Nevada Clean Energy Fund (NCEF)

Nevada Solar for All (SFA) Program Guidance

for

Community Solar Site Hosts

January 24, 2024 Version

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SECTION 1: INTRODUCTION

1. About the Nevada Clean Energy Fund

The Nevada Clean Energy Fund (NCEF) is a nonprofit organization dedicated to supporting a thriving, affordable, and accessible clean energy economy by providing financial and technical resources to Nevadans. NCEF's programs are designed to accelerate clean energy growth in the state, reduce energy costs, create jobs, and meaningfully address climate change. NCEF works with communities, affordable housing, local businesses, schools, governments, Tribes, utilities, contractors, and others to increase access to clean energy opportunities, from rooftop solar and energy storage to energy efficiency and electric vehicles. NCEF was established by Nevada statute in 2017 to serve as the state's nonprofit green bank. More information about NCEF is available at nevadacef.org.

NCEF received a $156 million grant from the U.S. Environmental Protection Agency to establish statewide financial and technical assistance programs that enables Nevada households to benefit from solar energy. See Section 2 for more details about the Nevada Solar for All initiative.

2. How to Use This Program Guidance

The Nevada Solar for All (NSFA) Program Guidance documents provide information about how Nevada's communities can participate in NSFA. NSFA encompasses multiple distinct programs that provide financial assistance to single-family homeowners, multifamily affordable housing, and residential-serving community solar, as detailed in Section 2.

Each program has one or multiple separate Program Guidance documents outlining the goals, eligibility criteria, benefits, application process, and other considerations. This document makes up the Community Solar Program Guidance. All current and archived NSFA Program Guidance documents are available at https://nevadacef.org/solar-for-all/. Each Program Guidance document is structured as follows:

- **Section 1** overviews about NCEF and introduces the Program Guidance.
- **Section 2** details Nevada Solar for All and its sub-programs.
- **Section 3** details program guidance for the specific program, including actionable steps on how stakeholders can participate in or benefit from this program.

This Community Solar Program Guidance includes guidelines for entities with property in Nevada who are interested in becoming a community solar site host (referred to as "Community Solar Site Hosts" throughout this document). Individuals in Nevada who are interested in subscribing to community solar systems should visit https://nevadacef.org/solar-for-all/.

NCEF may update Program Guidance documents on a regular basis to reflect changes in economic, regulatory, and operational contexts.

SECTION 2: NEVADA SOLAR FOR ALL

1. Program Overview

The Inflation Reduction Act of 2022 authorized the U.S. Environmental Protection Agency (EPA) to create and implement the $27 billion Greenhouse Gas Reduction Fund (GGRF). GGRF aims to reduce greenhouse gas emissions and other air pollutants, deliver benefits to low-income and disadvantaged communities, and mobilize financing and private capital through three programs:

1. National Clean Investment Fund ($14 billion)
2. Clean Communities Investment Accelerator program ($6 billion)
3. Solar for All ($7 billion)

Solar for All aims to enable over 900,000 households in low-income and disadvantaged communities nationwide to benefit from distributed solar energy. EPA awarded a $156 million Solar for All grant to the Nevada Clean Energy Fund (NCEF) to implement programs in Nevada that enable low-income and disadvantaged communities to benefit from distributed solar energy. The grant period began May 1, 2024, and ends April 30, 2029.

NCEF's NSFA program enables low-income and disadvantaged communities in Nevada to deploy and benefit from distributed solar energy by providing financial and technical assistance and transforming the Nevada low-income solar market into a vibrant and self-sustaining industry. NSFA is designed to deliver the equivalent of at least 20% monthly utility bill savings compared to the average utility bill to every participating household. NSFA encompasses the following three programs:

