

# New Mexico Community Solar Program

## 2023 Bid Selection Process Questions & Answers

The following questions were asked around the time of the opening of the bid window on December 1, 2022. The Program Administrator posted these questions and the corresponding answers on the New Mexico Community Solar Program website. As this Q&A is more relevant to a prior phase of the program, it has been archived in this document.

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### Developer Cap

#### Does the Developer Cap apply after project selection?

The developer cap will be applied through project selection. After project selection, the developer cap will no longer be applied. After project selection, projects may be purchased and sold in excess of the 20% developer cap.

Any known plans to sell or transfer a project ahead of project selection must be disclosed to the Program Administrator. Regardless of when a project sale took place (before or after project selection) documentation of a project sale must be provided to the Program Administrator and the new owner needs to be registered in the Program and approved by the Program Administrator.

As a reminder any commitments made during the bid process must be kept even after a project has been sold. Any Program guidance regarding ownership to obtain preferential points must be maintained per published Program materials.

## **If a bidder is fulfilling the financial commitment piece for another bidder, will the submitted projects be considered one portfolio under the 20% utility cap or be considered two separate company bids?**

A bidder fulfilling a financing commitment for another bidder would be considered an arms-length transaction. Those companies would be not considered affiliated unless they have common ownership or are under common control. If those companies are affiliated, the bids would count towards the 20% developer cap. If those companies are unaffiliated, the bids would not count towards the developer cap. Any plans of selling the project needs to be disclosed during the bid process. A bidder cannot submit a bid as a proxy on behalf of another organization to secure points.

## **What happens if a bidder is awarded more capacity than the 20% developer cap? Do they get to choose which of their projects move forward?**

A bidder cannot be awarded more than the allowable developer cap allotment. The highest scoring projects are the projects that the Program Administrator will select, a developer will not choose which projects to move forward, but can withdraw a project and vacate capacity. If a project would be 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.

## **Does the 20% developer cap apply to the number of projects or capacity?**

The 20% developer cap applies to the capacity of project applications awarded in each utility service territory. It's possible for a developer and its affiliates to be awarded 20% of available capacity in each of the three utility service territories.

## **Does the 20% developer cap apply to submitted bids or awarded capacity?**

The 20% developer cap applies to the capacity of project applications awarded in each utility service territory, not to the number of bids submitted.

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## Financing

### **Will projects be allowed to change financing partners after award or change from internal financing to external financing?**

Yes, projects may swap financiers. Showing documentation of financing is a marker of project maturity, which is why it receives more points than not having financing secured.

### **Does a project need a commitment letter from both a cash equity and a tax equity financier?**

There is no need to provide a letter from a tax equity financier. An executed commitment letter from a project financier showing that the project has full financing is required for full points.

### **Will an executed commitment letter from a project financier be sufficient for all 10 points or is further information required?**

An executed commitment letter from a project financier showing that the project has full financing is required for full points.

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## General

### **If a bidder chooses not to accept a reduced capacity allocation, could it retain its waitlist position in an effort to secure the full capacity of its bid?**

If a project would be awarded capacity in the program and the 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 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.

### **Will developers have a chance to downsize a project in order to utilize the remaining capacity of an IOU allocation?**

If a project would be 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 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.

### **Does the Program Administrator have a preference of 5 MWac projects such that the program has fewer selected projects to manage, or might smaller sizes be preferred so more awards can be given out?**

The Program Administrator has no preference on this. Please submit a bid for the project that you prefer to build.

### **Will the portal have word count restrictions?**

Generally, text boxes have a limit of 3,000 characters and the character limit of text fields varies. This kind of length should not be needed, however, based on the method by which the portal gathers information. Optional upload slots are available as well should a Respondent need to provide additional information.

### **Will the Program Administrator allow for cloning capabilities of bid information?**

The ability to clone bids is not planned.

**The RFP notes that the Program Administrator reserves the right to reject bids for reasons other than price or energy production. How does the Program Administrator envision this language being used?**

The Program Administrator has discretion to ask questions about and deem invalid any project bid that does not meet program requirements.

**What is an example of a potential penalty for a project that commits to securing 100% of materials from a local source but then does not follow through?**

Disciplinary actions will be considered on a case-by-case basis based on the nature and circumstances of the violation.

**May we request a schedule extension, with justified reasons, in our response?**

The Program Administrator will consider extensions on a case-by-case basis. It may be best to wait at least until a project is selected before requesting an extension.

**Can a project be bid in with two sizes, for example one at 5 MW and one at 3.5 MW, even though only one would be built?**

A project may be bid at a single size. Any variations on a project would require a completely separate bid.

**Can a local bidder submit a project bid and receive the bonus points for being from in-state, and then sell the project to an out of state developer at PTO?**

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 are either in place or planned, must be disclosed to the Program Administrator. The local owner must have control of the sale of their equity.

## **How will tie breakers be managed?**

Should a tie breaker be necessary, the Program Administrator will determine and announce an equitable, transparent process for doing so.

## **Can projects be transferred to an affiliate down the line?**

Projects may be sold. Please note that any change in ownership, as well as any obligations to sell or convey local ownership that are either in place or planned, must be disclosed to the Program Administrator.

## **Will awards be published by rank order and project name?**

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

- Geographic location of the community solar facility, including any or all of 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 (e-mail address and telephone number) of the community solar facility owner or community solar facility subscriber organization.

## **Will application review begin after the deadline of January 31 or will application review begin as soon as December 1?**

Some application review may begin prior to the January 31 close of the bid window, but it will not be completed until after the close of the bid window in order to evaluate the full universe of responses, particularly those that are scored on a sliding scale.

## **Will we be able to save a partial application in the portal or does an application have to be completed in one sitting?**

Yes, the portal allows an application to be saved in progress so that it does not have to be completed in a single session.

