



**Questions & Answers  
from the March 13, 2023**

# **MES Compliance Plan and Waiver Request Training**

## Equity Eligible Contractor/Equity Eligible Person Eligibility

*Given that several portions of Southern Illinois are economically disadvantaged, are contractors based in such areas eligible to be an Equity Eligible Contractor, or are persons residing there eligible to be Equity Eligible Persons?*

- Persons residing in an equity investment eligible community qualify as Equity Eligible Persons. The equity investment eligible community map can be used to help assist in determining whether a person qualifies based upon residency. <https://energyequity.illinois.gov/resources/equity-investment-eligible-community-map.html>

Approved Vendors and Designees that are majority owned by an Equity Eligible Person may qualify as an Equity Eligible Contractor. For more information on qualification as an EEC, please visit: <https://illinoisabp.com/become-an-equity-eligible-contractor/>

*What is an Equity Investment Eligible Community, and is there a list that can be provided?*

- That is defined by statute, and is either an Environmental Justice Community as defined by Illinois Solar For All, for which a map at that Program's website is available (<https://www.illinoisfa.com/environmental-justice-communities/>) or an R3 Program Community (Restore, Reinvest and Renew Program, designated by the Illinois Cannabis Regulation and Tax), and a map can be found here: <https://r3.illinois.gov/eligibility>. The Agency expects to soon offer a single location for both maps, including with the Equity database resources.

*How does the IPA calculate whether a program participant has met the Minimum Equity Standard (MES)? Do only Equity Eligible Persons count towards the project workforce calculation? Can the MES requirements be met through engaging an Equity Eligible Contractor to account for the required proportion of Equity Eligible Persons in the project workforce?*

- There are two determinations necessary for calculating whether an entity has met the Minimum Equity Standard: the size of the relevant project workforce (the denominator), and the number of Equity Eligible Persons employed in that workforce (the numerator). The project workforce is defined by the Agency as: employees, contractors and their employees, and subcontractors and their employees, whose job duties are directly required by or substantially related to the development, construction, and operation of a project that is participating in or intended to participate in the IPA-administered programs and procurements under Section 1-75(c) of the IPA Act. This shall include both project installation workforce and workforce in administrative, sales, marketing, and technical roles where those workers' duties are performed in Illinois."

Once the number of individuals within the project workforce has been established, an entity can calculate the portion of its workforce which must be comprised of equity eligible persons or contractors in order to meet the Minimum Equity Standard. For the 2023-2024 program year, the required percentage is 10% of the overall project workforce; that percentage will increase over time to 30% by 2030, with an already-planned increase to 12% in 2024-25. An AV or Designee may not meet the MES solely through contracting with an EEC that makes up at least 10% of the overall project workforce. Instead, the AV or Designee must include the employees of that EEC in the

denominator (described above) of the calculation. The Agency will count Equity Eligible Persons employed by an EEC-certified contractor or subcontractor, including the Equity Eligible Person majority owner, 1.5 times in calculating compliance with the MES. In this way, an AV or Designee will more easily meet the MES if they contract with an EEC, but that alone will not be enough. Additionally, the IPA has determined that an Approved Vendor that subcontracts with an EEC on a project and yet is unable to meet the MES will receive additional points towards a request to seek an MES waiver for the project.

***To determine if a subcontractor or employee is an Equity Eligible Person or subcontractor, is there a time limit as to how long ago the person was incarcerated? How can one go about confirmatory documentation of such, if it has been many years ago?***

- There is no time limit on how long ago the incarceration occurred. At this time, the IPA is requesting an attestation from the individual that they indeed were incarcerated following conviction. An attestation for can be found at: <https://illinoisabp.com/become-an-equity-eligible-contractor/>.

***For persons who are graduates of or currently enrolled in the foster care system, must they have been in foster care in Illinois to qualify?***

- No, there is not a requirement that the person who is an enrollee or graduate of the foster care system, nor persons who were formerly incarcerated, did so only in Illinois. Clarifications are shared at the Program website's Become an Equity Eligible Contractor page. Specifically, "Formerly Incarcerated" means any individual who (i) was sentenced to a term of imprisonment, not including juvenile detention, after the disposition of one or more misdemeanor or felony charges; and (ii) has completed their sentence. For the purposes of eligibility to be an EEP or the EEC certification, a "graduate or enrollee" of the foster care system refers to an individual who is currently or was formerly a youth in care of the IL Department of Children and Family Services, or the equivalent agency in another state.