1. **Single-Family:** NSFA provides financing to single-family homeowners to install solar systems on their properties. NSFA provides both options for the homeowner to directly own the solar system or to lease a third party-owned (TPO) system. The direct ownership option is designed for homeowners with sufficient taxable income to monetize the Section 25D Residential Clean Energy Tax Credit.
2. **Multifamily Affordable Housing:** NSFA provides financial and technical assistance to eligible affordable housing properties to install solar on their properties. Building owners must share solar savings with individual household tenants through tenant benefit sharing agreements. Multifamily properties can alternatively participate as a Community Solar Project host if implementing a tenant benefit sharing agreement is not feasible. In addition, the TPO alternative provides flexibility for multifamily affordable housing properties that do not want to own the solar system. Under the TPO model, the affordable housing property would enter into a lease or power purchase agreement (PPA) for a solar system owned and operated by a third party.
3. **Residential-Serving Community Solar or "Community Solar":** NSFA provides financial and technical assistance to solar systems with up to 5 MWdc nameplate capacity that deliver at least 50% of the benefits derived by the power generated from the system to multiple residential customers. The TPO alternative provides flexibility for site hosts who do not want to directly own the solar system. Under the TPO model, the site host would enter into a lease or power purchase agreement (PPA) for a solar system owned and operated by a third party.

The TPO options reduce the burden of tax credit monetization and project operations and maintenance for the homeowner, multifamily affordable housing property, or community solar site host. NCEF's goal in designing the NSFA financial assistance programs was to structure the TPO and direct ownership options such that participating in either program resulted in similar financial benefits to the applicant. Applicants must use a TPO provider selected and approved by NCEF. In 2025 NCEF will select one or more NSFA TPO providers via a competitive procurement process using requests for proposals, and reserves the right to consider other TPO providers on a case-by-case basis.

Conversely, NSFA financial assistance provided directly to single-family homeowners, multifamily affordable housing properties, and residential-serving community solar projects will be federal funds provided in the form of Participant Support Costs (PSCs), and PSC recipients are known as Program Beneficiaries. PSCs are differentiated from subawards pursuant to EPA Guidance on Participant Support Costs, and Program Beneficiaries are not considered federal subrecipients or subawardees.

In addition, NSFA offers community engagement and technical assistance programs to support the deployment of low-income solar projects, including workforce development and training programs, solar contractor vetting, education about solar consumer protections and other clean energy incentives, and partnerships with community organizations to promote program awareness. Interested parties should check https://nevadacef.org/solar-for-all/ to get the most up-to-date information about these programs.

2. Disclaimers

Prospective NSFA financial assistance recipients should note that various factors may present significant challenges to project feasibility and economics. These factors include but are not limited to, changes in utility rates and fees, political or governmental action, adverse legal proceedings, contractor poor performance, supply chain constraints, the solar resource, and environmental factors. Various risk factors are described below in more detail.

Solar for All is a federal grant program authorized under the Inflation Reduction Act and implemented by the EPA. Legislative, regulatory, or administrative changes may impact the availability of funding or funding requirements.

Energy cost savings for distributed generation are highly dependent on utility rates and fees, including but not limited to, net metering rates, retail electricity rates, and fixed charges.[1]

As described later in this document, NCEF assesses contractors who are eligible to install projects that receive NSFA financial assistance. NCEF makes no representations or warranties, express or implied, including without limitation any warranties of title or implied warranties of merchantability or fitness for a particular purpose with respect to performance of the contractors. NSFA financial assistance recipients should conduct their own due diligence of all quotes, proposals, and work done by contractors.

[1] Under current Nevada law, tenants of individually-metered multifamily properties are unable to participate in net metering without the property owner being regulated as a public utility under Nevada Revised Statute (NRS) 704.020. NRS 704.021 further clarifies that a master-metered multifamily or commercial building with a net metering system that delivers the power only to persons, units, or spaces located on the premises is not considered a "public utility."

As described later in this document, certain NSFA eligible project investments may be eligible for federal tax credits, such as the Section 48 and/or Section 25D tax credits. The federal government could change legislation or regulations related to federal clean energy tax credits, including related to timeline of eligibility, elective payment, and transferability.

3. Contact NCEF

If you have questions or feedback on NSFA, you may contact NCEF directly at nevadasolarforall@nevadacef.org.