## **Do you send notification emails every time you make an update on the website?**

Please subscribe to updates on the [program website](#) to be informed of program announcements.

## **When will Subscriber Organization registration open?**

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.

## **How can I get updated on changes to the website and program developments?**

Subscribe to updates on the program website at <https://csnewmexico.com/subscriber-organizations/>.

## **Is there a demonstration of how to enter a project into the portal?**

The portal will guide the user through entering and uploading all of the relevant information needed for a complete project submission.

## **Will the program provide a W-9 form for payment of application fees?**

Application fees are payable directly to the state of New Mexico via ACH on the program website. Requests for a W-9 must be made directly to the state of New Mexico must be sent to Miranda Mascarenas (miranda.mascarenas@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.

## **How will the Program Administrator ensure that any commitments made in the bid are followed through?**

The Program Administrator may audit, including requesting documentation, related to any commitments made by a bidder to ensure that those commitments are honored.

## **What are the fees associated with a project bid?**

There is 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. There is also a \$2,500/MWac project fee due after a project has been selected for the program within 30 days of notification of project award, also payable only via ACH in the program portal. While it's 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 at any point.

## **Is there a deadline to ask questions?**

Questions may be asked at any time by emailing the Program Administrator at [admin@csnewmexico.com](mailto:admin@csnewmexico.com) or through the web form on the program website (<https://csnewmexico.com/contact-us/>). Questions that apply to all bidders will be posted on the program website.

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## **Partners**

### **What is the difference between a Partner and an Affiliate?**

A partner is a company that the Respondent works with. It's not expected that the Respondent do everything necessary for project development itself, which is why partnering with other companies is explicitly called out. An Affiliate is a Respondent

submitting a project bid and must be associated with a Subscriber Organization in the program portal.

### **Do New Mexico EPCs need to register as affiliates if the related Subscriber Organization is the one submitting the overall bid?**

All organizations submitting a project bid are required to register in the program portal either as a Subscriber Organization or an Affiliate attached to a registered Subscriber Organization. Any plans on selling or transferring a project must be disclosed during the bid process.

### **Is any legal partnership required to be considered “partners” or, for example, would an MOU with a subscription management company that we intend to work with on the projects be considered a partnership?**

A partner is a company that the Respondent works with. It’s not expected that the Respondent do everything necessary for project development itself, which is why partnering with other companies is explicitly called out. The Respondent will need to provide evidence of an existing partnership

### **The PRC’s final rule states that a bid may be “made by a bidder composed of partners”. What is the definition of “partners”?**

A partner is a company that the Respondent works with. It’s not expected that the Respondent do everything necessary for project development itself, which is why partnering with other companies is explicitly called out.

### **Do “businesses owned or operated locally” need to be registered New Mexico resident businesses under New Mexico law, or can those contracts be sleeved through any LLC with a New Mexico address?**

Businesses owned and operated locally necessarily must be registered to do business in New Mexico.

**Can your partners gain points for your project if they qualify as minority, veteran, women owned, etc.?**

A project that commits to contract for materials, supplies or services only with business owned or operated locally or operated by members of racial minorities, women, veterans, or Native Americans will receive points. Simply working with a business that meets one of these definitions, absent such a commitment, will not receive those points.

**Where did the 50% community ownership come from? That is not a stated requirement. Does the project have to have  $\geq 50\%$  equity ownership by the local community to count as locally owned?**

A commitment to local ownership is not a requirement, but does earn points for the Respondent. This originates from the PRC's adopted rule for community solar.

**Regarding existing and continuing relationships, is it permissible for the bid to comply with this section with a new partnership, rather than an existing one as long as the relationship is formalized?**

As this item will be scored on a sliding scale based on the depth of the partnership and the benefits provided, please include in your bid the arrangement you have and it will be evaluated by the Program Administrator.

**For purposes of contracting with local businesses/minorities/etc, will those points be scored based on the percentage that the Respondent pledges to contract with those businesses, or is it all-or-nothing?**

A project that commits to contracting contract materials, supplies, OR services only with businesses owned or operated locally or owned or operated by members of racial minorities, women, veterans, or Native Americans will receive the full 6 points for this item. Scoring is not based on a sliding scale.

**With respect to contracting with local businesses/racial minorities/women/veterans/Native Americans section of the RFP, does project development work completed both prior to and after the opening of the RFP count toward these points, or will InCline only factor in work the bidder commits to doing after the project has been selected for the program?**

Project development work completed prior to publication of the RFP can count towards this item.

**What is defined as contractor? Is there a certification/qualification required here, does the past business of the resident veteran matter?**

Please see the definitions [here](#).

**With regard to the bonus points available for a Respondent that is a resident contractor, may some points (but not all of the available points) be awarded to respondents whose ownership includes a resident contractor, or must Respondent itself be a resident contractor?**

The Respondent itself must meet the criteria per [Section 13-1-21 NMSA 1978](#).

**What is meant by 50% ownership by the local community? Is it 50% ownership of the equity of the fully financed project company or something else?**

The local community would need to have 50% ownership of the fully financed project company, in place at the time the project is placed into service. Any change in ownership, as well as any obligations to sell or convey local ownership that are either in place or planned, must be disclosed to the Program Administrator.

## **Are veterans considered a disadvantaged group?**

Veterans, by themselves, are not considered a disadvantaged group. A disadvantaged small business is one majority-owned by a woman, member of a recognized minority group (including African American, Latino, Asian, Pacific Islander, Native American, or Alaska native). But, the competitive solicitation does include the following preferences based upon benefits to the local community and the state of New Mexico:

1. preferences for businesses residing in the state and for resident veteran businesses, pursuant to Section 13-1-21 NMSA 1978;
2. preferences for projects supporting local businesses employing local labor, or having partners resident in the state;
3. preferences for bids including workforce training or educational opportunities for disenfranchised groups;
4. preferences for businesses owned or operated by minorities or women;
5. preferences for bids including local job training or committing to long- term jobs in New Mexico; and
6. preferences for bids including partnership with local communities or community-based project ownership.

