due to the transition in billing methodologies, community solar customers in Ameren territory were expected to pay a large lump sum of banked credits that were unexpectedly added to their Ameren bill. This event created a significant consumer protection concern that was created by the default utility, and exacerbated due to the lack of communication between the utility and the community solar providers. In addition, there was very poor communication from Ameren to its customers, which created confusion and mistrust in the Community Solar program. Although Community Solar providers were able to offer payment plans for the rebill, and one company covered the costs of the rebill for its Illinois Solar for All customers, the problem has damaged the perception of community solar. We need safeguards in place to prevent a recurrence. While the Agency does not have authority over utilities, there should be a process in place to address actions by utilities that harm customers. We ask the Agency to identify ways to avoid this issue in the future.

Chapter 10. Diversity, Equity & Inclusion

IPA Section: *10.1.1 Definitions and Eligibility: Equity Eligible Persons*

Comment:
The Joint Commenters support requiring certification via the Equity Portal but remain concerned about eligibility based on primary residence given the unfortunate results in the rollout of the cannabis legislation. We suggest a compromise that requires an EEP to demonstrate residence in an EEIC for the two years preceding application for certification in tandem with a two year recertification requirement. We hope the Equity Portal will make this process straightforward and pose no undue burden.

We are pleased to see the IPA recognize that the Equity Portal can streamline reporting and provide a consolidated, user-friendly method for tracking Equity Eligible Persons. We would like to propose a further expansion of the IPA's proposal to utilize the Equity Portal as a compliance tool that Approved Vendors and designees can use to track progress towards the Minimum Equity Standards. Additional details on this proposal are below in our response to Section 10.4.2.

IPA Section: *10.1.2.1 Ownership by EEPs*

Comment:
Regarding documentation, criteria and evidence of EEP ownership, we feel strongly that potential abuse of the system be carefully guarded against by requiring substantial documentation of ownership, control, and/or contract value residing in and flowing to the EEP. We suggest the following documentation be required, in order of importance:

1) Demonstration that minimum percentage (no less than 51%) of REC contract value flows to the EEP or EEC.
2) Demonstration that EEC is majority owned by EEP. EECs should be required to submit the pages from their operating agreement that specify ownership and ownership percentages and to identify which owners are EECs. Regardless of the ownership structure, majority ownership by EEP should be demonstrated throughout the organizational structure. As we discussed in our previous comments, not taking this approach could lead to a lack of true majority ownership. For example, a company could request an EEC designation for an entity (entity A) that is 51% owned by an EEC company (entity B). If Entity B is only 51% owned by an EEP, that EEP would only own 26% of entity A. In this scenario, entity A should not qualify as an EEC.

3) Documentation that the EEP serves as a general or managing partner, or another decision making role.

We also recommend that an EEC be required to promptly report any changes to its corporate or ownership structure during its participation in the program. These tax documents should not be posted publicly but rather used as part of the EEC verification and application process.

Beyond the minimum ownership information, we would like to see a more rigorous process for EEC applications. We recommend that the IPA utilize some of the criteria used to vet and verify Minority-Owned Business Enterprises through the Minority Supplier Development Council without considering minority status. In particular we think IPA should consider requiring sole proprietors to submit:

- Driver's license or currently valid picture ID
- Applicable Operating Business License and/or permits (if applicable)
- Occupational Licenses (if applicable)
- Resume(s) of owner(s), partners, or shareholders (to include the definition of the role each is serving in the company)
- Bank Signature Card (or letter from bank identifying signatures on the account and type of account)

Finally, IPA should ensure the availability of EEC project application assistance. CEJA's Clean Energy Contractor Incubator Program and Clean Energy Primes Contractor Accelerator Program should ultimately take an active role in assisting with EEC structuring and the EEC application.

IPA Section: *10.1.1 Definitions and Eligibility: Equity Eligible Persons*

Comment: Please see answer under Section 7.8 above and Section 10.4.2 below.

IPA Sections: *10.2.1 and 10.3.1 Scope of Data Collection*

Comment:
On the 15th of September, 2023, the Renewables and Jobs & Environmental Justice Committees of the IL Clean Jobs Coalition submitted a letter to the IPA and DCEO regarding the need to collect additional data to ensure the Equity Accountability System Assessment and the Disparity Study mandated by CEJA are sufficiently supported to inform any necessary

adaptations. We also repeatedly stressed the urgency of seeking early guidance so that a robust data collection system can be developed now. We believe the decision to limit data collection at this time and to delay the retention of a consultant would be big mistakes with potentially far reaching consequences. Below we reiterate some of the points in that letter to ensure their inclusion in the public record.

