



# Program Guidebook

New Mexico Community Solar Program

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## Section 1: Program Overview

### Program Overview:

During its 2021 session, the New Mexico Legislature passed Senate Bill 84, the "Community Solar Act," which was signed into law by the Governor on April 5, 2021, and codified by the New Mexico Compilation Commission at 62-16B-1 et seq., NMSA 1978 on June 18, 2021.

The New Mexico Community Solar Program is a state-administered program created to facilitate the development of Community Solar projects with a focus on low-income participation. The Community Solar Program allows for the development of community solar facilities. It provides customers of a qualifying utility with the option of subscribing to solar energy projects within their community.

The goal of the New Mexico Community Solar Program is to expand access to solar energy for customers who are not able to or do not want to invest in a rooftop system, including but not limited to homeowners, renters, community-based organizations, and low-income customers. Customers may subscribe to a community solar project and receive a credit on their monthly utility bill for the electricity from their portion of the project.

The initial statewide capacity program cap of 200 MW AC is allocated among the three qualifying utilities according to addressable market estimations as follows:

1. Public Service Company of New Mexico (PNM), 125 MW AC;
2. Southwestern Public Service Company (SPS), 45 MW AC; and
3. El Paso Electric Company (EPE), 30 MW AC.

If within one year of the receipt by a utility of the results of an initial request for proposals for community solar facilities, the initial capacity cap allocation for that utility has not been fully committed by contract, the Commission may, at its discretion, apply the unused capacity to another utility on a showing of the latter utility's sufficient subscriber demand.

The New Mexico Community Solar Program is a capacity-limited program that will award capacity as the result of a competitive procurement process. If there is insufficient capacity to accommodate all projects, any projects that did not receive a winning score, or the project is beyond the Subscriber Organization cap, the project will be added to a waitlist. If additional capacity becomes available due to a project withdrawal or downsize, the applications on the waitlist will be processed based on their order in the queue.

Should a tiebreaker be necessary, the Program Administrator will determine and announce an equitable, transparent process.

On or before April 1, 2024, the Commission will commence a review of the results of the initial allocation and subscriber demand for the community solar program and a proceeding to establish a revised annual statewide capacity program cap and allocation to be in effect after November 1, 2024.

The Act further stipulates that:

- Native American nations, tribes, and pueblos are exempt from law but may host/own/operate Native Community Solar projects in New Mexico
- Rural co-ops may choose to opt-in to the Program. Opt-in by rural co-ops does not impact the initial cap
- Individual projects are capped at 5 MW AC
- A Subscriber Organization may be a utility, municipality, county, for-profit or nonprofit entity, Indian Nation/tribe/pueblo, or tribal governance structure.

The Community Solar Act also established the following subscriber requirements:

- Each project may have an anchor tenant defined as a customer that subscribes to no more than 40% of a project's capacity
- Each project needs at least ten subscribers
- 30% of each project's capacity carve-out per project must be filled with low-income or related service organizations
- At least 40% of a project's capacity must be subscriptions sized 25kW AC or less.

Finally, the Act provided the following Utility Requirements:

- The qualifying utilities are required to acquire the entire output of a community solar facility connected to its distribution system.
- Except for exempt native community solar projects, Utilities own the Renewable Energy Certificates
- Utilities must apply community solar bill credits to subscriber bills
- Utilities must carry over any amount of a community solar bill credit that exceeds the subscriber's monthly bill and apply it to the subscriber's next monthly bill
- Unsubscribed energy may be rolled forward on the community solar facility account for up to one year; after that, unsubscribed energy shall be purchased by the qualifying utility at its applicable avoided cost.

Native Community Solar Projects:

The Act provides exemptions for Native Community Solar Projects. Native Community Solar Projects are community solar facilities that are sited in New Mexico on the land of an Indian nation, tribe, or pueblo and that are owned or operated by a subscriber organization that is an Indian nation, tribe, or pueblo or a tribal entity or in partnership with a third-party entity. Native Community Solar Projects do not need to submit bids to the Program and will not be audited by the Program Administrator. Exemptions exist for Native Community Solar Projects in line with Tribal sovereignty status for:

- Facility size
- Requirements for the number of subscribers or size of subscription, including anchor tenant limitations and the 40% carve-out for subscriptions sized 25 kW or less
- Statewide annual program cap

## Rural Electric Distribution Cooperative

A rural electric distribution cooperative may opt into the community solar program and provide interconnection and retail electric services to community solar developments on a per-project or system-wide basis within its service territory. The decision of a rural electric distribution cooperative to opt into the community solar program shall be at the sole discretion of the cooperative's governing board. If a rural electric distribution cooperative opts in, any projects must follow all Program mandates, and the project must still be submitted through the RFP process.

### Program Administrator's Role in the Selection Process:

The Commission Rule, effective July 12, 2022, sets the parameters for project selection. It is important to note that the Commission itself is not involved in the selection of individual community solar projects. As urged by stakeholders in the rulemaking process, a third-party administrator was tasked with administering the Program. To administer the Program, the Commission secured a third-party Program Administrator, InClime. InClime's role as the Program Administrator is to manage an unbiased and nondiscriminatory process for selecting proposed projects for building and operating community solar facilities on behalf of the Commission. The Commission will not be involved in the process except to the extent that the Program Administrator or any participant in the process may raise before the Commission an issue that is not fully addressed in the rule and that the Commission finds, at its discretion, that it should address.

### Guidebook Overview:

The purpose of this guidebook is to review the procedures and requirements for the New Mexico Community Solar Program. The guidebook may be modified throughout the life of the Program. Subscriber Organizations are required to keep track of any changes and understand and adhere to all requirements. To participate in the Program, any Subscriber Organization attached to a winning project bid must agree to follow any published Program Materials, and any subcontractors of the Subscriber Organization are the Subscriber Organization's responsibility to ensure that all parties are aware of and adhere to relevant Program requirements.