## **Under contracting with local business section, in reference to “contract materials”, “supplies” and “services” only, please confirm that this requirement will all have been satisfied if one contracts with a resident contractor.**

The RFP has been amended to award 6 points to a project that commits to contracting contract materials, supplies, OR services only with businesses owned or operated locally or owned or operated by members of racial minorities, women, veterans, or Native Americans. Contracting with a company that meets the definition of a resident contractor does not fully satisfy this item. Please see the definition of resident contractor [here](#).

**Appreciating that local partners, such as low income organizations and non-profits, do not have in-house legal or bandwidth to execute on an agreement, will an MOU or other simple letter be given the same value as a contract? It should be appreciated that since being awarded is not a foregone conclusion, many organizations will not do the heavy lifting to have an executed agreement prior to project award.**

As this item will be scored on a sliding scale based on the depth of the partnership and the benefits provided, please include in your bid the arrangement you have and it will be evaluated by the Program Administrator.

**Is evidence of an existing partnership or contract required to receive the full 6 points in the community and local benefits section?**

Evidence of an existing and continued partnership must be provided.

**What does affiliated mean?**

An entity is affiliated with a second entity if it controls, is controlled by, or is under common control with that other entity or a third entity.

**For an existing and continued relationship with tribes, pueblos, and non-profit community organizations, must these groups be from New Mexico?**

A tribe or pueblo must have a footprint in New Mexico, and a non-profit organization must be registered to do business in New Mexico.

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## Permitting

### **How does one prove that certain jurisdictions do not require land use/zoning permits for solar projects?**

If the permitting plan states that a specific non-ministerial permit is required, but the AHJ does not issue that permit, then a letter from the AHJ stating that would be required. If the permitting plan does not indicate that such a non-ministerial permit is required, no further documentation is needed.

### **If a project has secured all permits for a project except the building and electrical permits, will this be categorized as Fully Permitted?**

A project that has secured all non-ministerial permits, as indicated by the permitting plan stamped by a licensed engineer, will be deemed Fully Permitted.

### **Under what conditions, permits/approvals are considered “secured,” “granted” and “pending”?**

Secured and granted are the same. This language has been updated in the RFP. Pending means that a permit has either not been applied for or has been applied for but not yet secured.

### **What is a permit plan? Is it an engineered drawing or a matrix of permits required?**

A permitting plan is a document stamped by a licensed engineer that indicates the full slate of non-ministerial permits that are required for a project. If the plan indicates that a permit is required, whether it has been applied for and/or secured will determine how the project scores in this area.

## **What is the definition of a non-ministerial permit?**

A non-ministerial permit is one for which discretion is exercised by the AHJ before issuance (e.g., land use permit). A ministerial permit is one for which if the project meets the objective requirements of the permit, the permit is issued (e.g., electrical permit).

## **Are we correct in understanding that a Stormwater Pollution Prevention Plan and a Dust Control Permit are both considered as ministerial permits?**

If the permitting plan identifies a Stormwater Pollution Prevention Plan and a Dust Control Permit as non-ministerial permits, then securing those would be required in order for the project to be scored as Fully Permitted.

## **To confirm, will state land sites that are unable to receive non-ministerial permits due to state process requirements receive full permitting points if they provide the Permitting Plan signed by a licensed engineer that outlines all required permits?**

As the state of New Mexico will not issue permits for projects that have not been awarded, a project sited on state lands will be scored as Fully Permitted even if the non-ministerial permits that are required per the permitting plan have not been secured.

## **For most rooftop projects there will be no requirement for any non-ministerial permits, as these projects are not typically required to get zoning or land-use permits. Will a letter from the engineering firm asserting that there are no non-ministerial permits required for a rooftop project within a particular AHJ be sufficient to be categorized as fully permitted and receive the full 15 points?**

If the permitting plan states that no non-ministerial permits are required, points will be awarded for a Fully Permitted project.

**Is a permit plan stamped by a licensed engineer certifying that no non-ministerial permits are required for the project sufficient evidence that no non-ministerial permits are required or do we need to obtain an actual letter in writing from the municipality?**

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 AHJ does not issue that permit, then a letter from the AHJ stating that would be required for a Fully Permitted project.

**Does the permitting plan have to be stamped by a licensed engineer?**

The permitting plan must be stamped by a licensed engineer.

**Can the permitting plan be stamped by an individual licensed engineer or must it be stamped by a licensed engineering firm?**

The permitting plan may be stamped by an individual licensed engineer. The engineer does not need to be licensed in the state of New Mexico.

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## **Procurement Preferences**

**What role does resident ownership play in the New Mexico Community Solar Program?**

Resident ownership is a crucial aspect of the program during project development. Projects must fulfill their bid commitments and complete tasks associated with the obtainment of bonus points through resident ownership, including the proportion of the total project cost provided or performed by the resident qualifying entity. The program recognizes the importance of resident owners' contributions and their long-term involvement in the project.

## **Can projects be sold or transferred to another resident owner?**

The program allows for the sale of projects from one resident owner to another, provided that the bonus points awarded to the project remain the same or increase based on the same ownership formula. The transfer of ownership should occur between resident owners who would have received the same or more bonus points if they had been the original owner. This ensures the program's objectives of supporting resident businesses and maintaining the integrity of the resident ownership requirements.

## **When can projects be sold or transferred to a non-resident owner?**

Equity can be transferred at Mechanical Completion or at any time thereafter, but no earlier.

