



Prevailing Wage Requirement Proposed Process Request for Stakeholder Feedback

October 14, 2021

Background

On September 15, 2021, Governor Pritzker signed the Climate and Equitable Jobs Act ([Public Act 102-0662](#)) into law. This Act includes significant changes to the Illinois Power Agency Act (20 ILCS 3855, the "IPA Act"), including an overhaul of certain elements related to the Adjustable Block Program. As this Act also frees up additional funding for supporting new renewable energy project applications, those changes include requirements that certain Adjustable Block Program categories reopen (or open for the first time, in the case of new categories) within 90 days after the effective date.

The Illinois Power Agency ("IPA" or "Agency") is seeking feedback on certain provisions of the law in order to prepare for opening of additional blocks on December 14, 2021 in compliance with P.A. 102-0662. This feedback will be utilized by the Agency to develop interim requirements for the opening of blocks in December; such requirements may ultimately be revised and/or modified in accordance with the approval of the Agency's next Long-Term Renewable Resources Procurement Plan by the Illinois Commerce Commission, which is expected to occur in the summer of 2022.

Section 1-75(c)(1)(Q)(1) of the IPA Act (20 ILCS 3855) states in relevant part:

(Q) Each facility listed in subitems (i) through (viii) of item (1) of this subparagraph (Q) for which a renewable energy credit delivery contract is signed after the effective date of this amendatory Act of the 102nd General Assembly is subject to the following requirements through the Agency's long-term renewable resources procurement plan:

(1) Each facility shall be subject to the prevailing wage requirements included in the Prevailing Wage Act. The Agency shall require verification that all construction performed on the facility by the renewable energy credit delivery contract holder, its contractors, or its subcontractors relating to construction of the facility is performed by construction employees receiving an amount for that work equal to or greater than the general prevailing rate, as that term is defined in Section 3 of the Prevailing Wage Act. For purposes of this item (1), "house of worship" means property that is both (1) used exclusively by a religious society or body of persons as a place for religious exercise or religious worship and (2) recognized as exempt from taxation pursuant to Section 15-40 of the Property Tax Code. This item (1) shall apply to any the following:

Illinois Adjustable Block Program

(877) 783-1820 | admin@illinoisabp.com

www.illinoisabp.com | www.illinoisshines.com

The Adjustable Block Program is a state-administered solar incentive program developed and managed by the Illinois Power Agency and administered through its third-party Program Administrator, InClimate Solutions.



- (i) all new utility-scale wind projects;*
- (ii) all new utility-scale photovoltaic projects;*
- (iii) all new brownfield photovoltaic projects;*
- (iv) all new photovoltaic community renewable energy facilities that qualify for item (iii) of subparagraph (K) of this paragraph (1);*
- (v) all new community driven community photovoltaic projects that qualify for item (v) of subparagraph (K) of this paragraph (1);*
- (vi) all new photovoltaic distributed renewable energy generation devices on schools that qualify for item (iv) of subparagraph (K) of this paragraph (1);*
- (vii) all new photovoltaic distributed renewable energy generation devices that (1) qualify for item (i) of subparagraph (K) of this paragraph (1); (2) are not projects that serve single-family or multi-family residential buildings; and (3) are not houses of worship where the aggregate capacity including collocated projects would not exceed 100 kilowatts;*
- (viii) all new photovoltaic distributed renewable energy generation devices that (1) qualify for item (ii) of subparagraph (K) of this paragraph (1); (2) are not projects that serve single-family or multi-family residential buildings; and (3) are not houses of worship where the aggregate capacity including collocated projects would not exceed 100 kilowatts.*

Items (iv) through (viii) relate to projects participating in the Adjustable Block Program.

The IPA seeks stakeholder feedback on the best methods to implement the prevailing wage requirement of the law listed above. Responses to this Request for Stakeholder Feedback should be submitted to the IPA by November 4, 2021 by emailing written responses to IPA.Solar@illinois.gov with the subject, "Responder's Name - Response to Prevailing Wage Feedback Request."