## Section 2: Subscriber Organizations

### Subscriber Organization Model:

Participation in the New Mexico Community Solar Program takes place through Subscriber Organizations. Each project bid and eventual project selection must be tied to a registered and approved Subscriber Organization. By having only Subscriber Organizations vetted by the Program, it is possible to monitor compliance with program terms and project commitments, ensure the accuracy and quality of information submitted, and reduce the administrative burden on the Commission.

This model benefits consumers because they will be able to verify that an entity that proposes to develop a photovoltaic system for them or sell them a subscription to a community solar project is a

legitimate entity participating in the Program and complying with any subscriber project-specific commitments.

A Subscriber Organization that fails to comply with the requirements and project commitments of the New Mexico Community Solar Program could have a significant negative impact on the entire renewable energy market in New Mexico that would extend beyond just its own actions. It is important for the Program Administrator on behalf of the Commission to have the ability to monitor the Program and ensure high-quality performance by the Subscriber Organizations.

#### Subscriber Organization Definition:

As defined by the Act, a "subscriber organization" means an entity that owns or operates a community solar facility and may include a qualifying utility, a municipality, a county, a for-profit or nonprofit entity or organization, an Indian nation, tribe, or pueblo, a local tribal governance structure or other tribal Entity authorized to transact business in New Mexico. As such, Subscriber Organizations will have to coordinate the downstream information from installers/developers as well as individual system owners (who may provide required information through the installer/developer). The Program does not require a specific delegation of duties between the Subscriber Organization, installer/developer, system owner, or other parties. The key consideration is that the Subscriber Organization is ultimately responsible for the fulfillment of project-level commitments, including any obligations delegated to subcontractors, in a manner consistent with the requirements of this Program.

Every Community Solar Project submitted to the Program must be attached to a registered and approved Subscriber Organization. The Subscriber Organization may be one of several businesses or organizations that jointly develop, own, and/or operate a Community Solar Project. Other parties may include a project developer, construction contractors, participant acquisition or management agents, a system owner or financial partner, community outreach partners, and/or operations and maintenance firms. To identify which project stakeholder would be most appropriate as the Subscriber Organization, consider the role and duties outlined below:

- The Subscriber Organization should be the Entity that enters into agreements with Partners
- The Subscriber Organization should be the Entity that enters into an agreement with the utility
- The Subscriber Organization is ultimately responsible for the operation of the Community Solar Project
- The Subscriber Organization will be responsible for submitting project bids and providing all required project application materials and supporting documents.
- The Subscriber Organization may change if a project is sold. The new Subscriber Organization is responsible for continuing to meet any project commitments originally submitted and any future reporting
- The Subscriber Organization acts as the point of contact for the Program.

To promote Subscriber Organization diversity, market competition, and customer optionality, the Program has a defined limit on how much capacity can be allocated to a single Subscriber Organization by the utility. The program administrator shall limit consideration of awarded capacity by any one bidder to a maximum total for such bids of twenty percent of the statewide capacity cap allocated to the applicable utility. Subscriber Organizations under a single ownership structure will be considered a single

Subscriber Organization for the purposes of the Subscriber Organization cap. This includes entities that are considered subsidiaries of, or majority-owned, by a single parent company.

#### Subscriber Organization Communication:

A Subscriber Organization is required to maintain a relevant point of contact and required to respond to the Program Administrator within five business days from receipt of an email or other communication. If a project is sold, the project must continue to be attached to a registered and approved Subscriber Organization. Failure by a Subscriber Organization to follow the requirements of the Program could result in the Entity having the suspension or revocation of its status as a Subscriber Organization and/or project-level disciplinary actions. Any Program violation will be taken on a case-by-case basis.

#### Registration Process and Requirements:

Subscriber Organizations must register with the Program before any bids can be submitted. Subscriber Organization registration opens on December 1, 2022, in conjunction with the opening of the project bid window. Registrations must be approved by the Program Administrator before a project may be submitted. If a project bid is selected for awarded capacity, the Subscriber Organization must agree to the Code of Conduct at project selection. If a project is sold after project selection, the new Subscriber Organization will need to agree to the Code of Conduct at the point of project transfer. Prior to registering as a Subscriber Organization, an entity should confirm that it is the appropriate party to fulfill the role of a Subscriber Organization as described above and is prepared to take on the full responsibilities of that role. The prospective Subscriber Organization should then take the following steps to register.

1. Read all sections of the most current Program Guidebook.
2. Ensure all relevant parties are subscribed to Program updates at [www.csnewmexico.com/SubscriberOrganization](http://www.csnewmexico.com/SubscriberOrganization)
3. Read the entire project RFP
4. Gather registration information and materials
5. Submit all required information and supporting materials through the Community Solar Program Platform at [www.csnewmexico.com/registration](http://www.csnewmexico.com/registration).
6. The Subscriber Organization may partner, collaborate, and subcontract with other entities to recruit and enroll Participants and to develop, maintain and operate a project. However, the Subscriber Organization is accountable for compliance with all Program requirements, even when the work is performed by other entities.

**IMPORTANT:** A single email address can be tied to only one login. If registering more than one Subscriber Organization, more than one email address must be used. Only one login ID will be available for each registration, so ensure it is a login that your team is comfortable with.

#### Affiliate Registration:

The Program Administrator understands that Community Solar portfolios may be constructed through the use of special purpose entities (SPEs). To help keep registration clean, the Program is offering Affiliate registration so SPEs (LLCs and partnerships) can enroll with their correct business structure. This is known within the Program as an Affiliate registration. Affiliate registrations must be associated with a Subscriber Organization. A bid cannot be submitted without first attaching it to a Subscriber Organization.

All registered Subscriber Organizations will receive an identifying number. If working with an affiliate, the Affiliate will need to submit, within the program portal, a request to associate with a Subscriber Organization. The Subscriber Organization will then need to approve the affiliate request to attach to their organization before the Affiliate registration is reviewed by the Program Administrator. The Affiliate registration will need to be approved by the Program Administrator before the Affiliate registration can submit a bid.