## **Can negotiations for project sales occur before mechanical completion?**

Negotiations for project sales may occur before the project's mechanical completion as long as equity or ownership is not transferred before mechanical completion. The qualifying entity must continue to fulfill its project development commitments used to calculate scores. However, the actual transfer of equity or ownership cannot occur before mechanical completion. This requirement ensures that resident ownership remains in place until the specified stage and that the resident owner has completed the project development milestones committed to in the project bid.

## **What are the key concerns for project owners in the New Mexico Community Solar Program?**

Project owners must ensure they fulfill the ownership criteria and contribute the required proportion of the total project cost during the development period. They must also demonstrate substantial participation and engagement in the project development process.

## **Can the Program Administrator monitor project ownership after project selection?**

Yes, the Program Administrator has the authority to monitor project ownership even after the project has been selected to ensure compliance with ownership

requirements and prevent any attempts to manipulate or misrepresent ownership. The Program also retains the right to monitor asset owners' compliance, evaluate project sales to uphold program goals, and oversee project development to ensure the fulfillment of commitments and milestones. The monitoring process is essential for maintaining program integrity and achieving the desired outcomes. In instances of non-compliance, the Program Administrator will escalate the matter to the Attorney General's Office.

### **Are disciplinary actions possible for non-compliance with program requirements concerning qualifying ownership?**

Yes, disciplinary actions may be taken in cases of non-compliance with program requirements regarding qualifying ownership. It is crucial for organizations to recognize the significance of accurately representing their bid ownership structure. Any instances of false information or misrepresentation may be viewed as fraudulent behavior, potentially leading to severe consequences. To avoid disciplinary actions, we strongly recommend that organizations conduct a thorough eligibility self-assessment to ensure alignment with the proposed ownership criteria stated in the bid. It is essential to prioritize transparency and integrity throughout the process to mitigate the risk of disciplinary actions.

### **What was the ownership formula used in the New Mexico Community Solar Program to obtain bonus points?**

The ownership formula utilized in the evaluation process of the New Mexico Community Solar Program involved categorizing bids and assigning points based on the guidelines outlined in Section 13-1-21 NMSA 1978. The formula took into account the qualifying entity's ownership percentage and the proportion of the total project cost provided or performed by that entity.

To provide transparency, fairness, and incentive for resident ownership, different formulas were applied depending on the specific procurement preference certification and the percentage of ownership held by the qualifying entity. The aim was to award bonus points to projects with a higher level of resident ownership.

As stated in the Request for Proposal (RFP), the following formulas were utilized for various scenarios:

- Respondent is a resident business or Native American resident business: Points = 8% \* 92
- Respondent is a legal joint venture or partnership with a resident business or Native American resident business: Points = 8% \* Ownership Percentage \* Proposed Cost Performed by Qualifying Entity \* 92
- Respondent is a resident veteran business or Native American resident veteran business with an annual gross revenue up to \$6,000,000 in the preceding tax year: Points = 10% \* 92
- Respondent is a legal joint venture or partnership with a resident veteran business or Native American resident veteran business: Points = 10% \* Ownership Percentage \* Proposed Cost Performed by Qualifying Entity \* 92
- Respondent is neither a resident contractor, Native American resident contractor, resident veteran contractor, nor Native American resident veteran contractor: Points = 0

## **Project Bid**

### **What would be considered as examples of “innovative commitment” or beneficial provision?**

As this item will be scored on a sliding scale, please include in your bid details of the innovative commitment and it will be evaluated by the Program Administrator.

### **At what point must a copy of the subscription agreement that’s intended to be used to acquire subscribers for the project be provided?**

The subscription agreement must be provided with the project bid and at project selection.

### **What constitutes as proof of commitment to low-income subscribers around upfront costs, termination fees, and credit checks?**

The subscription agreement that must be provided with the project bid will help to document this. In addition, the Program Administrator may audit any part of a project at any time.

## **Is a commitment 100% of the total build cost or something less?**

In order to qualify as having Financing Secured, a project must have a financing commitment for 100% of the cost of the project.

## **What are warning or disciplinary letters from partners?**

Warning or disciplinary letters are those issued by other programs that indicate that the Respondent, its affiliates, or its partners may have violated the requirements of another program and any warnings or disciplinary actions that resulted.

## **If making the commitment to use 100% New Mexico resident services, does permitting review by a licensed engineer or cultural analysis need to be done by a New Mexico resident business or is that outside this requirement?**

If the licensed engineer or the cultural analysis expert are services procured by the project, they would fall under the requirement to contract for services if such a commitment is made.

## **Is the energy profile of a proposed project a determining factor for selection under the RFP (one project produces more power than another)?**

The energy profile of a proposed project is not a determining factor for project selection (it is not scored). However, the Program Administrator will review all information submitted and ask for more information if the energy profile is atypical.

## **Would a commitment to get supplies from a local contractor be considered honored if an instate organization procured panels manufactured out of state?**

If a Respondent has committed to contract for materials only with businesses owned or operated locally or owned or operated by members of racial minorities, women, veterans, or Native Americans, those businesses do not need to procure all materials from New Mexico.

**There are no panel manufacturers in New Mexico, so how would a Subscriber Organization work only with local companies for supplies?**

Please reconsider making a commitment that you're not certain you can follow through on.

**What weight is ascribed to any warning letters issued? If this is simply a yes or no checkbox, it provides no appreciation that the warning may have been on a foot fault that was quickly addressed and now the organization is fully compliant with the rules.**

The Program Administrator will review and evaluate any compliance notices, warning, or disciplinary letters. The mere fact that any exist does not automatically send up a red flag for the project bid.

