New Jersey BPU Deadline for Submission of Applications for Solar Competitive Solicitation Incentive (CSI) Program is Fast Approaching

Client Alert

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What You Need to Know

- The deadline to submit applications to earn solar renewable energy certificates under the BPU's new CSI Program is March 31, 2023.
- The CSI Program, mandated by the New Jersey Solar Act of 2021, is applicable to grid supply solar projects and net-metered installations in excess of (5) MWs.
- The value of SREC-IIs issued under the CSI Program will be based upon a competitive bidding process, in which bids will be divided into five separate bidding tranches based upon the characteristics and attributes of particular types of projects.

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New Jersey grid-supply solar developers looking to earn solar renewable energy certificates (SREC-IIs) have until March 31, 2023 to submit applications to the New Jersey Board of Public Utilities (BPU) for participation in the first year of the Competitive Solicitation Incentive (CSI) Program.

In connection with the implementation of the CSI Program, the BPU Staff conducted a stakeholder informational meeting on January 27, 2023 to provide guidance to solar developers regarding the process to secure solar renewable energy credit incentives for grid supply solar projects and net-metering projects in excess of 5 MWs (DC). At the stakeholder meeting the BPU Staff identified relevant program deadlines and outlined the pre-qualification and application process.

The CSI Program, which is mandated by the New Jersey Solar Act of 2021, is part of the BPU's Successor Solar Incentive (SuSI) Program. The SuSI Program replaces the BPU's long-standing SREC Program that closed in May

2020 and the Transition Incentive (TI) Program that closed to new entrants in August 2021.

The SuSI Program is divided into two components: (i) the administratively determined incentive (ADI) Program appliable to net-metered projects less than 5 MWs, residential projects and community solar projects, and (ii) the CSI Program applicable to grid supply solar projects and net-metered projects in excess of (5) MWs. The ADI Program became effective on August 28, 2021, and has been ongoing successfully.

Under the CSI Program, the BPU intends to solicit bids for qualified solar generation projects totaling 300 MWs per year for the first three years of the program. The first solicitation process, which commenced with an optional pre-qualification period running from February 1, 2023 to March 8, 2023, is open for bid submissions until March 31, 2023.

CSI Program Eligibility & Bidding Process

The CSI Program was established by the BPU in an order issued on December 7, 2022 (CSI Order). The CSI Program awards one SREC-II for each MW hour of electricity generated by a qualified solar energy generation facility. As discussed below, the value of SREC-IIs issued under the CSI Program is based upon a competitive bidding process in which the project developer proposes an SREC-II value (a bid price) for each of its projects. This differs from the ADI Program in which the value of a qualifying facility's NJ SREC-II is set administratively and appliable to all projects within a particular market segment (e.g., commercial rooftop, residential, etc.).

The CSI Program is available to qualifying grid supply projects, with or without energy storage, and net-metering installations in excess of 5 MWs. The CSI Order, based upon the Solar Act of 2021, establishes "siting requirements" for eligible solar facilities. The siting requirements are intended to balance the state's interest in promoting grid supply solar development with New Jersey's commitment to renewable energy while not compromising its commitment to preserving and protecting open space and farmland. These solar siting rules, developed in consultation with the New Jersey Department of Environmental Protection and the New Jersey Department of Agriculture, apply to projects eligible to participate in the CSI Program regardless of whether the project requests a CSI incentive.

The first-year goal of the CSI Program is to award 300 MWs of solar, plus 160 MWs of co-located storage. The CSI Program bidding is divided into five separate bidding tranches based upon the characteristics and attributes of particular types of projects. CSI incentives will be awarded to qualified projects within each tranche based on SREC-II price competition. Qualified bidders proposing the lowest SREC values will be awarded incentives. Projects can compete in all tranches for which they qualify, but may only be awarded once.

The BPU will rank bid submissions based upon the lowest SREC bid values and then may award incentives until the tranche MW limitation is reached. However, the BPU may establish confidential, pre-determined price caps for tranches and will not be required to exhaust the available MWs in each tranche if it determines that a bid exceeds the pre-determined price cap. The confidential price caps are specifically intended to serve as a backstop against excessive awards in cases of low competition.

Under the CSI Program, successful bidders are awarded a fixed SREC-II price (based upon the bid submission price) for a qualifying life of fifteen years.

