

Disclosure Forms - Circumstances Requiring New DF Issuance and Signature

Introduction

The standard Disclosure Form has been a central consumer protection requirement since the beginning of Illinois Shines. It plays an important role by flagging key information for the customer, before they actually enter into a contract, and also allows for an apples-to-apples comparison between multiple offers. The baseline requirement is that if information provided to the customer in their Disclosure Form substantively changes, a new Disclosure Form must be provided to, and signed by, the customer. This is to ensure that the customer has up-to-date and accurate information about their project. The Program Guidebook explicitly provides limited exceptions to this requirement for changes in AC size below a certain threshold. The chart below addresses several additional circumstances and states whether specific changes in information contained in a Disclosure Form trigger the requirement to have the customer sign a new Form.

Background

Approved Vendors and Designees must ensure that Disclosure Forms are “complete and accurate before presentation to the customer.” (CP Handbook, Section V(A)). The CP Handbook also provides that “All terms of the contract between a customer and an Approved Vendor or its Designee must be consistent with information in the standard Disclosure Form provided to the customer.” These terms must also be consistent with any marketing statements made to the customer.

The CP Handbook also has general requirements that Approved Vendors and Designees “shall not make any claim that is false, deceptive, or misleading, whether by affirmative statement, implication, or omission. This applies to all claims about the Program or offers made as part of the Program, whether made in print, electronic means, verbal, or through any other medium.” (Section I(A)). Relatedly, “If an Approved Vendor or Designee becomes aware that a customer misunderstands a material issue in a solar transaction or that the solar project or offer will not operate as intended to be used by the customer, the Approved Vendor or Designee should correct that misunderstanding.”

The Guidebook explicitly notes that “After the customer has signed the document (for e-signing) or downloaded the document (for wet signatures), thus finalizing the Disclosure Form, any changes to that completed Disclosure Form require the generation of a new Disclosure Form.” (Guidebook, p.59).

These various provisions make it clear that the Disclosure Form must present complete and accurate information to the customer. If errors are made in the content of the Disclosure Form, or changes occur such that the presented information is incorrect, the general rule is that the Approved Vendor or Designee must have the customer sign a new Disclosure Form.

This issue was discussed in the 2022 Long-Term Renewable Resources Procurement Plan. The plan explained that, “The Agency received feedback from stakeholders surrounding the requirements for customers to execute an additional disclosure form when the terms of their agreement have changed.” The Plan went on to extend exceptions to the new Disclosure Form requirement in the case of some changes in project size. But the underlying rule – that changes to information presented in the Disclosure Form require a new Disclosure Form, absent an exception – did not change. The Guidebook, consistent with the 2022 Plan, includes various exceptions that allow Approved Vendors and Designees to not have the customer sign a new Disclosure Form in limited circumstances. The chart below provides additional information regarding when a new Disclosure Form is required, including new limited exceptions when a new Disclosure Form is not required.

Unless explicitly specified otherwise below, a new Disclosure Form is required if there is an error or change in the information contained in the original Disclosure Form. All new Disclosure Forms must be signed by the customer unless the below chart explicitly says otherwise. Except in limited extenuating circumstances (such as the customer having a disability that physically prevents them from doing so), the customer should execute the wet or electronic signature on Disclosure Forms and contracts by physically signing a paper copy or typing or signing their name for an electronic signature. For example, an Approved Vendor or Designee should not have a business practice of sales agents executing written documents on behalf of customers, even with verbal consent.