**If an affiliate is a new LLC owned/controlled by a SO, and this LLC submits the bid, does a Subscriber Organization's status as a resident contractor or resident business apply?**

The entity that submits the project bid is the Respondent. If the Respondent qualifies as a resident contractor or resident business, that would satisfy the requirement. If the parent company of the Respondent qualifies as a resident contractor or resident business but the Respondent does not, that would not satisfy the requirement. A respondent cannot be an agent to obtain points. Any plans to sell or transfer the project will need to be disclosed to the Program Administrator. Local ownership needs to remain in place through the project's operational date. The Program Administrator will review all business structures and uploads to ensure the bidder is not a proxy agent to obtain points.

**Must a project maintain the same point of interconnection as proposed in its bid even if the location of the solar facility remains unchanged?**

A proposed project's point of interconnection may not change from the location indicated in the bid.

**If a local EPC is registered as a resident contractor, procures all of the material, and provides all labor to construct the project, will that fulfill the local preference requirement?**

It sounds like it would satisfy a commitment made to contract for materials, supplies, or services only with businesses owned or operated locally or owned or operated by members of racial minorities, women, veterans, or Native Americans, but please reach out to the Program Administrator with details about your specific situation to confirm.

**What is development and technology risk? Will this be evaluated and affect the score?**

The proposed project must use proven and UL-approved (or other nationally recognized testing laboratory) solar electric generation technology to generate electricity and meet applicable interconnection guidelines.

**Contracting with entities owned or operated by disadvantaged group, does this have to be the main suppliers or contractors or also their subs, and the subs of their subs?**

This refers only to the companies that a project company contracts with directly.

**For interconnection capacity, are you treating MVA the same as MW?**

Megavolt amperes (MVA) is used to measure apparent power and is different than megawatts (MW) which is used to measure capacity. MVA is not evaluated in this program.

**What is meant by interconnected?**

Interconnected means that the utility has approved a project to operate on its distribution system and that project has been placed into service on that distribution system.

**Will a Subscriber Organization be awarded bonus points if their partner (e.g. a subscriber acquisition/ management firm) is the one responsible for providing “innovative commitment”?**

An innovative commitment is for a project, not for a Subscriber Organization specifically, and may come from either the Respondent or one of its partners.

**What is meant by the word commitment as it is used in the Community and Local Benefits section of the RFP criteria?**

A commitment is a promise to engage in a course of action. The Program Administrator may audit a project at any time, so if a commitment is made and not followed through, there may be disciplinary action.

**Market conditions (construction commodity costs, interest rates, interpretation of IRA rules, etc.) are consistently changing. May we submit a proposal that assumes our best understanding of current market conditions (costs, interest rates, interpretation of IRA, etc.), yet acknowledging that our proposal may change as any one or more of these assumptions change in the future?**

If any aspect of your proposal needs to change, please contact the Program Administrator to determine the best path forward.

**Must a prospective solar project site (parcel) already have a 911 address assigned in order to participate in the bid?**

A proposed project does not need a 911 address. The program portal will ask for a street address if available, the city/town, county, latitude/longitude, and offer the ability to upload a Google Earth KML file to accurately identify the location of a project.

## **Are we allowed to downsize the capacity of a project upon completion of an impact study by the utility after awardment?**

The capacity of a project may be downsized after award based on the completion of an impact study that was not evident at the time of bid submittal. Please contact the Program Administrator regarding the details of your specific situation.

## **Can we bid in a portion of a project?**

A portion of a project may not be bid into the program. If it's desired that a portion of a project not be part of the program, that portion should be bifurcated into a separate project with a separate interconnection such that only an entire project is bid into the program.

## **Can we update our submission after the initial submission, if the solicitation window is still open?**

Please contact the Program Administrator with your specific situation to see if this would be possible given the state of review of the bid and the nature of the change.

## **Please explain the project selection date.**

The project selection date is deemed to be the first of the month following the announcement of the award date in order to sync projects to a monthly cycle for subscriber reporting purposes. If a project award is announced on April 2, 2023, its selection date would be deemed to be May 1, 2023.

## **PNM's pre-app reports do not specify costs to interconnect. In addition, they note that capacity may increase with upgrades to the system. How will this be retreated and how should the project determine what to bid in its size?**

A project is not limited to the capacity indicated in the utility pre-application report. The risk of developing a project with capacity greater than indicated on the utility pre-application report is borne by the project developer.

**For the low-income commitment, is the maximum of 8 points achieved with 50% low-income subscription or over 45% low-income subscription?**

The maximum 8 points is achieved with a commitment for the project to serve 50% or more of the project's nameplate capacity with low-income subscribers.

**What are sufficient grounds for an extension?**

This will be evaluated on a case-by-case basis. Please reach out to the Program Administrator with your specific circumstances.

**Are percentages based on the number of subscribers or a project's nameplate capacity?**

Percentages are based on the AC nameplate capacity of a project, not on the number of subscribers.

**Define racial minorities.**

The New Mexico Legislative Finance Committee provides the following definition: A disadvantaged small business is one majority-owned by a woman, member of a recognized minority group (including African American, Hispanic, American Indian or Alaska native).

**Clarify the low-income solar bill credit discount.**

To receive the associated points, the total discount extended to the subscriber must include an additional 20 to 30 percent of the solar bill credit in addition to the credit as calculated and provided by the utility. It is *\*not\** required to send the subscriber a separate payment for that amount.

**Will a planned upgrade of a feeder to 12kV that's not indicated on the pre-application report qualify as meeting the criteria for awarding the associated points?**

A proposed project will receive full points on this item if it would interconnect at 12 kV or higher as indicated on the utility pre-application or similar report, or if the Respondent commits to paying for a future upgrade such that the project would interconnect at 12 kV or higher. If such a commitment is made and the project interconnects at a voltage lower than 12 kV, the project and Respondent may be subject to disciplinary action up to and including removal from the program.

**Within 12 months of selection, do projects need to achieve mechanical or substantial completion, or just fully subscribe?**

A facility must meet the statutory 30% minimum of low-income subscribers within 12 months of being selected to participate in this program. There is no deadline for mechanical completion or substantial completion.