#### Bid Visibility:

The Subscriber Organization will be able to see and modify any of its submitted project bids. The Subscriber Organization also will be able to view the project bids of its affiliates but will not be able to modify any of the Affiliate project bids. The Affiliate can only view and modify its own project bids. The Affiliate will not be able to see the Subscriber Organization's project bids outside of those submitted by the Affiliate.

#### Program Review of Registrations:

The Program Administrator will review the information submitted with the Subscriber Organization and Affiliate registration. During the review process, the Program Administrator may follow up with the prospective organizations on any application deficiencies, concerns, or needed clarifications. The Program Administrator will communicate any outstanding items via email. If the prospective organization does not respond to follow-up requests within five business days, the organization may be deemed unresponsive, and the review of its registration may be halted. Therefore, the Subscriber Organizations and Affiliates must register with an actively monitored email account. Disputes that cannot be resolved by the Program Administrator will be escalated, and the final determination will lie with the Commission at the Commission's discretion.

#### Subscriber Organization Compliant Process:

Any complaints about a Subscriber Organization, either directly or indirectly, about a Subscriber Organization's party that are received by the Program Administrator will be referred initially to the applicable Subscriber Organization for resolution. The Subscriber Organization must investigate each complaint and provide a written response to the complainant. If the Subscriber Organization is unable to resolve the complaint, it should be escalated to the Program Administrator and may be escalated to the

Office of the Attorney General for the state of New Mexico.

Code Of Conduct:

Subscriber Organizations must attest to a code of conduct at project selection. The Code of Conduct will be released ahead of the bid window closing. The Code of Conduct may contain a Consumer Protection toolkit. It is advised that Subscriber Organizations read and understand any Consumer Protection Best Practices to minimize the chance of consumer complaints and Program disciplinary actions.

## Section 3: Project Bids

Minimum Request for Proposal Requirements:

Community solar facility projects hoping to participate in this Program will be selected through a competitive solicitation process, with each bid meeting the following minimum requirements for eligibility:

1. Legally binding site control;
2. Commitment to meeting statutory subscriber minimums and not exceeding statutory maximums;
3. Completion of a utility pre-application report or an equivalent report by the utility;
4. Proof of access to collateral for the applicable project deposit; and
5. Payment of a \$1,000 non-refundable bid application fee to the Commission.

Eligible bids will be scored using a set of non-price factors, with each factor weighted by the number of points awarded to the factor, as defined in the published Request for Proposal (RFP). The RFP covers logistics such as where and when bids must be submitted, bid evaluation fees, policies, and procedures, bid submittal process, and evaluation process and assumptions.

Bid Submittal:

Bids must be submitted electronically through the Program portal accessible at [www.csnewmexico.com](http://www.csnewmexico.com). The solicitation window will open on December 1 and close on January 31 at 4 pm Mountain Prevailing Time. Bid information can be saved in progress so that a bid does not have to be completed in a single session. While some application reviews may begin before the January 31 close of the bid window, they will not be completed until after the bid window closes to evaluate the full universe of responses, particularly those scored on a sliding scale.

Right to Audit:

The Program Administrator may audit any project bid information at any time after project selection, including requesting documentation related to any commitments made by a bidder to ensure that those commitments are honored. Any commitment made as part of a project bid must be kept through the life

of the project, even if the project is sold. Failure to honor a commitment may result in a project and/or Subscriber Organization being subject to disciplinary actions, which will be considered on a case-by-case basis based on the nature and circumstances of the violation, including a failure to meet project commitments of projects within the Subscriber Organization's portfolio.

#### Interconnection:

A utility must consider interconnection applications for community solar projects selected by the Program Administrator and any projects from the waitlist that replace any selected projects and need not consider interconnection applications for community solar projects that have not been selected or have not replaced selected projects under their community solar interconnection queue.

The utility shall not apply any preference for interconnection applications for community solar projects as opposed to other types of interconnection applications, and vice-versa, regarding prioritization in the interconnection queue.

#### Project Fees:

Each project bid will have a \$1,000 application fee payable only via ACH in the program portal. A bid is not considered fully submitted until payment of this fee has been initiated. The payment must be submitted ahead of the bid window closing on January 31, 2023, at 4:00 pm Mountain Prevailing Time. If a project is selected, there is also a \$2,500/MWac project fee due within 30 days of notification of the project award, also payable only via ACH in the program portal. While it is acceptable that funds may take a day or two to transfer, payment of fees must be initiated within the stated timeframe. Fees are not refundable. Application fees are payable directly to the state of New Mexico via ACH on the program website once a bid is in its final step. Requests for a W-9 must be made directly to the state of New Mexico. They must be sent to Miranda Mascareñas (miranda.mascareñas@prc.nm.gov), Chief Financial Officer of the New Mexico Public Regulation Commission, and include the requestor's name, address, and email address. The request will be conveyed to the New Mexico Department of Finance and Administration, which in turn will send a W-9 directly to the requestor.

Selected projects will be announced starting on or about April 1, 2023. Prior to the release of the project awards, InClime will release specifics about the manner in which project awards will be announced, including any tranching of awards.

#### Tiebreaker:

Should a tiebreaker be necessary, the Program Administrator will determine and announce an equitable, transparent process for doing so ahead of announcing awarded capacity.

