

To: The Illinois Power Agency IPA.EnergyEquity@illinois.gov
Re: Stakeholder Feedback on EEC Certification
From: Members of the Illinois Clean Jobs Coalition
Date: Friday April 18, 2025

Questions for Stakeholder Feedback:

A. Ownership and Control by Equity Eligible Persons

The current EEC certification process requires that a business be majority-owned by EEPs. However, the Agency is concerned about ownership arrangements where the majority-owner EEP is a silent partner with limited involvement in the business, while the minority owner is a large, established company managing all business operations. In the 2026 Long-Term Plan, should the Agency propose requiring additional documentation or evidence to demonstrate that the majority-owner EEP(s) has/have active control and management of the business? If so, what types of governance documentation would be appropriate (e.g., operating agreements, bylaws)?

Answer: In the 2026 Long-Term Plan, the Agency should propose requiring additional documentation to demonstrate that the majority-owner EEP has active control and management of the business. Depending on the type of business, this can include business formation documents such as Articles of Incorporation, Articles of Organization, Corporate Bylaws, Operating Agreements, or Partnership Agreements. These documents are used in Illinois and throughout the country to prove ownership and control when certifying MBEs, DBEs, and WBEs. These are some examples of documents that can be used to demonstrate active control and ownership by EEP(s). However, given that these documents can also be manipulated or not reflective of what is actually occurring within a business, we recommend additional interviews, site visits, and/or a survey of questions to be completed by the EEC, like those in the table below borrowed from the United States Department of Transportation.

What should the Agency consider as qualifying criteria for demonstrating 'active control and management' of a business by majority-owner Equity Eligible Persons (EEPs)? Are there specific roles, responsibilities, or decision-making authorities that should be used to define this standard?

Answer: Chicago Minority Supplier Development Council is a regional affiliate of the National Minority Supplier Development Council (NMSDC) that advances business opportunities for its certified Asian, Black, Hispanic, and Native American business enterprises. For its MBE certification, depending on the legal organization of the applicant business, qualification is established through documentation proving minority ownership of 100% of the assets of a sole proprietorship, at least 51% of the equity interests in a partnership, or at least 51% of the membership interests in a limited liability company, among other options. Further, a Minority has control of the business if the Minority is the final decision maker for all aspects of the business- financial, production, contracting, etc- or has passed a great majority of decision making to an

employee manager or another partial other. Here, a primary indication that a Minority actively participates in the management and has control of the business is that the Minority has 100% of the control of a sole proprietorship, has at least 51% of the control of a general partnership, or a Minority is the sole manager, among other criteria.¹ Again, this is proved through documentation uploaded with their MBE application such as Articles of Incorporation, Stock Certificates, Minutes to Board of Directors meetings and Shareholder's meetings, Bylaws (executed and attested), any agreement(s) pertaining to the ownership, operation, and control of business, Business cards, Resumes, Partnership Agreements, and Operating Agreements (some documents vary by business structure type). These are some examples of what the Agency could propose requiring in order to partially demonstrate active control and management by EEP(s) .

The Agency should also consider utilizing a matrix like that developed by the United States Department of Transportation for Disadvantaged Business Enterprise certification, along with a rubric of points to set a minimum level of "active control and management".²

		Majority Owner (51% or more)				Minority Owner (49% or less)			
A = Always F = Frequently	S = Seldom N = Never	Name: _____				Name: _____			
		Title: _____				Title: _____			
		Percent Owned: _____				Percent Owned: _____			
Sets policy for company direction/scope of operations		A	F	S	N	A	F	S	N
Bidding and estimating		A	F	S	N	A	F	S	N
Major purchasing decisions		A	F	S	N	A	F	S	N
Marketing and sales		A	F	S	N	A	F	S	N
Supervises field operations		A	F	S	N	A	F	S	N
Attend bid opening and lettings		A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)		A	F	S	N	A	F	S	N
Hires and fires management staff		A	F	S	N	A	F	S	N
Hire and fire field staff or crew		A	F	S	N	A	F	S	N
Designates profits spending or investment		A	F	S	N	A	F	S	N
Obligates business by contract/credit		A	F	S	N	A	F	S	N
Purchase equipment		A	F	S	N	A	F	S	N
Signs business checks		A	F	S	N	A	F	S	N

Should the IPA propose requiring periodic re-certification or audits to confirm that EEPs remain actively involved in business operations? If so, how frequently should these reviews occur?