**Must a project be wholly located in the service territory of its interconnecting utility?**

Yes, the entirety of a project (not just the interconnection point) must be located in the service territory of its interconnecting utility.

**Can a project be bid for more capacity than the pre-application report indicates?**

A project is not limited to the capacity indicated in the utility pre-application report. The risk of developing a project with capacity greater than indicated on the utility pre-application report is borne by the project developer.

## **If a commitment is made to local ownership, how long must that group retain ownership before a project can be sold?**

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 are either in place or planned, must be disclosed to the Program Administrator.

## **Will rooftop projects automatically get points for a favorable analysis from the Department of Cultural Affairs or an independent expert?**

Rooftop projects still must provide this analysis in order to be awarded the associated points.

## **Must a favorable analysis come only from the Dept of Cultural Affairs or may it come from a qualified independent expert?**

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.

## **What is the maximum number of potential points awarded for direct-billed, low-income customers?**

The maximum number of points is 10, with 4 points awarded for a 10% commitment, 6 points for a 20% commitment, 8 points for a 30% commitment, and 10 points for a 40% commitment.

## **What's the difference between supplies and materials?**

For purposes of this program, supplies and materials are interchangeable. The RFP has been amended to award 6 points to a project that commits to contracting contract materials, supplies, OR services only with businesses owned or operated locally or owned or operated by members of racial minorities, women, veterans, or Native Americans.

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## Scoring

### **How will the Program Administrator address the volume of applications?**

The program portal enables the efficient submittal, review, and scoring of project bids. The industry expertise and administrative experience of the Program Administrator's staff also enable the efficient review of bids.

### **Are Respondent's contractors and subcontractors considered part of the Respondent for purposes of bonus points?**

Respondent's contractors and subcontractors are not considered part of the Respondent for purposes of bonus points.

### **For criteria scored on a scale (workforce training, education opportunities & Existing and continuing relationship categories), will points in these sections be awarded relative to other bids or will all bids that meet certain thresholds of depth be awarded the same points?**

For items scored on a sliding scale, points will be awarded relative to other submissions. There is no objective criteria for these items.

### **Is our understanding correct that the maximum point you can get for the provisions of Section 13-1-21 NMSA 1978 is 5 points (5% x 100 points) for a resident business?**

The maximum number of bonus points possible is 7.36 (8% x 92) if the Respondent is a resident contractor or Native American resident contractor, or 9.2 (10% of 92) if the Respondent is a resident veteran contractor or Native American resident veteran contractor, per [13-1-21 NMSA 1978](#).

## **Will securing maximum points without bonus points make us eligible for securing projects?**

Projects scoring the greatest number of points will secure bid awards. Scoring maximum points does not necessarily secure a bid award, as there may be multiple projects in that situation, necessitating a tiebreaker.

## **How will the Program Administrator ensure consistency so that one person doesn't score differently than another for a given category?**

For items which are scored on a sliding scale, all responses will be reviewed first and reviewers will collaborate to ensure that the same scale is used for scoring.

## **Would you reconsider the stance on whether partial points can be allocated to bids working with some but not all local businesses/racial minorities/women/veterans/Native Americans?**

The RFP has been amended to award 6 points to a project that commits to contracting contract materials, supplies, OR services only with businesses owned or operated locally or owned or operated by members of racial minorities, women, veterans, or Native Americans. Contracting with a company that meets the definition of a resident contractor does not fully satisfy this item. Please see the definition of resident contractor [here](#).

## **Please describe how you intend to score “evidence of and a description of an existing and continuing partnership with a tribe, pueblo, local community, or non-profit community organization”?**

As this item will be scored on a sliding scale based on the depth of the partnership and the benefits provided, please include in your bid the arrangement you have and it will be evaluated by the Program Administrator.

**How do you intend to score “description of commitment to contract for materials, supplies, or services only with businesses owned or operated locally or owned or operated by members of racial minorities, women, veterans, or Native Americans”?**

The RFP has been amended to award 6 points to a project that commits to contracting contract materials, supplies, OR services only with businesses owned or operated locally or owned or operated by members of racial minorities, women, veterans, or Native Americans. Contracting with a company that meets the definition of a resident contractor does not fully satisfy this item. Please see the definition of resident contractor [here](#).

**Will the Program Administrator provide bidders with preliminary, non-public scoring related to their project applications to identify any potential errors or discrepancies prior to all final project scores being made public?**

The Program Administrator anticipates releasing functionality that provides a project’s running score. An announcement will be made when this functionality is released.

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## **Site Control**

**What documentation is required to provide legally binding site control on municipal, county, or state land?**

A legally binding contract or option for site control is required for a project sited on municipal or county land. The state of New Mexico does not issue legally binding site control for projects sited on state land that have not been selected. However, the State Land Office does issue short-term leases. Developers are encouraged to reach out to the [Office of Renewable Energy](#) within the State Land Office regarding short-term leases. If your project has such a lease for a project on state land, you are

encouraged to upload it to an optional document slot in the portal, as this may be used as a criterion in a tiebreaker situation.

**For legally binding site control is it acceptable if the bidder will have contractual access to the site control but site control will be in another entity's name?**

This is acceptable, provided that documentation of the contractual relationships is provided with the project bid. These documents can be uploaded in the optional document slots in the program portal.

**The State Land Office is offering short term leases to developers who want to build on State land. It seems like having a short-term lease with the state land office should be required to demonstrate site control on state land. If this is not required, there will be nothing to stop multiple developers from submitting projects on the same state land site. Will InCline consider this and consider changing the requirement for state sites?**

While a short-term lease is not required for a project sited on state land, developers are encouraged to reach out to the [Office of Renewable Energy](#) within the State Land Office regarding short-term leases.