In general, responses will be made public and published on the websites of both the [Adjustable Block Program](#) and the [Illinois Power Agency](#). Should a commenter seek to designate any portion of its response as confidential and proprietary, that commenter should provide both public and redacted versions of its comments. Independent of that designation, if the Agency or the Program Administrator determines that a response contains confidential information that should not be disclosed, the IPA reserves the right to provide its own redactions.

Proposed Approach

During the Part I application process, should the information provided by the Approved Vendor indicate that the project is likely subject to Prevailing Wage Act requirements, the Approved Vendor will be prompted to acknowledge the requirement that individuals engaged in project construction

Illinois Adjustable Block Program

(877) 783-1820 | admin@illinoisabp.com

www.illinoisabp.com | www.illinoisshines.com

The Adjustable Block Program is a state-administered solar incentive program developed and managed by the Illinois Power Agency and administered through its third-party Program Administrator, InClimate Solutions.



will be paid prevailing wage. Part I verification will include a confirmation of the applicability of this requirement, and that would be indicated on the contract product order for the project.¹ In Part II of the ABP project application, the Approved Vendor must certify, through an attestation, that the project has met the applicable requirements of the Prevailing Wage Act for the whole construction of the facility. Additionally, the Approved Vendor must provide a copy of each Certified Transcript of Payroll (“CTP”) for the duration of the facility construction for all involved contractors.² The Program Administrator will review the CTPs to verify that prevailing wage requirements have been met for the project.

Stakeholder Feedback Questions

Commenters should also feel free to address this proposed approach more generally, as well as other issues related to prevailing wage requirement implementation, as part of their response.

A. Documentation

1. Is the Certified Transcript of Payroll (CTP) the appropriate documentation to request as proof that prevailing wage was paid? If not, what forms of documentation should be provided to verify prevailing wage was paid?

For facilities that were completed before submittal of Part I of the ABP project application, and which did not pay prevailing wages for the project, should prevailing wages be paid retroactively and be documented through a CTP? If not documented by a CTP, how should the Program Administrator verify that prevailing wage was paid retroactively for already completed facilities?

B. Verification

1. How can the Program Administrator confirm prevailing wages were paid on 100% of the project construction and not only for the CTPs submitted?
2. What would be reasonable benchmark hours of construction labor per kW of installed capacity to use, and how would those vary by project size and type?
3. How should the Program Administrator verify that workers were properly classified in the CTPs?
4. Are there any other best practices for CTP verification that the Program Administrator should use for verification of prevailing wage requirements?

¹ A separate request for stakeholder feedback has been issued on how projects would be verified as a residential or house of worship project and thus not be subject to the prevailing wage requirement.

² For more information on the CTP, see the Illinois Department of Labor [website](#).

Illinois Adjustable Block Program

(877) 783-1820 | admin@illinoisabp.com

www.illinoisabp.com | www.illinoisshines.com

The Adjustable Block Program is a state-administered solar incentive program developed and managed by the Illinois Power

Agency and administered through its third-party Program Administrator, InClimate Solutions.



5. The law requires that *“It shall also be mandatory upon the contractor to whom the contract is awarded to insert into each subcontract and into the project specifications for each subcontract a written stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract.”*

Should all contractors using subcontractors provide a copy of their contracts for the Program Administrator to verify this language for all of a project’s subcontracts is in place, or would an attestation that this requirement has been met be acceptable (with the provision that the Program Administrator could request documentation for verification as needed)?

Next Steps

Stakeholder feedback received on the proposals discussed herein will be considered for use in the opening of new blocks of Program capacity, and possible inclusion in the development of the new draft Long-Term Renewable Resources Procurement Plan.

Illinois Adjustable Block Program

(877) 783-1820 | admin@illinoisabp.com

www.illinoisabp.com | www.illinoisshines.com

The Adjustable Block Program is a state-administered solar incentive program developed and managed by the Illinois Power Agency and administered through its third-party Program Administrator, InClimate Solutions.