

Utility-Scale Procurements: FAQs on the Minimum Equity Standard

1. What is the Minimum Equity Standard? How does it relate to the Equity Accountability System?

The Minimum Equity Standard is a minimum percentage of an applicant’s project workforce that must be comprised of Equity Eligible Persons. Please see additional FAQs below for definitions of “project workforce” and “Equity Eligible Person.”

The Equity Accountability System is the umbrella suite of policy levers and standards included in the Illinois Power Agency Act that advance “priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes” (20 ILCS 3855/1-75(c-10)). The Equity Accountability System includes the Minimum Equity Standard (“MES”), the reserved category in the Adjustable Block Program for Equity Eligible Contractors (“EECs”), and the requirements developed by the Agency to ensure “that competitive procurement processes, including utility-scale solar, utility-scale wind, and brownfield site photovoltaic projects, advance the equity goals” of the Climate and Equitable Jobs Act (20 ILCS 3855/1-75(c-10(3))).

The IPA, through its 2022 Long-Term Renewable Resources Procurement Plan (“Long-Term Plan” or “Plan”), developed requirements for utility-scale projects bid into competitive procurements for indexed REC contracts that require those projects to meet the Minimum Equity Standard and provide additional prioritization for projects that employ a higher percentage of Equity Eligible Persons (“EEPs”) than that required by the MES. Thus, the MES (and the associated Compliance Plan) and the equity prioritization mechanism constitute the pieces of the Equity Accountability System applicable to bidders in competitive procurements, and those steps constitute full compliance with the Equity Accountability System.

2. Who qualifies as an Equity Eligible Person?

The Climate and Equitable Jobs Act (“CEJA”) defines an equity eligible person as:

- (1) persons who graduate from or are current or former participants in the Clean Jobs Workforce Network Program, the Clean Energy Contractor Incubator Program, the Illinois Climate Works Preapprenticeship Program, Returning Residents Clean Jobs Training Program, or the Clean Energy Primes Contractor Accelerator Program, and the solar training pipeline and multi-cultural jobs program created in paragraphs (a)(1) and (a)(3) of Section 16-108.21 of the Public Utilities Act;
- (2) persons who are graduates of or currently enrolled in the foster care system;
- (3) persons who were formerly incarcerated; [or]

(4) persons whose primary residence is in an equity investment eligible community. (20 ILCS 3855/1-10).

A person may fall into multiple categories or only one; a person does **not** need to have participated in a CEJA- or FEJA-funded training program in order to be an EEP if they qualify under one of the other categories.

An “equity investment eligible community” is defined by CEJA as:

(1) R3 Areas as established pursuant to Section 10-40 of the Cannabis Regulation and 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. (20 ILCS 3855/1-10).

A map of R3 Areas can be found [here](#), and a map of environmental justice communities can be found [here](#).

3. Who makes up the “project workforce” for the purpose of the MES?

The 2022 Long-Term Plan, as approved by the Illinois Commerce Commission, adopts the following definition of “project workforce”:

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. (2022 Long-Term Plan at 328).

The MES applies to the project workforce, so if the MES is 10%, EEPs must make up 10% of the project workforce. Therefore, compliance with the MES is based on *number of workers or employees*, not the work hours performed by those employees.

4. What is the Compliance Plan for the MES? What should it include?

CEJA requires that applicants comply with the MES through a Compliance Plan submitted at the start of the delivery year. Section 1-75(c-10)(1)(A) directs that:

At the start of each delivery year, the Agency shall require a compliance plan from each entity participating in a procurement program of subsection (c) of this Section [1-75] that demonstrates how they will achieve compliance with the minimum equity standard percentage for work completed in that delivery year. (20 ILCS 3855/1-75(c-10)(1)(A)).

Competitive procurements are required by Section 1-75, and therefore applicants to those procurements must submit a Compliance Plan under the law. A Compliance Plan should lay out the following elements, as described in the 2022 Long-Term Plan:

- A statement of intent to comply with equity accountability standards for the applicable delivery year[, which for competitive procurements entails complying with the Minimum Equity Standard for the year of the procurement event,] and to hire a diverse project workforce including Equity Eligible Persons and Equity Eligible Contractors. This will include a narrative description of how the applicant will meet these commitments.
- Projected number of workers and the demographic breakdown by race, gender, and participation in job training or workforce development programs, or other means of compliance with the standard for equity eligible persons.
- Plans for the use of Equity Eligible Contractors, if applicable. iv. Applicant classification (i.e., Minority-owned, Woman-owned, Disabled-owned, Veteran-owned, Small Business, etc.), if applicable.
- Communication plan for local outreach to increase the utilization of Equity Eligible Persons and Equity Eligible Contractors.
- Status of any corrective actions or adjustments from prior year Compliance Plans.
- Approved Vendors in the Adjustable Block Program do not need to report on data regarding their Designees 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. (2022 Long-Term Plan at 330).

The statement of intent referenced above may include any existing contracts with or commitments to work with EEC subcontractors.

The Compliance Plan is meant to ensure that applicants are making a concerted effort to hire EEPs and contribute to the equity goals of CEJA. The law requires participants to complete a Compliance Plan, which contains the elements outlined above, and directs the Agency to ensure that competitive procurements advance the equity goals of CEJA. As laid out by the statute, CEJA envisions the EAS as a method to create “priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes.” (20 ILCS 3855/1-75(c)(10)). Accounting for generations of such exclusion and disproportionate harms requires buy-in from all stakeholders and coordination between the public sector and private sector actors. The IPA hopes that all participants in competitive procurements take this policy seriously and contribute sincere efforts to creating a more equitable clean energy economy in Illinois.