Bidding Tranches & Pre-Qualification

The bidding tranches are outlined in this table:

Tranche Description	**Procurement Target Year 1**
Basic Grid Supply	140 MWs
Grid Supply on the Built Environment	80 MWs
Grid Supply on Contaminated Sites and Landfills	40 MWs
Net Metered Non-residential Projects above 5 MW	40 MWs
Total Solar Generation	300 MWs
Storage Paired with Grid Supply Solar	160 MWhs

The BPU has established a bid pre-qualification process to ensure that projects meet the requirements of the CSI Program and the tranche for which they will submit a bid. A bidder may submit a pre-qualification request prior to the submission of its bid or may submit its pre-qualification information simultaneous with its bid submission. Projects that meet the pre-qualification requirements will be selected based exclusively on SREC-II bid price competition. For the first solicitation, the deadline for submitting an optional pre-qualification request is March 8, 2023. For such submissions, the BPU Staff will advise the applicant by March 24, 2023 of any qualification deficiencies so that the deficiencies can be corrected prior to the March 31, 2023 deadline for the submission of bids. Applicants that do not use the optional pre-qualification process are required to submit their pre-qualification information with their bid submission. Project bid submissions that do not meet the pre-qualification requirements will be disqualified.

Siting Criteria

In order to pre-qualify a project it is necessary to demonstrate: (i) compliance with the siting criteria set forth in the CSI Order, (ii) compliance with tranche eligibility requirements, and (iii) satisfaction of project maturity requirements.

The siting criteria established in the CSI Order limits the development of grid-supply projects in certain areas, including farmland. For example, solar development is limited to 2.5% of the state's Soils of Statewide Importance/Prime Agricultural Soils in Agricultural Development Areas. The BPU estimates that there are

approximately 8,493 acres in the state that fall within the 2.5% threshold. Solar development on such soils in excess of the 2.5% statewide cap will be permitted if a waiver is obtained from the BPU.

In addition to the 2.5% statewide cap, the siting requirements provide for a separate county concentration limit that no more than a total of 5% of each county's unpreserved qualified farmland can be used for the construction of solar. If a particular project exceeds the 5% cap, the project cannot proceed and waivers are not permitted. The BPU has produced a table (see page 142) showing the approximate acres on a per county basis that are available for solar development. Salem, Hunterdon and Cumberland counties have the most available acreage for development, whereas certain northern counties, such as Hudson, Essex and Union have no acreage available.

Absent receipt of a waiver from the BPU, solar development is prohibited on: (i) land designated as Green Acres; (ii) land located within the preservation area of the Pinelands; (iii) land designated as "forest area" in the Pinelands Comprehensive Management Plan; (iv) land designated as Wetlands; (v) land located within the Highlands Preservation Area, and (vi) forested lands.

Proposed solar projects must meet the eligibility requirements for the tranche for which they submit a bid:

- Tranche 1 includes basic grid supply projects, such as greenfield solar projects as well as most floating solar, that do not qualify for Tranches 2 and 3.
- Tranche 2 includes grid supply projects that are located on the built environment. The “built environment” is defined as the surface of one (1) or more existing, serviceable structures or a serviceable, improved and impervious roadway(s) built for a purpose other than solely to facilitate solar development. Solar projects on rooftops, canopies over parking lots or parking decks, and other similar installations are examples of projects on the built environment.
- Tranche 3 includes projects on contaminated sites, properly closed landfills and associated disturbed areas. “Contaminated site” is defined as a property on which industrial or commercial operations were conducted and a discharge occurred. Gravel, sand, and other historic mining sites where a discharge has occurred, and which currently constitute contaminated sites, are also covered under the definition. The definition expands upon previous definitions to cover a wider array of marginal lands that may meet the newer definition and be eligible to participate in Tranche 3. “Associated disturbed areas” are areas that may not specifically be contaminated but, after considering tax and property records as well as historical land use, are clearly associated with contaminated areas or landfills. Examples of associated disturbed areas would include access roads, lay-down areas and former building sites that were previously part of an industrial or landfill complex.
- Tranche 4 includes net-metered projects greater than 5MWs serving non-residential customers.
- Tranche 5 includes projects that pair grid supply solar generation and energy storage facilities. An energy “storage facility” is defined as a device that is “capable of absorbing energy from the grid or from a distributed energy resource, storing it for a period of time using mechanical, chemical, or thermal processes, and thereafter discharging the energy back to the grid or directly to an energy using system to reduce the use of power from the grid.”

In addition to demonstrating satisfaction of siting and tranche eligibility requirements, CSI bidders must also demonstrate that the project has achieved the project maturity requirements of achieving a position in the PJM

interconnection queue or having obtained interconnection approval from the local utility. For projects that require PJM interconnection, the project must have completed the Feasibility Study phase (or Phase I of the new, reformed interconnection process) of the PJM interconnection process.

Bid submissions also require the payment of a non-refundable bid fee of $1,000 per MW for each MW that is included in the proposed project. The bid submission forms can be located on the BPU's Office of Clean Energy website. Bid applications are due no later than March 31, 2023. The BPU has not announced when it expects to complete its bid submission review or when it will issue CSI Program participation approvals.

The issuance of CSI Program approvals combined with the generous federal tax benefits for solar/storage project in the Inflation Reduction Act (IRA) should significantly advance the development of grid-supply projects in New Jersey.

Please contact the author of this Alert to learn more about New Jersey's solar energy program and related incentives or to discuss your specific circumstances.

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