#### Evaluation Criteria:

The published RFP provides a list of requirements and opportunities to obtain points. Some areas of the RFP will require documentation that must be uploaded to the Portal. The below list is not an exhaustive list of items in the RFP or potential uploads but a list to help create clarity on potential uploads needed:

Checklist of potential uploads needed:

- Authorization to do business in New Mexico by uploading a New Mexico Secretary of State statement of good standing dated within the past 12 months if a corporation, LLC, or nonprofit
- Developer Experience
  - Organization chart
  - Plan for assembling the Engineering, Procurement, and Construction (EPC) team if not in place
  - Documentation of experience for each partner or principal, including names, locations, sizes, and current status of projects, and a detailed description of their role in the project.
  - Documentation of any Program warning letters, compliance audits, or suspensions. Must also include any partners or affiliates
- Permitting Plan
  - Permitting plan stamped by a licensed engineer (portal upload)
  - Proof of any permits acquired (portal upload)
  - In-lieu letters (a letter from the Authority having jurisdiction stating that it doesn't issue a particular permit that a permitting plan says is otherwise required), **if necessary**
- Siting
  - Site map
  - Unredacted, legally binding site control
- Financing Status
  - Commitment letter from project financier or written form of confirmation of executive-level approval from internal financing
- Interconnection Viability
  - Utility pre-application
  - Proof that the project site's distance to the utility's nearest 3- phase line is less than one mile
  - Proof that the project would interconnect to a line of voltage 12 kV or higher
- Subscriber Mix
  - Solar Subscriber Agreement
  - MOU with Subscriber Acquisition Team or Subscriber Management Team
  - Documentation of experience for each partner or principal, including a detailed description of the low-income program, number of subscribers, and outcomes of the projects, can be in narrative form
  - Documentation of proof of subscriber recruiting and subscription management proof whether in-house or subcontracting can be in narrative form
- Community & Local Benefits
  - Summary of Workforce Development Plan
  - Documentation of any partnerships with a tribe, pueblo, local community, or nonprofit community organization
  - Documentation of any work plans, if partnerships are not yet in place
- O&M
  - Operations & Maintenance Plan
  - Labor Arrangements

- Cultural Affairs:
  - Documentation of analysis
  - If utilizing an independent consultant, documentation of the consultant's credentials

#### Site Characteristics

- Any unredacted lease agreements for projects on state land
- Proof of access to collateral for applicable project deposit
  - Upload of bank statement or screenshot of bank account

#### Additional items to keep in mind:

**Sizing:** A Community Solar Project must have a nameplate capacity of no more than 5 MW AC. A project may be bid with a single size and a single production estimate. Any variations of a project require a separate bid. If a project is awarded capacity in the Program and that project exceeds a utility's allocation of the total 200 MW, that project will be given the opportunity to downsize to fill the available capacity or to retain the first waitlist spot for when capacity becomes available. That project will \*not\* be skipped in favor of a lower-scoring project that fits the available capacity.

**Utility Pre-Application Report:** A project is not limited to the capacity indicated in the utility pre-application report. The risk of developing a project with a capacity greater than indicated on the utility pre-application report is borne by the project developer. A completed utility pre-application report must be uploaded with the project bid to meet minimum requirements.

**Location:** The entirety of a project (not just the interconnection point) must be in the service territory of its interconnecting utility. Native Community Solar Projects are exempt.

**Siting:** To qualify for the Program, a project must be located within New Mexico and directly interconnected to a qualifying utility or a rural co-op that has opted into the Program. If a Project is installed on a building or property hosting an existing solar electric installation, the Community Solar Project must be electrically separate from the existing system up to the Point of Interconnection, including separate production metering. A project that is sited on the same parcel as another project in the Program is considered co-located if the beneficial owners are affiliated. A project in the Program would not be considered co-located with another project on the same parcel, not in the Program. Projects must directly interconnect to the utility distribution grid, even if the system is located on, or adjacent to, a building or other load (i.e., projects may not be installed "behind the meter" of a utility customer). A state land lease agreement may be considered in the event of a tie. Such a lease agreement should be uploaded with the bid if a project has it. Site control documents will not be accepted if redacted.

**Permitting:** All project bids must include a plan for permitting stamped by a licensed engineer covering only non-ministerial permits. Ministerial permits are issued by local planning staff based on clear and objective standards and requirements applicable to a specific development proposal or factual situation. Examples include electrical permits or building permits for a use permitted by code or a determination that a proposed structure meets setback or height requirements. Ministerial decisions do not require public notice or hearing. Non-ministerial permits are those in which one or more officials or agencies consider various factors and exercise some discretion in deciding whether to issue or deny permits.

Permits typically come with conditions. Public notice or hearings are usually required. Examples include conditional use permits, variances, and special orders. If the permitting plan states that no non-ministerial permits are required, points will be awarded for a Fully Permitted project. If the permitting plan states that a specific non-ministerial permit is required, but the Authority Having Jurisdiction (AHJ) does not issue that permit, then a letter from the AHJ stating that would be required for a Fully Permitted project. As the state of New Mexico will not issue permits for projects that have not been awarded, a project sited on state lands with an appropriate permitting plan stamped by a licensed engineer will be scored as Fully Permitted.

Partners: Subscriber Organizations and/or Affiliates must disclose other entities that are known or expected to be involved in developing and operating the project, including, but not limited to:

- Project Owner(s)
- Construction contractor
- Engineering contractor
- Operations and Maintenance (O&M) provider
- Customer acquisition agent(s), if applicable
- Subscriber Manager, if applicable
- Financial partner(s), if applicable.
- Local Outreach partners
- Other(s), if applicable.

A single entity, including the Subscriber Organization, may fill multiple roles. Not all roles may apply to all projects.

The list above is not exhaustive. Contractors, partners, and affiliates may be revised after a Project is selected so long as project bid commitments are kept.

Financing: An executed commitment letter from a project financier or written form of confirmation from executive-level approval from internal financing showing that the project has full financing is required for full points. Financing arrangements may be changed after bid submittal. Financing must be connected to the registered Subscriber Organization or Affiliate.