As stated in our letter, robust data collection is essential to ensuring effective achievement of our shared equity goals and will determine our ability to identify whether communities and populations intended to benefit from these programs are being served or left out, and to craft effective reforms shaped by a nuanced understanding of what aspects of the programs are and are not working.

We emphasized the need to collect specific types of data to assess the effectiveness of the Equity Accountability System (and by implication, the CEJA workforce ecosystem) and urged the agencies to work together to ensure that data is collected at each step of the way in order to determine whether each component is functioning as it should. For example, the effectiveness of the workforce ecosystem will directly impact the ability of Approved Vendors and competitive bidders to meet the Minimum Equity Standards, and of competitive bidders to increase their employment of Equity Investment Eligible Persons (EEP). As such, data collected on the workforce hubs should include disaggregated demographic data on program applicants, applicants admitted and denied, admitted applicants that matriculate, applicants that graduate, and post-graduation hiring status. Collecting such data at key junctures will help determine, for example, whether worse than expected outcomes are driven by limitations of applicant pools, which would indicate a need to evaluate outreach and recruitment efforts, or alternatively driven by low retention rates for certain groups, which would indicate a need to evaluate why individuals are leaving the program. Data on these programs will also help the IPA assess the validity of contractor claims that a limited pool of qualified EEPs is undermining their ability to comply with their hiring obligations.

Equally important and vital to the success of achieving CEJA's equity goals is the need for the IPA and DCEO to ensure data is collected in a manner that allows for an evaluation of the *quality* of opportunities offered to intended beneficiaries. For jobs, this means collecting data on total hours worked, temporary vs. permanent positions, and employees vs. independent contractors. For contractors, this should include the value of the contract and the significance of growth opportunities and mentoring offered by it.

The agencies will also need to collect data on all the bases for Equity Investment Eligible Person (EEP) status, including whether a person resides in an Equity Investment Eligible Community (EIEC), is a foster care alumnus and/or formerly incarcerated or is a graduate of specified workforce and contractor programs. We again note past concerns expressed by the Agency regarding a potentially overly broad definition of EEPs capturing people within gentrified communities. In order to assess the validity of this concern, we recommend the collection of income data that will allow for an evaluation of whether applicants that are economically better

off are disproportionately accessing the programs. We also recommend collection of specific address information and other demographic characteristics to inform any future deliberations around the need to adjust the geographic boundaries of the EIEC definition to better serve intended beneficiaries.

We emphasize again that for both system assessment and the disparity study, the agencies will need to be able to disaggregate the data by other factors that might affect success. For example, a disparity study should compare successful opportunity-seekers to those unsuccessful opportunity-seekers that also possess the qualifications necessary for the job or contracting opportunity. In assessing CEJA programs beyond the disparity study context, the Agencies should consider various factors that may drive or limit success, and collect data that will allow them to interpret program results in an effective and nuanced manner.

The agencies should also ensure data is collected for all "protected classes" under state and federal anti-discrimination law, including specific racial/ethnic group, gender, gender identity, disability status, national origin, and language status. This will help the agencies determine whether some populations are underserved by CEJA programs and, if so, will inform remedies.

Here, we restate the importance of ensuring the data collected is comparable and accessible. There is room to build upon and improve the workforce reporting that ComEd undertook with the original workforce programs created under the Future Energy Jobs Act. An example of that reporting can be found in ComEd's 2022 Workforce Development FEJA to CEJA Transition Report (Part 1).

ComEd reported on data such as the number of trainees enrolled, graduated, and/or placed into jobs, as well as trainee demographics. However, this reporting was generally shared via annual pdfs and was not always comparable across different workforce programs or different periods of time. We encourage DCEO to (1) expand upon the number and types of data points reported (as noted above), (2) design the data collection from the start to be as comparable as possible across Hubs and over time, and (3) make it easy to access, including the regular (more often than once a year) posting of data online in formats that are easy to download and analyze.

We recognize that studies of disparity and its remedies can draw legal challenges and heavy scrutiny. Of course, further discussion on this is outside the scope of these comments. We trust both agencies will take the best course of action to ensure that there are ways to understand whether or not individuals are being purposefully prevented from participating in the market.