For program specific inquiries, please contact the email addresses in Table 1:

Table 1: NSFA Program Contact Information	
Single-Family	singlefamilysolar@nevadacef.org
Community Solar	communitysolar@nevadacef.org
Multifamily Affordable Housing	affordablehousing@nevadacef.org
Community Engagement	communityengagement@nevadacef.org

SECTION 3: COMMUNITY SOLAR PROGRAM GUIDANCE

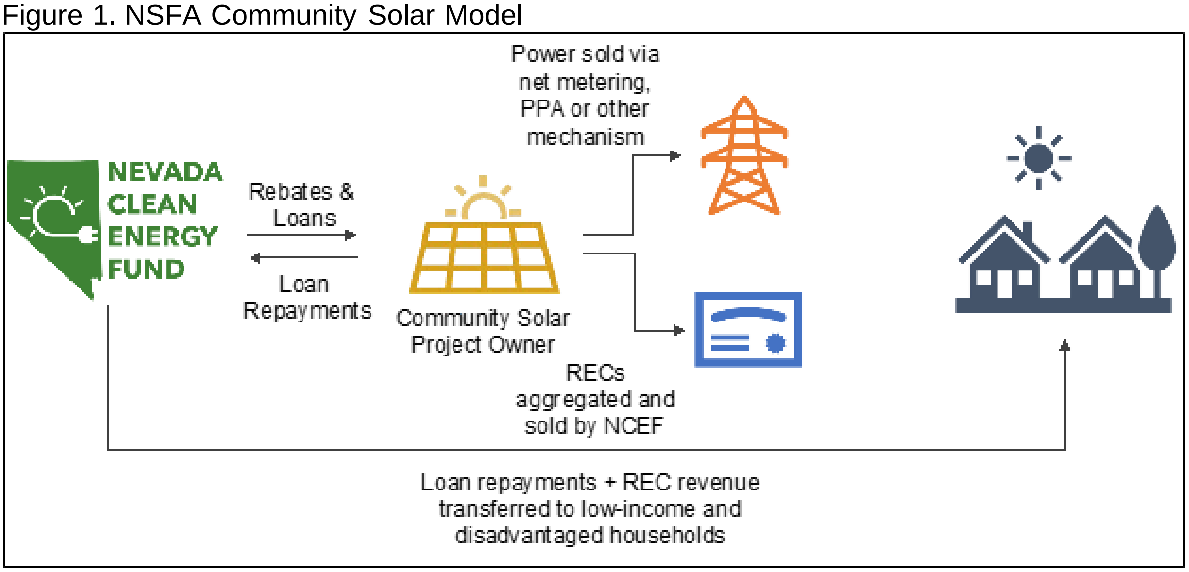
1. Description

Under this program, NCEF provides direct financial and technical assistance to community solar project hosts and owners, including a combination of rebates (or forgivable loans) and loans. A community solar project is a facility that produces electricity using solar photovoltaic ("PV") panels with a nameplate capacity of up to 5 megawatts (MW) that deliver at least 50% of the benefits derived by the power generated from the system to multiple households. Financial assistance is designed to enable project hosts to experience financial benefits from the community solar project even with the transfer of benefits to households.

Entities such as local governments, Tribes, nonprofits, utilities, and businesses can serve as community solar site hosts. The solar systems may be owned directly by the site hosts or owned by a third-party owner. Solar projects can be paired with energy storage in limited instances.

The community solar project owner must share a portion (at least 50%) of the project's benefits (revenue or cost savings) with low-income and disadvantaged households. Benefit transfer will be implemented by NCEF, with limited exceptions on a case-by-case basis. With its partners, NCEF will launch a centralized platform for enrolling households as community solar subscribers who receive monthly payments funded by the loan repayments associated with community solar projects. NCEF also intends to facilitate the sale of Renewable Energy Certificates (RECs) associated with community solar projects to deliver additional benefits to low-income and disadvantaged households. An illustrative diagram depicting the relationship between NCEF and the site host and the flow of benefits is shown below.

Figure 1. NSFA Community Solar Model



NSFA's community solar program will also feature community engagement and outreach to Low-Income and Disadvantaged Communities (LIDACs) in Nevada who are eligible to be NSFA community solar subscribers. Communications will include information on the community solar site hosts in a given area. NCEF can also partner with interested community solar site hosts on co-branded outreach to LIDACs in their local area. For example, NCEF could partner with a municipality to reach residents of the municipality, a local business to reach community members, or an affordable housing development to reach tenants. This includes joint marketing materials, events, and targeted educational materials to increase awareness and participation in the program within priority communities near the community solar host.