Cultural Affairs: A favorable analysis may come from the Department of Cultural Affairs or a qualified independent expert. The expert's credentials must be provided and will be accepted at the discretion of the Program Administrator. The Department of Cultural Affairs is aware of the need for this analysis and has a webpage (<https://nmhistoricpreservation.org/programs/community-solar1.html>) for steps to obtain a favorable analysis. The State Historic Preservation Office (SHPO) can provide a letter that offers a favorable analysis based on their authorities under state law. SHPO's time to analyze and site and produce a letter may vary from a few days to weeks, or possibly more, depending on the number of requests it receives. To speed up SHPO's review, you could contract with a cultural resource professional to do a records search (also called a Class I) and provide that information to SHPO. A qualified list of professionals is available on the Program's website. Organizations may also obtain a letter from them as an independent expert.

Local Ownership: To obtain procurement preferences bonus points, the Respondent must qualify for the procurement preferences in [Section 13-1-21 NMSA 1978](#). Local ownership must be in place at the time

the project is operational. Any change in ownership, as well as any obligations to sell or convey local ownership that is either in place or planned, must be disclosed to the Program Administrator. If creating a partnership, the structure of the partnership must be submitted to the Program Administrator for review. All such partnerships used to obtain preference bonus points must be legitimate partnerships with substantial involvement of the local partner that is intended to be long-term. However, such partnerships are not required to be maintained for the life of the project but must be in place at a minimum at the time the Project is operational. The Program Administrator will be carefully monitoring changes in these relationships for the appearance of gaming in this section of the program.

#### Public Information:

Public Information: After the selection and notification of the winning Respondents, the Program Administrator shall post on the program website a subset of, or in total, the following information applicable to each bid selected:

- The geographic location of the community solar facility, including any or all the following, once finalized: address, latitude, and longitude, position on a map or other location designation;
- Electrical connectivity information such as substation name, transformer number, and feeder number;
- Nameplate capacity of the awarded community solar facility;
- System tracking (fixed axis, single axis, for example);
- Name of the community solar facility owner, community solar facility parent organization, and/or community solar facility subscriber organization (if different than the community solar facility owner); and
- Contact information (email address and telephone number) of the community solar facility owner or community solar facility subscriber organization.

## Section 4: Subscriber Requirements

#### Minimum Subscriber Requirements:

The Act defines a subscriber to mean a "retail customer of a qualifying utility that owns a subscription to a community solar facility and that is by rate class a residential, retail customer or a small commercial retail customer or, regardless of rate class, is a nonprofit organization, a religious organization, an Indian nation, tribe or pueblo or tribal entity, a municipality or a county in the state, a charter, private or public school as defined in Section 22-1-2 NMSA 1978, a community college as defined in Section 21-13-2 NMSA 1978 or a public housing authority."

Each Community Solar Project must meet the following minimum subscriber requirements:

- Have at least ten subscribers;
- Not allow a single subscriber to be allocated more than forty percent of the generating capacity of the facility;

- At least forty percent of the total generating capacity of a community solar facility must be made up of subscriptions of twenty-five kilowatts or less.
- At least thirty percent of electricity produced from each community solar facility is to be filled by low-income customers and low-income service organizations.

#### Low-income Special Provisions:

Low-income customers who are eligible to meet the thirty percent carve out of Paragraph (3) of Subsection B of Section 62-16B-7 NMSA 1978 May be prequalified based on participation in any of the following programs:

- Medicaid;
- Supplemental Nutrition Assistance Program (SNAP);
- Low-Income Home Energy Assistance Program (LIHEAP);
- first-time homeowner programs and housing rehabilitation programs.
- living in a low-income/affordable housing facility; or
- state and federal income tax credit programs.

An entire multi-family affordable housing project may prequalify its entire load as a low-income subscriber.

A customer who does not qualify under the above requirements may provisionally qualify as a low-income subscriber by signing a self-attestation that the Customer's income and household size qualify the Customer as a low-income subscriber until the Customer provides sufficient confirming documentation within ninety days of providing the self-attestation.

Low-income service organizations need only fit the special definition of this term provided in the community solar act, Subsection H of Section 62-16-2 NMSA 1978.

#### Introduction to the Disclosure Form:

The Commission has adopted a uniform disclosure form, identifying the information to be provided by subscriber organizations to potential subscribers in both English and Spanish, and when appropriate, native or indigenous languages, to ensure fair disclosure of future costs and benefits of subscriptions, key contract terms, security interests and other relevant but reasonable information pertaining to the subscription, as well as grievance and enforcement procedures. The subscriber organization shall provide the disclosure form to a potential subscriber and allow them a reasonable time to review the form's disclosures and sign the form before entering into a subscription agreement.

The disclosure form has not yet been released and will be released with instructions when project awards are announced. No subscriptions can be offered in the market ahead of the release of the disclosure form. The Program Administrator may audit projects to ensure the right disclosure form process was followed.

#### Subscription Contracts:

Each subscriber organization shall develop and implement a written subscriber agreement containing the organization's terms and conditions for subscribing to its project. The subscriber agreement must include the following terms, at a minimum:

- general project information;
- the effective date and term of the agreement;
- identification of all charges and fees;
- payment details;
- information about the bill credit mechanism;
- a comparison of the subscriber's net bill with and without the subscription;
- the terms and conditions of service;
- the process for customer notification if the community solar facility is out of service;
- the customer protections provided;
- contact information for questions and complaints; and
- the subscriber organization's commitment to notify the subscriber of changes that could impact the subscriber.

#### Project Commitments:

Any project-level commitments regarding subscribers must be made as percentages based on the AC nameplate capacity of a project, not on the number of subscribers. Commitments made regarding subscribers, including the subscriber mix and contractual terms to secure capacity in the Program, must be kept throughout the life of the project, even if the project is sold. Subscribers must be provided to the Program Administrator in the program portal five business days before the end of every month until the statutory minimums (and any additional commitments) are met, then quarterly after that for the life of the project.