Given the importance of addressing discrimination that may exist in the clean energy economy and the many pitfalls that well-intended agencies can run into, we once again urge the Illinois Power Agency, working with the Department of Commerce and Economic Opportunity, to retain legal counsel that has experience and expertise in successfully guiding government bodies through this process as soon as possible. Such counsel is particularly critical during the early stages of designing data collection and studies. A legal expert who regularly helps government

agencies through this process shared with us that the biggest mistake she sees is when agencies wait to reach out to her until a program is challenged and at that point her ability to help them withstand the challenge is greatly limited.

Engaging a legal expert now will ensure that no steps are taken that could inadvertently put the state at legal risk and jeopardize important remedies. Such an expert can also inform the Agency's selection of an expert to conduct the disparity study, drawing on their deep knowledge of the limited number of experts that do this and of the pros and cons of the different statistical methods that these experts employ. Determining the data to be collected and designing a reliable method for collecting and analyzing it will play a large part in determining whether remedies based on findings of discrimination in the disparity study can withstand legal challenge. Waiting to hire a consultant to guide Illinois through this process will only delay the implementation of additional remedies should such need be uncovered.

Finally, we reiterate the importance of acting now. As the DCEO prepares to award funding for the operation of the CEJA workforce ecosystem of programs, it is essential that the Department has a mandatory, uniform, robust, and serviceable data collection system in place for all program operators that includes the additional data we suggest above. Likewise for the IPA as it continues the new rollout of the Equity Accountability System. Legal counsel will have additional well-grounded advice. We encourage you to retain such counsel now (and any additional consultants deemed necessary) and not delay until June 2024.

IPA Section: *10.4.2. Approved Vendor Reporting*

Background: The Agency welcomes comments that provide practical ways to streamline this reporting approach that still allow this level of analysis of the success of the Equity Accountability System and the same level of transparency to the public as to the makeup of the solar energy workforce in Illinois.

Comment: The Joint Commenters believe the Agency can obtain the data it needs (as set forth in our comment on Sections 10.2.1 and 10.3.1 above) and also streamline the reporting approach by allowing Approved Vendors to submit the necessary data on an annual basis, which will allow the Agency to disaggregate that data to assess whether equity goals are being met and to inform any needed program refinements.

As indicated in our responses above, we support streamlining reporting and compliance so long as it does not compromise data collection and the underlying intent of the Equity Accountability System, namely, to reduce discrimination and advance equitable outcomes for the clean energy economy of Illinois. We believe that an expansion of the Equity Portal will ease reporting burdens while increasing data fidelity.

We envision a user interface for the Equity Portal that can serve as a one-stop-shop for data reporting by requiring Approved Vendors and designees to report all employees on the portal, not just EEPs. An Approved Vendor or designee could upload payroll data to determine if their employees are EEPs by geographic location. Then, employees will use the portal to indicate if they are EEPs through one of the other qualifying pathways (i.e. foster care alumni, returning resident, or training graduate) and confirm their affiliation with an Approved Vendor or designee. EEPs then become the building block for Minimum Equity Standard compliance and for Equity Eligible Contractor certification. This type of reporting tool - with drag-and-drop functionality that allows links between entities and reduces data redundancy - is likely easiest to create through a customer relationship management software like salesforce but could also be done by retrofitting the existing Equity Portal.

A new and improved Equity Portal might also allow for stronger demographic reporting and data tracking. Providing unique employee IDs for each employee working for an Approved Vendor or designee gives the IPA additional visibility into the fluidity of the solar workforce and, assuming the personnel IDs include demographic information, crucial information for the upcoming disparity study. For example, it will become easier to determine if the same Equity Eligible Person is being claimed by multiple Approved Vendors for compliance or if Approved Vendors in certain geographies are facing disproportionate challenges with compliance.

Should the IPA decide to accept this proposal for additional data reporting via the Equity Portal, we urge reduced compliance burdens elsewhere in the Equity Accountability System. There should be ways to use a compliance-focused Equity Portal to largely supplant or reduce the demographic data reporting, the mid-year report, and the end of year report. We understand that these are statutorily required in the IPA Act but trust that enough flexibility is given to reduce these compliance metrics to only gather what is missing from a consolidated Equity Portal compliance tool.