**Are you concerned that bidders will submit projects on state lands for which they have no reasonable site control?**

The state of New Mexico does not issue legally binding site control for projects sited on state land that have not been selected. However, the State Land Office does issue short-term leases. Developers are encouraged to reach out to the [Office of Renewable Energy](#) within the State Land Office regarding short-term leases. If your project has such a lease for a project on state land, you are encouraged to upload it to an optional document slot in the portal, as this may be used as a criterion in a tiebreaker situation.

## **Clarify the requirement for legally binding site control for proposed projects sited on state land.**

Projects sited on state land do not need to provide proof of legally binding site control and will meet the site control requirement. However, developers are encouraged to reach out to the Office of Renewable Energy [<https://www.nmstatelands.org/about/staff-directory/>] within the State Land Office regarding short-term leases. If your project has such a lease for a project on state land, you are encouraged to upload it to an optional document slot in the portal, as this may be used as a criterion in a tiebreaker situation.

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## **Subscriber Organization**

### **What is a Respondent?**

The Respondent is the organization submitting a project bid. The Respondent may be a special purpose entity formed via partnership or joint ownership among other organizations.

### **Clarify that developers are eligible respondents, even when they may not ultimately be the Subscriber Organization that owns or operates the facility.**

Any project developer may qualify as a Subscriber Organization and bid a project into the program. 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. Any known plans to sell a project must be disclosed to the Program Administrator.

## **For the bonus points section, can a Respondent be a partnership or a co-bid?**

The Respondent is the organization submitting a project bid. The Respondent may be a special purpose entity formed via partnership or joint ownership among other organizations.

## **Can the Respondent be a different organization than the Subscriber Organization pre-award?**

A Subscriber Organization is not necessarily a subscriber management company, rather a Subscriber Organization is a Respondent that submits a project bid. A subscriber management company that a Respondent ultimately works with may be a different company than the Respondent.

## **Do subscriber management companies need to register as affiliates?**

Subscriber management companies do not need to register as affiliates. Only the organization submitting a project bid is required to register in the program portal.

## **Can an organization be a Subscriber Organization and an Affiliate for different projects?**

Yes, an entity can be a Subscriber Organization for one project bid and an Affiliate for another. Note that these projects would count towards the 20% developer cap for that entity.

## **Can a Subscriber Organization support another Subscriber Organization's bid with specific expertise (civil, finance, subscriber acquisition) without running afoul of the anti collusion statement, "The Respondent hereby certifies that no collusion has occurred with other bidding parties"?**

A Subscriber Organization may support another Subscriber Organization's project bid. Collusion is defined as "secret or illegal cooperation or conspiracy, especially in order to cheat or deceive others", and is not allowed.

## **Can a Subscriber Organization have more than one point of contact?**

Yes, a Subscriber Organization may have multiple points of contact in the program portal.

## **Can developers of large-scale, community solar projects (especially those outside of New Mexico) qualify as a Subscriber Organization?**

Any project developer may qualify as a Subscriber Organization and bid a project into the program. 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.

## **If we are not a resident business but partnered with several resident businesses for development, do we qualify for a fraction of the resident business points?**

In order to qualify for bonus points, the Respondent itself must meet the stated criteria.

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## **Subscribers**

### **How will subscriber verification affect non-US citizens that want to participate as subscribers?**

Any utility account holder may subscribe to a community solar project, but a subscriber must meet at least one of the stated criteria to qualify as low-income. Low-income subscribers may be pre-qualified 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.

## **Where will low-income self-attestation/qualifying documents be stored?**

All documents will be stored in the program portal.

## **How will low-income verification occur?**

The Subscriber Organization will upload documentation for each low-income subscriber to the program portal. Low-income subscribers may be pre-qualified 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.

## **What happens if the market changes adversely, affecting the savings that we are calculating/projecting that we can provide to low-income subscribers?**

Please reconsider making a commitment that you're not certain you can follow through on.

## **Are there penalties if we do not have low-income commitments if audited after PTO?**

Disciplinary actions may be taken if a Subscriber Organization is found not to be meeting its statutory minimums (and any additional commitments) at any point during the program. Extensions may be granted on a case-by-case basis.

## **What will be the expected method of reporting for the monthly and quarterly upon qualification proof of 30% low-income subscribers? Will quarterly reporting be done at any point during a quarter, or on a specific and consistent date?**

Subscribers must be provided to the Program Administrator in the program portal 5 business days before the end of a month on a monthly basis until the statutory

minimums (and any additional commitments) are met, then quarterly after that for the life of the project.

**For random low-income checks, are you re-verifying that someone is still low income? Or, are you just confirming that the appropriate documents are uploaded?**

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 that are identified as low-income.

**Can you please define “low income” and provide reference on how we can definitively define whether our subscribers will be categorized as such?**

A “low-income customer” means 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 subscribers may be pre-qualified 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.

**Will the disclosure form be created by the subscriber organization and signed by subscriber in the organization’s enrollment process or will the disclosure statement be created within the program portal?**

A subscriber will be able to wet sign the disclosure form or to e-sign the disclosure form in or outside the program portal. More details will be provided when the disclosure form is released after project selection. The Disclosure Form will not be made available until closer to project selection. Subscriptions cannot be offered

ahead of the Program Administrator's release of the Disclosure Form and Project Selections.

### **How do you square the statement that multi-family low income housing entities can qualify as subscribers as long as all the residents are low income with the previous definition of subscriber (which was a Residential or Small Commercial customer based on Rate Class)?**

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

### **Is there a limit to the size of business that can be a 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."

### **Are projects from different Subscriber Organizations on the same parcel considered co-located?**

A project that is sited on the same parcel as another project 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 that's not in the program.

### **What is a direct-billed customer?**

A direct-billed customer receives a bill directly from the utility. A customer who receives a bill indirectly from a landlord, housing cooperative, etc. would not be considered direct billed. Direct billing is different than consolidated billing.