Answer: Yes. Chicago's M/WBE Certification Program is valid for 5 years. The NMSDC's MBE certifications, that certify MBEs in all 50 states through their regional affiliates, are valid for one

¹ Chicago Minority Supplier Development Council. <https://www.chicagomsdc.org/certification-process/>

² <https://www.transportation.gov/sites/dot.gov/files/2025-02/UCA%204.09.2024%20%281%29.pdf>, p. 12.

year, with a brief renewal application required within 90 days of the expiration date to continue certification uninterrupted. Unless there is change in the ownership, management and control of the business, there is very little paperwork required. Re-certification requires providing financial documents and current tax forms. WBENC's WBE certification is valid for one year, with annual recertification required. As an additional reference, in Wisconsin for example, the Department of Administration's MBE/WBE Certifications are valid for three years, with a yearly renewal the first two-years after certification, and a recertification the third year. EEC certification should not be as rigorous as BE certifications and as such should be re-examined no less frequently than every two years.

What alternative approaches could be used to ensure EEPs are not being used as figureheads to qualify businesses for EEC status in a way that conflicts with the equity objectives of CEJA? Please include details related to any suggestions made in response to this question.

Answer: IPA should consider incorporating a virtual interview into the application process as well as select site visits and a survey matrix like that shown above. The US Department of Transportation utilizes on-site interviews in its DBE certification process.³

B. Verifying the Socio-Economic Status of Majority-Owner EEPs

During the development of the 2024 Long-Term Plan, the ICC's Final Order rejected the IPA's proposal to require majority-owner EEPs to demonstrate socio-economic status that signifies disadvantage. However, concerns remain regarding whether all EEPs benefiting from the EEC category align with the intent of CEJA to support historically disadvantaged individuals and businesses.

1. In the 2026 Long-Term Plan, should the Agency propose requiring EEP majority-owners to demonstrate their socio-economic status (e.g., income documentation) to ensure they are individuals who would most benefit from equitable investments? If so, what types of documentation would be appropriate?

Answer: We do not believe that the Agency should require a demonstration of socio-economic status by majority-owner EEPs. The IL Energy Transition Act defines "equity eligible contractor" (EEC) and equity investment eligible person" (EEP).⁴ As you know, neither of these definitions include a requirement that a person or contractor hold a particular socio-economic status. We do not believe the Agency has the authority to impose such, but believe requiring the documentation discussed above, along with site visits or interviews, as well as the annual requirement for EECs to recertify will help these incentives reach the appropriate populations.

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<https://www.transportation.gov/sites/dot.gov/files/docs/mission/civil-rights/disadvantaged-business-enterprise/345906/docr-curative-measures-memorandum-august-7-2019.pdf>

⁴ 20 ILCS 730/5-5.

- a. **What should be considered when determining proper income cut-offs for eligibility, and how might those thresholds be set to balance inclusivity with the intent of prioritizing individuals facing systemic economic barriers?**

N/A

- b. **What sources of verification should be utilized to authenticate socio-economic status, and what challenges might arise in collecting and assessing this information?**

N/A

2. Are there other alternative measures that the Agency should consider to ensure the EEC certification process is fair and effective? Please include detail related to any suggestions made in response to this question.

Answer: The IPA should consider incorporating a virtual interview into the application process as well as select site visits and a survey available solely to the EEP. The interview and survey should be structured to weed out the bad actors. Questions specific to the proposed project (or project role) and program should quickly reveal whether the EEP has active control and management of the business. In addition, at least while the program is still small, we recommend speaking directly to EEPs and EECs on a regular basis to get their feedback on the process to ensure it is fair, effective, and working to support the intended beneficiaries. There is not a one-size fits all approach. EEPs and EECs come from different backgrounds with different needs and qualifications.

C. Preventing Manipulation of the EEC Category

The Agency is concerned about potential manipulation of the EEC category, such as through “sleeving” or “pass-through” arrangements, where non-EEC companies form partnerships with EEPs to access EEC benefits without genuinely advancing equity goals. Additionally, the Equity Accountability System Assessment highlighted that some EECs are relegated to superficial roles in project development, such as equipment procurement, rather than engaging in substantive project management or operations. These issues undermine the purpose of the EEC category, which is intended to promote meaningful participation and economic opportunity for businesses owned and controlled by EEPs.