DG or CS	Type of Change or Error	Is a new Disclosure Form required?
DG and CS	Minor typographical errors that do not cause confusion / are not misleading; that is, the intended meaning is still clear Examples: “payments due mothly” instead of “payments due monthly”;	NO
DG and CS	Typographical errors that cause confusion or are misleading, including errors that change the meaning of the information Examples: “hail damage is <u>now</u> included in insurance” instead of “hail damage is <u>not</u> included in insurance”; listing a cost as “\$300” instead of “\$300 <u>0</u> ”	YES
DG and CS	Change in costs, fees, or rates	YES
DG	Change in REC pricing due to project application being waitlisted	ONLY IF other terms (costs, fees) change due to the REC price change (i.e., lease payment amount increases due to Approved Vendor receiving lower incentive). If REC price change results in change to amount of pass-through payment, no new DF is required; however, entity MUST notify customer in writing of the changed pass-through payment amount.
DG	Change in amount of Illinois Shines incentive payment received by the Approved Vendor due to change in project size, if the project size change is NOT significant enough to trigger a new DF	NO
DG	Change in amount of Illinois Shines incentive payment passed through to the customer due to a change in project size, if the project size change is NOT significant enough to trigger a new DF	NO
DG	Change in AC size of system (kW)	ONLY IF the size change is more than the greater of 5% or 1 kW

DG or CS	Type of Change or Error	Is a new Disclosure Form required?
DG	Change in DC system size (kW)	ONLY if at least one of the following is true: (1) there is also a change in inverter / AC size that triggers a new Disclosure Form based on criteria for changes in inverter/AC size; or (2) the DC size decreases by more than the greater of 5% or 1 kW
CS	Change in size of subscription (kW) (for community solar where the customer does NOT pay a set percentage of their bill credits as their subscription fee)	ONLY IF the size change is more than the greater of 2kW or 10%
CS	Change in size of subscription (kW) (for community solar subscriptions where the customer pays a set percentage of their community solar bill credits as their subscription fee)	A signature on a new Disclosure Form is required ONLY if the size change is more than the greater of 5 kW or 25%; the customer must be informed if the change is more than the greater of 2 kW or 10%
CS	Change in size of subscription in response to request from customer (for community solar subscriptions where the customer pays a set percentage of their community solar bill credits as their subscription fee)	NO (however, the AV/D must send the Program Administrator an email notifying the PA of the size change and the duration of time it will be in effect)
DG and CS	Change in estimated annual electricity production due to change in size of system or subscription, assuming the capacity factor stays the same, and that the change in size is NOT significant enough to trigger a new DF	NO
DG	Incorrect degradation factor listed	YES
DG	Different make/model panels or inverter is used	ONLY if this leads to a change in price, fees, inverter size, system size, etc. that would otherwise trigger a new Disclosure Form; a new Disclosure Form is not required if the disclosed make/model is swapped out for equivalent equipment (based on equipment specifications); if there is a change in inverter size or system size, determine whether that change triggers a new Disclosure Form

DG or CS	Type of Change or Error	Is a new Disclosure Form required?
DG	Incorrect information or change in information about maintenance, repairs, warranties, or insurance,	YES
DG and CS	Change in the terms of the customer's installation or subscription contract	Depends on the change; the DF should be consistent with the contract; check with the Program Administrator if the situation is unclear and not covered by this chart
DG	Change in whether the project will take the Distributed Generation (Smart Inverter) utility Rebate and/or a change in what entity keeps the rebate payment	YES; however, if the amount of the rebate changes only because the project size changes, a new DF is not required unless the project size change is large enough that it would trigger a required new DF as explained elsewhere in this chart
DG and CS	Changes in utility's billing approach for solar after a customer has signed an installation contract or subscription agreement	NO
CS	CS customer is moving to a new address in the same utility territory and requests CS subscription to be transferred to their new address, when the name on the utility account and utility account number will be the same	NO
CS	CS customer is moving to a new address in the same utility territory and requests CS subscription to be transferred to their new address, when the name on the utility account will be the same, but there is a new account number	NO (Note: you will have to update the last five digits of the Subscriber Identification Number to match the new utility account number in advance of subscriber verifications)
CS	CS subscription is assigned / transferred to a new / different customer	YES
CS	Change in Approved Vendor but no change in the project to which the customer is subscribed or other information presented on the Disclosure Form	NO