## **Workforce Composition**

***How do you determine the 10% workforce, which has to be Illinois based employment? Are out of state project workforce included in the denominator of the 10% calculation for Program Year 2023-2024?***

- The Agency's Long-Term Plan defines "project workforce" as the following: "Employees, contractors and their employees, and subcontractors and their employees, whose job duties are directly required by or substantially related to the development, construction, and operation of a project that is participating in or intended to participate in the IPA-administered programs and procurements under Section 1-75(c) of the IPA Act. This shall include both project installation workforce and workforce in administrative, sales, marketing, and technical roles where those workers' duties are performed in Illinois." Stakeholders can expect Frequently Asked Questions in development to further clarify this information in the future.

*Does the Agency interpret the Climate and Equitable Jobs Act to require “nested designees” (ie. designees of designees) to file MES Plans?*

- Nested Designees, as registered Designees within the Program will need to comply with the Minimum Equity Standards and submit a Compliance Plan and subsequent report on its achievement of the Minimum Equity Standard.

## **Compliance Plan Submission**

*Where can I find the MES Compliance Plan submission form? Is there a template that I can review prior to submission?*

- The MES Compliance Plan Template, which will be available to submit as a Microsoft Form, will be uploaded to <https://illinoisabp.com/equity-accountability-system/> when it is ready.

## **Compliance Plan Evaluation, Scoring, and Waiver Requests**

*Will the Compliance Plan scoring impact project scoring for REC allocation in the case of Traditional Community Solar projects?*

- MES requirements are separate from the scoring for project selection for Traditional Community Scoring.

*To confirm, are AVs required to meet project level MES requirements (beginning at 10% for Program Year 2023–24) and submit compliance plans only for projects for which they submit a Part I and Part II application during that Program Year?*

- MES applies to projects that participate in the programs, either through submitting a Part I or Part II application or if the construction of the project happens in that delivery year.

*Can you confirm the importance of a “delivery year” designation? For example, if you don’t expect construction to commence in the 23–24 delivery year, you wouldn’t include projections for that construction workforce in your compliance plan in the ‘23–24 delivery year, correct?*

- The Compliance Plan requirement and Minimum Equity Standard will apply to work that has happened in that delivery year. As a reminder, the project workforce can include office workers if they are performing their duties in Illinois. If your project participated in the Program (e.g., you submitted a Part I application), if you have staff whose duties on the project are performed in Illinois, even if construction is not beginning that year, the Minimum Equity Standard would apply to this workforce. The Minimum Equity Standard applies to work conducted in a given delivery year on projects that are participating in IPA programs.

*Is there a minimum score required to achieve a Minimum Equity Standard waiver?*

- The threshold to qualify for the waiver is a score of 20 points or above.

***For purposes of Minimum Equity Standards, must an AV work directly with Equity Eligible Contractors, or can the AV's general contractor work and contract with them?***

- To meet the Minimum Equity Standard, AVs do not necessarily have to work with Equity Eligible Contractors; the requirement is that their workforce must meet the Minimum Equity Standard for a given Program Year, and that can be achieved without Equity Eligible Contractors. That being said, the project workforce is defined to include contractors, subcontractors, and the employees of subcontractors. So, if you have a general contractor, who is a client of yours to an extent, that entity is included in the Minimum Equity Standard calculations, and all down the line, these individuals are included in your project workforce. It is not the case that the AV must hire the entirety of the workforce, if that is achieved by subcontractors.

***Will Approved Vendors be reporting on, and responsible for, all Designee compliance, or will Designees submit their compliance separately?***

- Approved Vendors are only required to include their direct employees and employees of non-Designee subcontractors in the project workforce identified in their Compliance Plan and year-end MES Report. Designees must submit their own Compliance Plan and MES Report encompassing the Designee's project workforce. IPA will include a field in the Compliance Plan form where AVs and Designees may indicate whether they are working with another AV or Designee on any of the projects in the relevant program year.

***Does the Minimum Equity Standard apply to a streamlined developer whose personnel all reside outside of IL?***

- The key question is where the work occurs. If the project developer's workforce resides outside of Illinois but is performing the work in Illinois, these individuals count toward the developer's Minimum Equity Standard commitments.

## **Webinar Resources**

***Where can previous Equity Accountability System webinar recordings and resources from October and November 2022 be found?***

- These prior Equity Accountability System webinars and resources can be found at <https://illinoisabp.com/equity-accountability-system/>

***Where should webinar attendees indicate that attended or otherwise viewed the webinar?***

- The attendance form can be found at this link <https://forms.office.com/r/DYNDnScyG5>

***What is the direct contact information for the IPA program to support questions and follow up?***

- Please contact the Program Administrator at [admin@illinoisabp.com](mailto:admin@illinoisabp.com) and phone: (877) 783-1820.