1. **Should the Agency require EECs to demonstrate a minimum level of involvement in project development, construction, or operations to qualify for the EEC category in Illinois Shines? If so, what criteria should be used to measure involvement?**

Answer: The full potential to advance equity through the EEC ABP will not be realized unless IPA evaluates the degree to which EECs are engaged in and benefitting from entire projects, not just the extent to which EECs serve as the Approved Vendor for projects. The value of the

services being performed by EECs on EEC projects should be data that is collected and disseminated. It is the only way to ensure that project value significantly transfers to EECs and to guard against EECs serving as limited pass-through companies with little to no investment in the clean energy economy.

Under the current approach, a project can successfully obtain EEC RECs even though only a small fraction of the project's economic benefits are realized by an EEC. We suggest that the IPA establish contractor or designee roles within the development and installation process and set minimum participation targets based on those roles. Ways to accomplish this include requiring EECs to occupy a certain number of parts of the value stack and/or requiring a certain percentage of contract/subcontract dollars on a project to go to EECs. Such a threshold would help ensure that EECs are substantially engaged in these projects and gaining opportunities to grow their experience and capacity, as CEJA envisions. For example, an EEC AV Aggregator may charge less than 5% of the REC contract but the EEP is fully engaged in the work, whereas an EEC installer who has less than 10% of a contract is likely acting as a pass through entity.

We also recommend that IPA prioritize REC bids according to the degree to which they advance equity goals above the minimum standard, which can be done through a point system. The most points/highest priority should go to projects where 100% of the revenue flows to EECs and the EEC participants are 100% owned by EEPs.

IPA could further spur the growth of EECs if it provided points to projects in which established companies have made concrete, firm commitments to partner with EECs in a manner that provides meaningful learning and growth opportunities and meaningful, demonstrable mentoring. Partnering with an established AV can provide seed capital to an EEC allowing it to, for example, increase its capacity to develop helioscope designs and proposals by hiring qualified personnel to work in-house. Continued growth and partnership could allow the EEC to hire designers to develop one-line drawings and submit interconnection agreements (or pay for services that do the same). These steps will enable an EEC to grow into a viable, successful business that can undertake the entire AV scope of work.

A points project prioritization system and minimum standards ensure that all projects that participate in this program meet a meaningful standard of equity and incentivizes non-EECs to make even stronger commitments to equity.

- 2. Should the Agency create a scoring or prioritization system within the EEC category in Illinois Shines to reward projects where EECs serve as the primary developer or operator? If so, what factors should be included in such a system?**
- 3. Should the Agency implement a scoring or prioritization system within the EEC category in Illinois Shines to reward EECs that demonstrate a stronger**

commitment to equity (e.g., by employing a higher percentage of EEPs or operating in EIEC areas)? If so, what criteria should be used for scoring?

Answer: Yes. Please see C. 1. above.

- 4. Should additional disclosure and transparency be required regarding EEC ownership structures and subcontracting arrangements?**
- 5. What additional measures could help deter sleeving or pass-through structures, where EEP ownership is nominal but non-EEC entities control operations and enjoy most of the financial benefits?**
- 6. What best practices should the IPA consider to ensure legitimate EEC participation without placing undue burdens on EEP majority-owners?**

Answer: Consult and get feedback directly from a variety of EEPs and EECs, and continue to do so regularly.

D. Other Enhancements to the EEC Certification Process

The Agency welcomes additional suggestions for improving the EEC certification process to ensure it aligns with the statutory goals of advancing equity in the clean energy economy.

1. Are there other changes or enhancements to the EEC certification process that the Agency should consider? Please provide specific recommendations.
2. Are there any best practices from other industries or programs that could serve as a model for strengthening the EEC certification process?

Thank you for your time and attention. We welcome discussion on the above feedback and look forward to the Long Term Planning process.

Sincerely,
A Just Harvest
Central Road Energy
Elevate
Little Village Environmental Justice Organization
Union of Concerned Scientists
Vote Solar
Citizens Utility Board