

Minimum Equity Standard (MES) Frequently Asked Questions for the Illinois Shines Program

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Below is a list of frequently asked questions pertaining to the Equity Accountability System and the Minimum Equity Standard and how it applies to the Adjustable Block Program / Illinois Shines. Please find more detailed information on the Equity Accountability System page of the Program website: <https://illinoisabp.com/equity-accountability-system/>

MINIMUM EQUITY STANDARD

What is the Minimum Equity Standard?

Section 1-75(c-10) of the Illinois Power Agency Act (“IPA Act”) requires that the Illinois Power Agency (“IPA” or “Agency”) establish an Equity Accountability System, which includes a Minimum Equity Standard (“MES”) for the project workforce of entities applying for renewable energy credit (REC) contracts under the IPA’s Indexed REC procurements and Illinois Shines program. The MES requires a certain percentage of an Approved Vendor or Designee’s workforce to be Equity Eligible Persons. The purpose of the MES is to ensure increasing access to employment in the Illinois clean energy sector for those who historically have been excluded from such opportunities.

When does compliance with the MES start?

The Equity Accountability System will take effect in the first delivery year after the approval of the IPA’s 2022 Long-Term Renewable Resources Procurement Plan, which is the 2023-2024 delivery year beginning June 1, 2023. Therefore the 2023-2024 delivery year minimum equity standard is 10%. By **June 1, 2023**, existing Approved Vendors and Designees must file an annual Minimum Equity Standard Compliance Plan.

Are all AVs and Designees required to meet the Minimum Equity Standard?

Yes, all Approved Vendors and Designees that participate in Illinois Shines in the 2023-2024 program year, with the exception of those who are EEC-certified, are required to comply with the Minimum Equity Standards.

How does the Minimum Equity Standard apply to Nested Designees within the Program?

Nested Designees, as registered Designees within the Program, will need to comply with the Minimum Equity Standard and submit a Compliance Plan and subsequently report on their achievement of the MES.

Does the Equity Accountability System apply to Designees, or are requirements limited to Approved Vendors?

The Equity Accountability System applies to Designees. The IPA's 2022 Long-Term Plan provides that Approved Vendors do not need to include the workforce of their Designees in their MES but shall report which Designees they worked with in the delivery year to allow the Agency to correlate activities and compliance. This is not meant to relieve Approved Vendors of responsibility to comply with the Equity Accountability Standard, but rather to ensure that efforts are not double-counted.

If the contractor/subcontractor is itself a Designee, then the AV does not need to include those workers in the AV's project workforce because that Designee will be submitting its own data on their project workforce. The AV simply needs to indicate which Designees it is working with to make sure that Designee reports data for that project.

If the AV's subcontractors are not Designees, then the employees of those subcontractors are included in the AV's project workforce and count toward the MES. If an AV or Designee uses contractors or subcontractors that are not also Designees, the AV or Designee must include the workers of those contractors or subcontractors in calculating its MES and reporting, since those contractors or subcontractors will not report on the MES independently.

What does the 10% equity commitment apply to?

The 10% equity commitment is based on the total number of employees. For example, if an AV has 100 employees working in Illinois on projects participating in Illinois Shines, that AV must have at least 10 Equity Eligible Persons employed to meet the 10% MES. This includes both project installation workforce and workforce in administrative, sales, marketing and technical roles where those workers' duties are performed in Illinois.

How should an AV or Designee with less than 10 employees comply with the Minimum Equity Standard of 10%?

If an AV or Designee's project workforce for a given Program Year is less than 10 people, they should aim to employ one Equity Eligible Person. They may also apply for a waiver. Please reach out to the Program Administrator if there are questions with compliance and support/guidance can be provided.

How does the IPA calculate whether a program participant has met the Minimum Equity Standard? 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 MES: 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.

What does "duties performed in Illinois" mean in terms of a project workforce location?

The Agency understands the primary policy objective of Section 1-75(c-10) of the IPA Act as advancing equity across Illinois by providing access to the Illinois clean energy economy for businesses and workers from Illinois communities that have been historically excluded.

Therefore, the relevant location is where the work is being performed, for both installation workers and those doing support and business services, as that is the location of the economic opportunity. Only workers whose duties are performed in Illinois are included in the IPA's "project workforce" definition. Employees who perform duties in Illinois that are related to developing projects or educating consumers about program options should be included in the project workforce.

While the IPA understands that project labor crews and locations vary, applicants do not need to include office workers who live and work outside of Illinois in their project workforce. Such an outcome would not serve the purpose the MES, which is intended to increase access to clean energy jobs for Illinois workers.

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

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.

Who is within the scope of the project workforce for the Minimum Equity Standard?

Section 1-10 of the IPA Act does not provide a definition for "project workforce," however, the IPA has developed a definition that reflects the context and language in the IPA Act Sections 1-75(c-

10), (c-15), (c-20), and (c-25) as well as previously IPA-published guidance regarding required workforce reporting. For the purposes of the MES, “project workforce” includes: 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.

Does the Minimum Equity Standard (MES) apply just to construction?