5. Is a Compliance Plan required at the time of bid?

No. As provided in paragraph IV.3.2. of the [Final Rules](#) for the Indexed REC Procurement Event, only if a Bidder optionally elects to commit to an Equity Level (%) greater than the Minimum Equity Standard of 10% is a plan required at the time of bid. In this case one of the requirements includes:

[The] Bidder must provide a narrative plan to meet the Equity Level (%) provided in the Part 1 Proposal. The narrative plan must include the following items:

- a description of how the Seller will meet the Minimum Equity Standard and a statement of intent to comply with equity accountability standards and to hire a diverse project workforce including Equity Eligible Persons and Equity Eligible Contractors;
- the projected number of workers related to Construction Activities up to the point of the Date of First Operation;
- plans for the use of Equity Eligible Contractors, if applicable; Seller classification (i.e., Minority-owned, Woman-owned, Disabled-owned, Veteran-owned, Small Business, etc.), if applicable; and
- a communication plan for local outreach to increase the utilization of Equity Eligible Persons and Equity Eligible Contractors.

Many of these elements may be repeated in the eventual Compliance Plan submitted after a contract has been awarded to a selected bid. Given that the strike price for a project that submits an Equity Level (%) greater than the Minimum Equity Standard of 10% will be reduced for purposes of bid ranking, additional assurances should be provided that the Bidder will meet this commitment.

For clarity, the requirement to include “a statement of intent to comply with equity accountability standards” in the first bullet above means an affirmation of intent to comply with the Minimum Equity Standard, as that is the piece of the Equity Accountability System that applies to competitive procurements.

6. What is required at the time of bid for Bidders that do not wish to commit to an Equity Level (%) greater than the Minimum Equity Standard of 10%?

As provided in paragraph IV.3.1. of the Final Rules for the Indexed REC Procurement Event:

- An officer of the Seller must acknowledge a Minimum Equity Standard of 10% applies to the project workforce for each delivery year in which construction activities are performed through the date of first operation of the project; and that there are reporting requirements described in Section 6.4 of the Indexed REC Contract.

No additional documentation or information is required at the time of bid.

7. What is the Energy Workforce Equity Database? What role does it play in a Seller’s Compliance Plan and outreach efforts?

CEJA directs the IPA to develop an Energy Workforce Database in consultation with the Department of Commerce and Economic Development that consists of a searchable database of vendors, suppliers, and contractors that are minority and women-owned business enterprise certified or are certified as EECs. The Database will also feature an online tool that lists job and workforce training opportunities, maps of equity investment eligible communities, and a “a means by which recruiting clean energy companies can find and interact with current or former participants of clean energy workforce training programs.” (20 ILCS 3855/1-75(c-25)(2)). The Energy Workforce Equity Database should serve as a tool for applicants to find EEPs, but may not include the entire universe of available EEPs seeking clean energy work, since it will only list EEPs that voluntarily add their information to the database. The Database is still in development and applicants should **not** assume they will be able to rely solely on the Database to find EEPs to meet the Minimum Equity Standard.

CEJA provides that the Agency may utilize its discretion **in rare circumstances** to grant a waiver of the MES (20 ILCS 3855/1-75(c-10)(4)(E)). In describing the criteria for granting such a waiver, the statute provides that the Agency may do so “where the applicant provides evidence of significant efforts toward meeting the minimum equity commitment, including: use of the Energy Workforce Equity Database; efforts to hire or contract with entities that hire eligible persons; **and** efforts to establish contracting relationships with eligible contractors.” (20 ILCS 3855/1-75(c-10)(4)(E) (emphasis added)). The listed “significant efforts” set a minimum for what might constitute adequate steps on the part of an applicant to comply with the MES before a waiver may be granted, and using the Database is only one such step. Therefore, the Agency does not consider sole reliance on the Database to find EEPs as “significant efforts” to comply with the MES.

8. What is the status of FEJA- and CEJA-funded workforce training programs?

The Department of Commerce and Economic Development (“DCEO”) has awarded funding for FEJA-funded workforce training programs, the management of which passed to DCEO under CEJA. CEJA also created several new workforce training programs to be managed by DCEO, the funding for which DCEO has not yet allocated. The IPA does not expect those training programs to graduate trainees before the start of the 2023-2024 delivery year. Applicants should plan accordingly when designing their outreach plan and Compliance Plan for meeting the MES.

Please monitor the [DCEO CEJA website](#) for updates from the Department on its job training programs.

9. What are the additional avenues for fulfilling the MES while those programs are getting set up?

The IPA encourages applicants to utilize all possible means for identifying, recruiting, and hiring EEPs, especially those that qualify by virtue of their status as formerly incarcerated, a graduate of the foster care system, or a resident of an equity investment eligible community. The Long-Term Plan outlined several strategies that may be useful:

- Working with State-approved job training and workforce development programs to recruit a diverse workforce and provide evidence of outreach

- Maintaining applications of individuals not selected for an opening for contact regarding future project openings
- Participating in job fairs and related local community events to recruit a diverse workforce
- Advertising on various platforms of targeted social and direct outreach to appropriately-targeted associations or other relevant organizations to notify them of the project opportunity. (2022 Long-Term Plan at 333).

The IPA cannot provide advice to bidders regarding the specifics of a recruitment strategy or point an entity toward specific organizations or events where it might recruit EEPs.