The Subscriber Organization will upload documentation for each low-income subscriber to the program portal. Low-income subscribers may be prequalified based on participation in any of the following programs: Medicaid, Supplemental Nutrition Assistance Program (SNAP), Low-Income Home Energy Assistance Program (LIHEAP), first-time homeowner programs, and housing rehabilitation programs, living in a low-income/affordable housing facility, state, and federal income tax credit programs. Documentation must be provided in the program portal. Subscribers will not be required to re-verify low-income status, but Subscriber Organizations may be audited at any time for documentation of their subscribers identified as low-income.

All selected projects must meet subscriber mandates and commitments within 12 months after the award has been announced, and as such, project bids should present a timeline that allows for active utility-enrolled subscribers within 12 months of project selection. The Respondent may submit a request for an extension to meet subscriber mandates to the Program Administrator. The Program Administrator will review and approve requests on a case-by-case basis. Subscriber organizations that fail to reach the required subscriber level within one year of project selection may be subject, at the Commission's discretion, to penalties up to and including suspension or revocation of the subscriber organization's authorization to operate.

## Subscriber Organization Compliance:

Each subscriber organization's ongoing authorization to operate community solar facilities shall be dependent upon the organization's compliance with the statutory thirty-percent low-income subscription minimum for each facility operated by the subscriber organization. Each subscriber organization shall report to the program administrator monthly upon the organization's progress toward meeting the requirement and any subscriber commitments above and beyond made in the project bid regarding subscribers. Subscriber organizations that have reached the required level shall report on a quarterly basis to verify that the requirement continues to be met.

## Section 5: Consumer Protection

### Consumer Protection Overview:

As a consumer protection measure, the New Mexico Public Regulation Commission ("Commission" or "PRC") has adopted a uniform Subscriber Information Disclosure Form ("Disclosure Form"). The Disclosure Form ensures that all customers receive important information about their community solar subscription terms and includes an Appendix of important consumer information.

The Disclosure Form will not be available until projects have been awarded and publicly announced in Q1 2023. The Commission's adopted rule stipulates that the Disclosure Form must be presented and signed by the Customer ahead of the subscription contract. As a result, Subscriber Organizations are not able to enter into subscription agreements with customers prior to the availability of the Disclosure Form on the Program Administrator's Portal ([www.csnewmexico.com](http://www.csnewmexico.com)). Any community solar subscription agreements signed by a customer before the Disclosure Form violates Program requirements.

The Program Administrator has developed a Community Solar Flyer to provide general information to the Customer about participating in community solar in New Mexico. The Program Administrator has also developed a Disclosure Form Appendix that provides the Customer with the contact information for their subscription manager, as well as information regarding how their subscription size may be adjusted during their contract. These documents will be available on the Program's website in early 2023.

Below is an overview of disclosure form requirements. **The Disclosure form will not be made available until 2023. Subscriptions cannot be offered ahead of project selections. Subscriptions offered ahead of project selections are in violation of program compliance and may be subject to disciplinary measures.**

### Disclosure Form Requirements

Subscriber Organizations must meet the following requirements when generating Disclosure Forms:

1. The subscription terms stated on the Disclosure Form must match the terms of the Customer's subscription agreement.
2. All fields of the Disclosure Form must be completed by the Subscriber Organization or its Affiliate before the Disclosure Form is presented to the Customer.

- a. If there is a mismatch between the information on the Disclosure Form and the Customer's contract at the time of contract signature, the Subscriber Organization or its Affiliate must generate a new Disclosure Form with information that matches the subscription agreement, and the Customer must sign this updated Disclosure Form before resigning the subscription agreement. If there are multiple Disclosure Forms for one subscription, the Disclosure Form that was most recently signed by the Customer is the one that must match the Customer's contract.
  - b. A new Disclosure Form is not required in the event of a change in subscription size unless that change in subscription size does not follow the terms of the Customer's original subscription agreement.
3. The Subscriber Organization or its Affiliate must provide the Customer with a completed Appendix which will be released by the Program Administrator at the same time as the Disclosure Form.
4. The static text of the Disclosure Form, Flyer, and Appendix cannot be modified or edited by a Subscriber Organization or any of its affiliates. The only allowable editing is filling in the fields of the Disclosure Form and Appendix.
5. The Disclosure Form, Flyer, and Appendix must be presented in the subscriber's preferred language. If the subscriber cannot read or understand the language of the documents, then the interaction cannot proceed.
  - a. The Disclosure Form will be available on [csnewmexico.com](http://csnewmexico.com) in English and Spanish. Please contact the Program Administrator before translating Program materials into other languages.
6. The Subscriber Organization must present the Disclosure Form, Flyer, and Appendix to the Customer in their entirety.
  - a. The Subscriber Organization or its Affiliate cannot link to these documents without presenting the full documents.
7. The Customer must sign the Disclosure Form before signing the subscription agreement.
  - a. The Customer must have sufficient time to review and read the Disclosure Form ahead of signing a subscription contract. Under no circumstances can a subscriber organization or an agent of a subscriber organization sign a Disclosure Form on behalf of the Customer.
  - b. The Customer may sign the Disclosure Form and a subscription contract in the same interaction, but the Customer must have a reasonable amount of time to review the Disclosure Form and must sign the Disclosure Form before signing the contract.
  - c. The Customer must sign the Disclosure Form and the subscription agreement separately and cannot simply agree to all documents as a package.
8. The Subscriber Organization or its Affiliate must generate the Disclosure Form via one of the methods in section 5.2. of this guidebook.
9. The Customer must sign the Disclosure Form using one of the methods in section 5.3 of this guidebook.
10. The Subscriber Organization or its Affiliate must upload a compliant Disclosure Form and Appendix to the Portal in order for the Program Administrator to verify the subscription.
11. The Subscriber Organization must maintain a copy of the Customer's signed Disclosure Form for one year beyond the duration of the Customer's subscription.

- a. The Subscriber Organization must provide the Customer with a copy of the Disclosure Form upon request.
12. If the Subscriber Organization presents the Customer with a new contract, the Customer will also need to sign a new Disclosure Form before signing that updated contract.