The MES are **not** limited to construction. Per Section 10.1.1. of the Long-Term Renewable Resources Procurement Plan, project workforce includes “employees, contractors and their employees, and subcontractors and their employees, whose job duties are ... in administrative, sales, marketing, and technical roles where those workers’ duties are performed in Illinois.” If an AV has projects participating in the Program (see clarification below), any employees performing duties in Illinois substantially related to those projects must count toward meeting the MES for that Program Year, even if construction will not occur that year,. The MES applies to any work conducted in a given delivery year on projects that are participating in IPA programs.

Who is outside the scope of the project workforce for the Minimum Equity Standard?

The definition of “project workforce” does not include functions performed outside of Illinois. For example, there are many national companies that participate in IPA programs and procurements and the Agency does not believe it would be consistent with the goals of the MES to allow persons working in another state to count toward complying with a standard designed to measure the equity of the Illinois clean energy sector.

What counts as “participating in the Program”?

Participation in Illinois Shines includes submitting a Part I or Part II application, conducting construction or sales and marketing activities for a project submitted to the Program, or maintaining a project on a Program waitlist. Participation in competitive procurements means that the developer’s bid is selected to receive an Indexed Renewable Energy Credit (“REC”) contract.

What about workforce/projects included Part I applications that don’t receive a REC contract?

Projects submitted as a Part I application must prepare to meet all Illinois Shines Program requirements, in case the project is selected and receives a REC contract and the associated incentives. Just as with other Program requirements, Approved Vendors should plan to meet the MES even before they receive a REC contract. The MES Compliance Plan is a tool to help Approved Vendors prepare for meeting that workforce standard; it is a forward-looking document and therefore the Agency expects all projects *seeking a REC contract* to be included in the Compliance Plan.

The end-of-year MES Report demonstrating achievement of the Minimum Equity Standard should reflect the workforce that worked on projects that participated, according to the above guidance, in the program

What about projects that are subsequently withdrawn from the Program?

An AV does not need to include withdrawn projects in calculating its project workforce for the purpose of MES *compliance*. However, projects that are subsequently withdrawn will not be known until the end of the year report, so all planned projects should be included in the Compliance Plan that is submitted at the commencement of the Program year.

How should AVs and Designees approach collecting sensitive information from employees?

The IPA Act requires AVs and Designees to employ a certain number of EEPs (10% of project workforce), but the IPA is unable to advise AVs and Designees as to the best method of identifying such individuals. The Agency has provided multiple examples of recruitment and outreach methods in its Long-Term Plan. Program participants who have concerns regarding the collection of sensitive information from their employees and applicants should consult an attorney.

Does an AV or Designee need to gather data from employees of subcontractors for qualification as Equity Eligible Persons?

Although all employees that make up the project workforce, including employees of subcontractors, must be included in meeting the MES, the IPA does not require that an AV take any specific step to identify EEPs, nor does it advise AVs regarding the best approach for their business.

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

To meet the MES, AVs do not necessarily have to work with Equity Eligible Contractors; the requirement is that their workforce must meet the MES 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. A general contractor is included in the MES calculations, and all subcontracted workers are included in the project workforce. The AV does not need to hire the entirety of the workforce, but must ensure compliance with the MES.

What is the review process for the Minimum Equity Standard Compliance Plans? Will Approved Vendors be able to correct or alter Compliance Plans after they are reviewed?

The Compliance Plan Assessment is described in Section 10.1.1.5 of the August 2022 version of the Program Guidebook. The Agency will utilize a graduated rating system to evaluate Compliance Plans. A rating of 1 (Needs Development), indicates that the entity must review, correct, and/or include missing compliance items in order for the plan to be approved. This rating indicates that the Agency identified inconsistencies in the plan, putting the applicant at risk of non-compliance, and that the plan will not be accepted without updates or inclusion of requirements that need resolution or are missing.

As stated in the 2022 Long-Term Renewable Resources Procurement Plan, Compliance Plans that receive a rating of 1 will be rejected and the AV or Designee will be sent a recommended corrective action plan. If the Agency discovers an area of the Compliance Plan that needs to be amended or requires correction, the Agency will notify the applicant in writing of the required correction(s) within fourteen days. The applicant will then have thirty days to submit the amended portion of the Compliance Plan. Applicants may request deadline extensions that will be granted by the Agency on a case-by-case basis. After the applicant resubmits a corrected Compliance Plan, the Agency will notify the applicant in writing of the final re-evaluation status. The Agency will have a maximum of twenty-one (21) days to notify the program participant of final acceptance of the Compliance Plan. The Agency will accept multiple revisions of a proposed Compliance Plan.

When is the year-end report due for acting in accordance with a previously submitted Minimum Equity Standard Compliance Plan?

Each Approved Vendor, Designee, or Competitive Procurement Supplier must submit a year-end report within 45 days after the end of the delivery year in which they have had active participation through activities developing a project or projects. If they have no activity during the year, that may be indicated on the year-end report and compliance obligations will not apply. Therefore, MES compliance reports would be due by July 15 for the preceding Program year.

