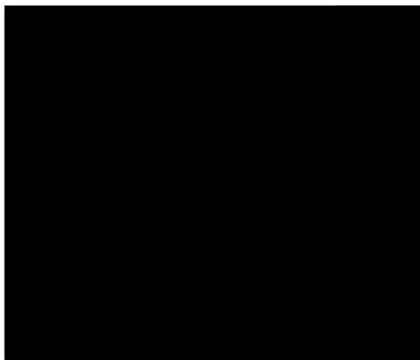


**[Commenter 3]
Comments on Second
Draft Indexed REC
Contract**



**[Commenter 3]'s Comments on
IPA's Second Draft Indexed REC Contract
for the Fall 2022 Indexed REC RFP**

[Commenter 3]'s comments are in response to the Illinois Power Agency's ("IPA") request for feedback, dated September 9, 2022¹. [Commenter 3]'s comments address: [1] need to minimize risk of non-payment of RECs; [2] whether a floor is needed for the RFP Project Percentage; [3] the application requirements for a bid price reduction (for hiring contractors in excess of the Minimum Equity Standards) lacks clarity; and few other recommended clarifications to the contract.

I. INTRODUCTION of [Commenter 3]

[Redacted text block containing multiple lines of blacked-out content]

¹ IPA, *Indexed REC RFP/Stakeholder Request for Feedback* (September 9, 2022).



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II. [Commenter 3]'S RESPONSES

(1) Risk of Non-Payment of RECs at Some Point in Time Over the Life of the REC Contract is a Significant Deterrent to Participation in the RFP

RESPONSE:

Allowing a Seller to deliver a percentage of a wind or solar project’s REC production is a significant improvement to the Indexed REC Contract, however, the risk of non-payment [REDACTED] for delivered RECs still remains a significant issue. The cap on the amount of money Illinois will spend on renewable resources continues to trouble lenders, despite the recent increase in the RPS funding. Lenders fear the unknown actions the IPA will take to cure a shortfall in the RPS Budget or the potential for significant step of cessation of future REC procurements. The RPS is a key driver of the development of new clean energy resources that Illinois needs to meets the state long-term decarbonization goal. If some form of assurance is not provided as backing for the RPS

budget, the IPA will be forced to halt RPS procurements until sufficient funds are available; Illinois' ability to attain its RPS and decarbonization goals will be put in jeopardy.

[REDACTED]

[REDACTED]

(2) TOPIC 2: Delivery Obligations Under the Indexed REC Contract -- should there be limits placed on the RFP Project Percentage?

RESPONSE:

[Commenter 3] does not see a need, nor does it support, a floor for the RFP Project Percentage. The complexity of this product in conjunction with the Minimum Equity Standard requirements will encourage bidders to submit a significant percentage of their project's REC production.

(3) The Application Requirements for a Bid Price Reduction for Exceeding the "Minimum Equity Standards" Still Lacks Clarity (Draft Part 1 Proposal Requirements – Minimum Equity Standard, at 7 and 8)

RESPONSE:

[REDACTED]

[REDACTED] In addition, [Commenter 3] has further concerns with the application

requirements.

[REDACTED]

[REDACTED] The provision requiring a statement of intent was unchanged from the 1st Draft Indexed REC contract. A Bidder cannot commit to complying with yet to be finalized requirements.

In addition to the foregoing, the 2d Draft contract requires a plan describing the use of equity eligible contractors (Draft Part 1 proposal Requirements, at p. 7), and a communication plan for local outreach to potential EEPs and EECs (Draft Part 1 proposal Requirements, at p. 8). These additional requirements lack meaningfulness given the numerous uncertainties around the education, training, and supply of Equity Eligible Contractors (“EEC”) and Persons (“EEP”) needed to fulfill the Minimum Equity Standard (“MES”). Training programs are not yet funded and a database of EEC’s is not yet available. Therefore, it is extremely difficult for Bidders to have a clear vision for hiring EECs for this Fall’s procurement. Furthermore, Sellers should not have to develop a plan for outreach to EECs and EEPs but instead should only have to use the IPA’s Energy Workforce Equity database to identify EECs and EEPs. In addition, it is difficult to develop a plan for outreach to EECs and EEPs when it is unclear where they can be found. Implementing this requirement before the training programs have been developed is placing the proverbial “cart before the horse.” If Sellers are to be burdened with locating EECs and EEPs, the RFP documents should identify the “affiliated community-based organizations and/or training program facilities” that REC Sellers should contact in finding EECs and EEPs.

(4) A Seller’s Rating Should not be Reduced One Notch (§1.19 “Credit Rating”)

RESPONSE:

In most commercial and industrial REC procurements and across various offtake types (such as hedges, PPAs and fuel purchases) unsecured credit is typically provided to entities that are investment grade or have guarantees from an investment grade creditworthy parent. This includes companies that only have an S&P rating and would include BBB- for Fitch, BBB- for S&P and Baa3 under Moody’s. In those instances, the equivalency across rating agencies is a standard practice, and a notch downgrade to an S&P rating is not a standard practice.

(5) Clarification of the “RFP Awarded Annual Quantity” (§1.90)

RESPONSE:

In an instance in which a Bidder is awarded a contract for 2 separate bids for two separate projects, the definition of “RFP Awarded Annual Quantity” could be read to mean the Annual Quantity is the total of those two contracts. The language should be revised to note that the RFP Awarded Annual Quantity applies per project per contract RFP.

Consistent with that position [Commenter 3] recommends the following redline edit as a solution:

“RFP Awarded Annual Quantity” means a quantity of RECs specified as such in the Product Order of the Agreement, which reflects the total annual quantity of RECs that is awarded to Seller for the Project under the RFP.

(6) Additional Terms that Should be Defined in Article 1 of the Renewable Energy Credit Agreement

RESPONSE:

A few terms used in the contract are not defined: “Alternative Compliance Payment,” “external Event,” Investment Tax Credits,” “Production Tax Credits,” and “Regional Transmission Organization.”

III. CONCLUSION

Participation in the Indexed REC procurements will not improve unless the REC contract affords Sellers more options for managing market and external risks.

[Commenter 3]'s comments recommend changes to the Indexed REC contract to increase participation in future Indexed REC RFPs and increase the supply of wind and solar resources in the state.

Prepared and submitted on behalf of [Commenter 3] by

[Commenter 3 Contact Information]



September 23, 2022