The Program Administrator will not accept subscriptions that do not have an accompanying compliant Disclosure Form, and such subscriptions cannot be counted towards any project requirements or commitments.

Generating Disclosure Forms:

Subscriber Organizations can generate Disclosure Forms via the following methods:

	Method	Description
1	Directly through the Portal	The Subscriber Organization manually enters all information for the Disclosure Form into the Portal. The Disclosure Form will be generated in the Portal.
2	Via CSV Upload	The Subscriber Organization enters all information for one or multiple Disclosure Forms into a CSV template that will be available in the Portal. When the Subscriber organization uploads the CSV file to the Portal, the Disclosure Form(s) will be generated in the Portal.
3	Via Disclosure Form API	The Subscriber Organization sends the information for one or multiple Disclosure Forms to the Portal via API. The Disclosure Forms will be generated in the Portal. Please contact the Program Administrator at <a href="mailto:admin@csnewmexico.com">admin@csnewmexico.com</a> to request access to the Disclosure Form API.
4	Generate outside the Portal	The Subscriber Organization generates a Disclosure Form on their enrollment platform that is identical in content and format to the Program's published Disclosure Form. <b><i>This option requires prior approval from the Program Administrator.</i></b> Please contact the Program Administrator if you are interested in generating Disclosure Forms outside of the Portal.
5	Download Template	The Subscriber Organization downloads a blank Disclosure Form from the program website. The Disclosure Form can be filled out through an online enrollment platform or by hand in legible handwriting.
6	Duplicate an existing Disclosure Form	The Subscriber Organization can submit a request to the Program Administrator via email to duplicate an existing Disclosure Form. This will create a new Disclosure Form with all prior information populated onto the Disclosure Form. This option is useful if the information on an existing Disclosure Form needs to be updated.

Signing Disclosure Forms

The following signature methods are acceptable for Disclosure Forms:

Method	Description
Wet signature	Customer signs a hard copy of the Disclosure Form, which in turn is scanned and uploaded to the Portal.

E-signature through the Portal	The Subscriber Organization sends the Disclosure Form to the Customer for e-signature through the Portal. The Customer follows the link in that email to e-sign the Disclosure Form. The Portal will automatically record the date, time, and IP address of that e-signature.
E-signature outside of the Portal	A subscriber organization may request permission to use other e-signature methods. <b><i>This option requires prior approval from the Program Administrator.</i></b> Please contact the Program Administrator to request permission to use an e-signature method outside of the Portal.

**Noncompliance With Program Requirements**

If a Subscriber Organization is found not to be in compliance with program requirements, the Program Administrator will notify the Subscriber Organization of the action that violated program requirements. The Subscriber Organization will be given an opportunity to respond and provide an explanation. The Program Administrator may ask the Subscriber Organization for a further explanation after reviewing the Subscriber Organization's response. Depending on the nature of the issue, the Program Administrator may also contact impacted subscribers, affiliates, or subcontractors of the Subscriber Organization for additional information or to confirm statements made by the Subscriber Organization.

The Program Administrator may escalate to the New Mexico Public Regulation Commission any noncompliance with program requirements. All selected projects will have to agree to a Code of Conduct upon project selection.

**Section 6: Program Definitions**

**Affiliated Entity:** any entity that controls, is controlled by, or is under common control with the Company (Subscriber Organization).

**Bidder:** The organization submitting a project bid. An eligible bidder to this RFP is the Subscriber Organization for the proposed community solar facility, and is responsible for the construction and operation of the facility. The Bidder may be a special purpose entity formed via a partnership or joint ownership among other organizations. The Bidder needs to be registered as a Subscriber Organization or an Affiliate. Bidders must be registered to do business in the state of New Mexico. The Program Administrator will review and approve all Subscriber Organization and Affiliate registrations. A Bidder is also referred to as a Respondent.

**Brownfield:** means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

**Built Environment:** A community solar project that will be sited in an urban area as defined by the US Census Bureau

**Code of Conduct:** The Code of Conduct is designed to ensure Subscriber Organizations are conducting business in a professional and ethical manner and that customers receive high-quality service and meaningful opportunities to participate in solar development.

**Commission:** the New Mexico Public Regulation Commission

**Community Solar Bill Credit:** the credit value of the electricity generated by a community solar facility and allocated to a subscriber to offset the subscriber's electricity bill on the qualifying utility's monthly billing cycle as required by the Community Solar Act.

**Community Solar Bill Credit Rate:** the dollar-per-kilowatt-hour rate determined by the Commission that is used to calculate a subscriber's community solar bill credit. **Community Solar Facility or "project":** means a facility that generates electricity by means of a solar photovoltaic device, and subscribers to the facility receive a bill credit for the electricity generated in proportion to the subscriber's share of the facility's kilowatt-hour output, also referred to as Community Solar Project or Project.

**Community Solar Program or "Program":** is the Program created through the adoption of rules by the Commission that allows for the development of community solar facilities and provides customers of a qualifying utility with the option of accessing solar energy produced by a community solar facility in accordance with the Community Solar Act

**Commitment:** an agreement or pledge to do something

**Complaint:** A retail customer or Participant's written or verbal statement of dissatisfaction with a Project or Subscriber Organization. Complaints may be made directly to the Program Administrator

**Developer Cap:** To promote Subscriber Organization diversity, market competition, and customer optionality, the Program has a defined limit on how much capacity can be allocated to a single Subscriber Organization by the utility. The program administrator shall limit consideration of awarded capacity by any one bidder to a maximum total for such bids of twenty percent of the statewide capacity cap allocated to the applicable utility. Subscriber Organizations under a single ownership structure will be considered a single Subscriber Organization for the purposes of the Subscriber Organization cap. This includes entities that are considered subsidiaries of or majority owned by a single parent company registered in the Program as an Affiliate.