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## **Tribal Projects**

### **Are tribal projects required to participate in the RFP process since they are not bidding for the 200 MW allocation?**

Community solar projects sites on tribal lands are not required to participate in this program. If they choose not to participate, they are completely outside the scope of the program, are not subject to any of the requirements of the program, and must work directly with the interconnecting utility.

### **Can tribal solar be interconnected before the public interconnection submission starts in May 2023?**

Community solar projects sites on tribal lands are not required to participate in this program. If they choose not to participate, they are completely outside the scope of the program, are not subject to any of the requirements of the program, and must work directly with the interconnecting utility.

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## **Utilities**

### **Have the community solar bill credit rate values per utility been determined, and if so, where are they published?**

Tariffs are posted here.\* The Tariffs are for illustrative purposes and subject to change.

\*As of June 13, 2024, the tariffs are no longer hosted on the program website.

**After the RFP was issued, PNM said they did not have a community solar pre-application process in place, and the pre-application process for the CS program PNM has not been clearly explained.**

The contacts for each utility's pre-application request can be found on the [program website](#).

**What documentation is required for the utility pre-application report?**

The content and format of the pre-application report received from the utility is sufficient to submit with a project bid.

**Must interconnection be to the utility's distribution system?**

Yes, interconnection must be to a utility's distribution system, not the transmission system.

**The pre-app I received from SPS does not specify a specific capacity amount available. Can I use the pre-app for a 5 MW project?**

The pre-application report from the utility must be for the same project as bid into the New Mexico Community Solar Program.

**Have the IOUs committed to any timeline regarding their review of project's interconnection applications? In other states we have seen this process take easily longer than one year.**

IOUs should be reasonably responsive, as should any business. Please contact the Program Administrator if an IOU is not responding in a timely manner.

**Can an impact study completed under SGIP be used for the pre-application report requirement of the bid?**

If the utility confirms it is appropriate with the Respondent, the impact study completed under SGIP (Self-Generation Incentive Program) may be used as the pre-application report for the New Mexico Community Solar Program.

**Xcel Energy provided email pre-application results, but can email results be uploaded in the portal or is there any particular format required?**

The content and format of the pre-application report received from the utility is sufficient to submit with a project bid.

**Once a project gets selected on the RFP, what is the process to get into the interconnection queue? Would it be first come first serve access to the queue or based on your final scoring of the RFP?**

Utilities are required to review interconnection applications in the order in which they're submitted. For this reason, the Program Administrator plans to announce project selections in tranches to give higher scoring projects the opportunity to submit an interconnection application ahead of lower scoring projects.

**Can InClima clarify that any project with an existing position in a utility interconnection queue (or with an executed interconnection agreement) must drop out of queue (and/or restart the study process after the RFP is complete) in order to be eligible to submit the project to the community solar RFP process?**

A project cannot be removed from an interconnection queue without consent so this is not required by the program. However, a project that is in the SGIP (Self-Generation Incentive Program) queue must submit a new request to enter the interconnection queue as a community solar project.

**Does the utility bill credit value include payment for the transfer of the RECs or is there an additional payment made in exchange for the RECs?**

The utility bill credit tariff is inclusive of transfer of a project's RECs to the interconnecting utility.

**The RFP states that interconnection applications will be reviewed based on the highest score, but also that queue position will be determined on a date and time stamp. Please elaborate if interconnection queue position is based on criteria points or time stamp?**

Utilities are required to review interconnection applications in the order in which they're submitted. For this reason, the Program Administrator plans to announce project selections in tranches to give higher scoring projects the opportunity to submit an interconnection application ahead of lower scoring projects.

**Will there be any adders in addition to a fixed tariff depending on types of technologies used?**

At present, the tariff is a fixed \$/kWh rate without adders. Tariffs are posted here.\*

\*As of June 13, 2024, the tariffs are no longer hosted on the program website.

**Does the utility bill credit vary overtime or is it fixed for the life of the program? If it varies, does it change with retail prices or by a fixed annual escalator?**

The utility bill credit is a tariff approved by the New Mexico PRC and may change over time. Tariffs are posted here.\*

\*As of June 13, 2024, the tariffs are no longer hosted on the program website.

**What can be done about community solar projects already in a utility's interconnection queue "taking capacity" leading to pre-application reports suggesting there is no capacity?**

A project cannot be removed from an interconnection queue without consent so this is not required by the program. However, a project that is in the SGIP (Self-Generation Incentive Program) queue must submit a new request to enter the interconnection queue as a community solar project.

**For interconnection, what if there is sufficient available capacity but there is a waitlist? For example, there are 5MW available and you are applying for a 5MW project but there is 20 MW in the queue.**

Interconnection issues must be addressed directly with the utility.

**Is there any requirement for reasonable responsiveness from the IOUs?**

IOUs should be reasonably responsive, as should any business. Please contact the Program Administrator if an IOU is not responding in a timely manner.

**How do rural co-ops participate in this process? Can a rural electric co-op outside of the service area of PNM, SPS, and EPE elect to participate?**

Rural co-ops may choose to opt in, and the capacity is not included in the 200 MW cap. Project bids from rural co-ops will still need to submit to the Program Administrator in order to monitor compliance.

**If a project previously submitted an interconnection application and holds a position in the interconnection queue, can the project submit the new required post-RFP interconnection application prior to withdrawing it's pre-RFP application or does it need to first withdraw it's pre-RFP application prior to submitting the required post-RFP interconnection application?**

A project cannot be removed from an interconnection queue without consent so this is not required by the program. However, a project that is in the SGIP (Self-Generation Incentive Program) queue must submit a new request to enter the interconnection queue as a community solar project.

**How recent does a utility pre-application report need to be?**

A utility pre-application report must be dated no earlier than 2021.