How does the Minimum Equity Standard change over time?

To achieve the MES for the 2023-2024 delivery year, at least 10% of the project workforce for each entity participating in an IPA procurement or the Illinois Shines program must be equity eligible persons or equity eligible contractors. The Agency proposes to increase the MES to 12% for the 2024-2025 delivery year.

In its draft 2024 Long-Term Renewable Energy Resources Procurement Plan, which will be submitted to the Illinois Commerce Commission for approval in the fall of 2023, the Agency will propose future increases of the MES over subsequent delivery years to eventually reach the 30% statutory requirement by 2030. The proposed schedule of annual increases shall be revisited and updated on an annual basis. Revisions shall be developed with stakeholder input, including from equity eligible persons, equity eligible contractors, clean energy industry representatives, and community-based organizations that work with such persons and contractors.

How does the Minimum Equity Standard threshold change between program years?

For example, if an Approved Vendor submits a project for Part I in one program year, but then construction occurs in the next program year, which MES applies to that project?

When an Approved Vendor submits a project for Part I during the June 1, 2023- May 31, 2024 program year, the Approved Vendor must submit an annual report on how it achieved the MES for the activities *in that program year*. Therefore, the employees that did the administrative work on a project submitted for Part I in the June 1, 2023-May 31, 2024 program year, assuming those employees did their work in Illinois, would be included in the project workforce for that program year. However, the MES threshold could change from program years and if the project installation did not occur until the next program year, starting June 1, 2024, then the installation workforce

would be included toward meeting the MES of that following program year (June 1, 2024-May 31, 2025).

What do I do if I have a waitlisted project? Do I need to submit an MES compliance plan?

Yes, Approved Vendors and Designees with waitlisted projects must still comply with the MES and submit an MES Compliance Plan.

EQUITY ELIGIBLE CONTRACTORS

If an Approved Vendor or Designee is already qualified as an Equity Eligible Contractor, do they have to comply with the Equity Accountability System?

Approved Vendors who are Equity Eligible Contractors (EECs) are by virtue of their participation in the Program, in full compliance with the Equity Accountability System and thus do not need to submit a Compliance Plan. However, EECs will need to report on the demographic and geographic data of their employees, just as other AVs do.

Is there a public list of EEC-certified Approved Vendors and Designees?

Yes, the Program Administrator has published a list of [EEC certified Approved Vendors](#) and [EEC certified Designees](#) that have consented to sharing contact information on the Program website.

Does being a foster parent satisfy one of the categories to qualify as an Equity Eligible Person/Equity Eligible Contractor?

No. Only people who are enrolled or were formally enrolled in the foster care system can qualify as EEPs or EECs.

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 was 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.

Do Equity Eligible Contractor-certified Approved Vendors receive any advance of capital?

Up to 50% of the REC contract value may be advanced to an EEC-certified Approved Vendor. To be eligible for an advance of capital, an EEC must request the advance of capital in the Part I application of the project, along with a short narrative description of the need being addressed, and what key project development milestone will trigger the disbursement. The narrative description should include a breakdown of costs that the advance will cover and may be submitted on a confidential basis. Once a project has been Part I verified and the contract or product order approved by the Commission, the EEC will then submit verification of achievement of the specified milestones to the Agency for review and approval. The EEC will then invoice the utility for the advancement following the regular invoicing process and the utilities will process this invoice following the same, with the payments made by the contracting utility on the regular monthly invoicing cycle.

Can EEC Approved Vendors use non-Equity Eligible Contractor Designees?

Utilization of the capacity in the EEC category is limited to Approved Vendors who qualify as an EEC. EEC Approved Vendors may choose to work with Designees or on their own, and those Designees may or may not be also EEC certified. However, Approved Vendors that do not qualify as an EEC but partner with a Designee that does qualify as an EEC are ineligible to participate in the EEC category. These Approved Vendors must submit their projects to another Program category. Utilization of EEC certified Designees can have an effect on Traditional Community Solar scoring. Please see more information in the Traditional Community Solar Project Selection Final Guidelines or the Program Guidebook.

How is the data collected for Equity Eligible Persons and Equity Eligible Contractor qualification protected?

The IPA can assure applicants that all personally identifiable information and other sensitive, confidential information shared with the Agency for the purpose of meeting the MES will be appropriately and securely handled. For more information on confidentiality of information in the Program please see Section 2.F of the Program Guidebook.

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

Equity investment eligible communities are geographic areas throughout Illinois which would most benefit from equitable investments by the State designed to combat discrimination. The eligible communities are: (1) R3 Areas as established pursuant to Section 10-40 of the Cannabis Regulation Tax Act, where residents have historically been excluded from economic opportunities, including opportunities in the energy sector; and (2) Environmental justice communities, as defined by the Illinois Power Agency pursuant to the Illinois Power Agency Act, where residents have historically been subject to disproportionate burdens of pollution, including pollution from the energy sector.

A map that EIECs can be found here: <https://energyequity.illinois.gov/resources/equity-investment-eligible-community-map.html>.