**Direct-Billed Customer:** a customer that receives a bill directly from the utility. A customer who receives a bill indirectly from a property owner, housing cooperative, etc., would not be considered direct-billed.

**Indian nation, tribe, or pueblo:** means a federally recognized Indian nation, tribe, or pueblo located wholly or partially in New Mexico

**Legally binding site control:** a fully executed binding contract or an option exercisable by the developer and signed by all parties. Redacted site control documents will not be accepted

**Low-income Customer:** a residential customer of a qualifying utility with an annual household income at or below eighty percent of area median income, as published by the United States department of housing and urban development, or that is enrolled in a low-income program facilitated by the state, or a low-income energy program led by the qualifying utility or as determined by the Commission;

**Low-income Service Organization:** an organization that provides services, assistance, or housing to low-income customers and may include a local or central tribal government, a chapter house, or a tribally designated housing entity

**Ministerial Permits:** Permits issued by local planning staff based on clear and objective standards and requirements applicable to a specific development proposal or factual situation.

**Monthly Bill Credit:** The dollar value that Participants receive on their electricity bill for the electricity generated by their portion of a community solar project in the prior month. The monthly bill credit is calculated by multiplying the bill credit rate by the Participant's share of the total project generation in the month.

**Partnership:** any contract between two or more business partners. The partners use the agreement to outline their rights and responsibilities

**Permitting Plan:** A permitting matrix or written attestation stamped by a licensed engineer

**Nameplate Capacity:** the maximum rated output of electric power production equipment that is commonly indicated on a nameplate physically attached to the generator and expressed in megawatts of alternating current

**Native Community Solar Project:** a community solar facility that is sited in New Mexico on the land of an Indian nation, tribe, or pueblo and that is owned or operated by a subscriber organization that is an Indian nation, tribe or pueblo or a tribal entity or in partnership with a third-party entity

**Non-Ministerial Permits:** Permits in which one or more officials or agencies consider various factors and exercise some discretion in deciding whether to issue or deny permits. Permits typically come with conditions. Public notice or hearings are usually required. Examples include conditional use permits, variances, and special orders.

**Partnership:** A contract between two or more business partners. The partners use an agreement to outline their roles and responsibilities

**Program Administrator:** InClima, Inc. is a third party acting on behalf of the Commission to administer the New Mexico Community Solar Program.

**Qualifying Utility:** an investor-owned electric public utility certified by the Commission to provide retail electric service in New Mexico pursuant to the Public Utility Act or a rural electric distribution cooperative that has opted into the community solar program

**Request for Proposals (RFP):** seeks bids for the sale of energy and the transfer of renewable energy credits (RECs) from qualified community solar facilities in conformance with the Act.

**Respondent:** The organization submitting a project bid. An eligible respondent to this RFP is the Subscriber Organization for the proposed community solar facility, and is responsible for the construction and operation of the facility. The Respondent may be a special purpose entity formed via a partnership or joint ownership among other organizations. The Respondent needs to be registered as a Subscriber Organization or an Affiliate. Respondents must be registered to do business in the state of New Mexico. The Program Administrator will review and approve all Subscriber Organization and Affiliate registrations. A Respondent is also referred to as a Bidder.

**Service Territory:** The geographic area within which an electric company provides electricity to retail customers. The entire community solar facility must be wholly located within a single IOUs distribution service territory

**Site:** The address associated with a meter or a collection of meters that are co-located on a property under a shared customer account. For a typical residential customer, this will be the physical address, including the unit number, of the home. For a typical commercial customer, this will be the physical address of one of the business locations and include all meters serving that site that are associated with the Customer's account. A customer is defined at the site level.

**Subscriber:** The Act defines a subscriber to mean a "retail customer of a qualifying utility that owns a subscription to a community solar facility and that is by rate class a residential, retail customer or a small commercial retail customer or, regardless of rate class, is a nonprofit organization, a religious organization, an Indian nation, tribe or pueblo or tribal entity, a municipality or a county in the state, a charter, private or public school as defined in Section 22-1-2 NMSA 1978, a community college as defined in Section 21-13-2 NMSA 1978 or a public housing authority."

**Subscriber Organization:** an entity that owns or operates a community solar facility and may include a qualifying utility, a municipality, a county, a for-profit or nonprofit Entity or organization, an Indian nation, tribe, or pueblo, a local tribal governance structure or other tribal Entity authorized to transact business in New Mexico

**Subscription:** a contract for a community solar subscription entered between a subscriber and a subscriber organization for a share of the nameplate capacity from a community solar facility

**Racial Minorities:** The New Mexico Legislative Finance Committee defines this as a disadvantaged small business that is one majority-owned by a woman, member of a recognized minority group (including African American, Hispanic/Latino, American Indian, or Alaska native)

**Tribal Entity:** means an enterprise, a nonprofit entity or organization, or a political subdivision formed under the inherent sovereignty of an Indian nation, tribe, or pueblo

**Unsubscribed Energy:** If a community solar facility is not fully subscribed in a given month, the unsubscribed energy may be rolled forward on the community solar facility account for up to one year from its month of generation and allocated by the subscriber organization to subscribers at any time during that period. At the end of that period, any undistributed bill credit shall be removed, and the qualifying utility shall purchase the unsubscribed energy at its applicable avoided cost of energy rate as approved by the Commission.

**Utility pre-application:** Respondents must submit a pre-application review or an interconnection study request. Respondents may also contact the appropriate qualifying utility with questions. Respondents should note that, for any bids selected through this RFP, the winning Respondents will be required to submit an Interconnection Application and Interconnect Study Fee and enter into an Interconnection Agreement with the utility.

**Warning / Disciplinary Notices:** Subscriber Organizations or any of its affiliates and partners that are or were engaged in operations in the US related to energy have been issued a warning letter, compliance review or investigation, suspended from participation, or denied the ability to participate in a government or utility administered renewable energy incentive program must provide documentation to the Program Administrator