2. Eligibility Criteria

Any commercial building or property owner capable of hosting an NSFA community solar project is eligible to receive NSFA community solar financial assistance. This could include public and rural electric utilities, state and local governments, schools, Tribes, nonprofits and community-based organizations, and businesses, among others. In order to qualify, the site hosts must:

- provide evidence of site ownership or control (e.g., long-term lease);
- be located within the boundaries of the State of Nevada;
- be current on real estate taxes (if applicable);
- be current on all loans secured by a mortgage or deed of trust;
- not be insolvent or subject to bankruptcy proceedings; and
- not be in dispute of title to the property.
- be eligible for net energy metering (NEM) or equivalent utility programs[4]
- have two price quotes from contractors for the proposed project.

For solar installed on new constructions, the applicant must demonstrate the use of whole-building energy modeling that the as-designed modeled energy performance will meet or exceed the code compliant modeled energy baseline.

Site hosts that wish to pursue a third-party ownership model, the site host will work with NCEF to select an appropriate TPO provider from the list of NCEF-approved TPO providers. In 2025 NCEF will select one or more NSFA TPO providers via a competitive procurement process using requests for proposals, and reserves the right to consider other TPO providers on a case-by-case basis. The TPO will then receive financial assistance for the solar installation directly from NCEF

Technology
Eligible community solar technologies include:

- **Residential-serving community solar:** A solar PV power-producing facility with up to 5 MWdc nameplate capacity that delivers at least 50% of the benefits derived by the power generated from the system to multiple residential customers.
- **Associated Storage:** Infrastructure to store solar-generated power for the purposes of maximizing community solar deployment, delivering demand response needs, aggregating assets into virtual power plants, and delivering residential power during grid outages. Associated storage must be deployed in conjunction with a solar PV system and the storage asset must be connected to the solar PV system. Associated storage is not included in the 5 MW capacity limit noted for the solar system. The associated storage must be necessary to deploy or maximize the resilience benefits of LIDACs, as demonstrated by an assessment of resilience benefits using the DOE ICE Calculator, the Power Outage Economic Tool (POET)

calculator, the Customer Damage Function (CDF) Calculator, the Value of Lost Load (VoLL), or other similar calculator or metric.

- **Enabling Upgrades**: Eligible enabling upgrades include investments in energy and building infrastructure necessary to deploy and/or maximize the benefits of solar project receiving financial assistance from Nevada Solar for All. Eligibility is noted in below (subject to change at NCEF's discretion):
    - **Eligible enabling upgrades:**
        - Pipes, ducts, or conduits used exclusively to carry energy derived from solar and solar energy property funded by NCEF
        - Incremental costs associated with structural upgrades necessary for NCEF-funded solar systems
        - Incremental costs associated with electrical panel and wiring upgrades necessary for NCEF-funded solar systems
        - Trimming of tree canopy to prevent shading of NCEF-funded projects
    - **Ineligible enabling upgrades include:** roof repair or replacement, wiring repairs, and panel upgrades that occur irrespective of solar system structure requirements

All projects must include new generation placed in service since May 1, 2024. New generation added to an existing solar project placed in service before May 1, 2024 could be eligible if one of the following two criteria are met:

1) The fair market value of the old system is not more than 20% of the new system's total value (i.e., the cost of the new system plus the value of the old system); or
2) Project specifications and records of historical production demonstrate that the system has been out of service or producing below its rated capacity for each of the last three years.

3. Types of Assistance Under the Program

Financial Assistance:

NCEF will offer financial assistance as a combination of rebates / forgivable loans and non-forgivable loans. Rebates / forgivable loans must be provided in conjunction with a non-forgivable loan to enable benefits-sharing. Detailed financial product terms for these financial structures are provided in Table 2. NCEF may revise the rebate amount and loan terms over time to reflect market pricing and other factors, and reserves the right to adjust financial assistance terms in response to project-specific factors.

- **Rebates / Forgivable Loans**: provided to reduce the upfront cost of solar such that the site host experiences a financial incentive to participate and subscribing households experience at least 20% savings relative to the average utility bill.
- **Project Loans**: provided to cover gaps in the project capital stack and includes tax credit bridge loans.
- **Enabling Upgrade Loans**: provided to catalyze additional energy and building infrastructure necessary for the site host to implement solar.

Table 2. Detailed financial assistance terms

	Rebate / Forgivable Loan	Project Loan
Activities supported	Residential-serving community solar	(1) Residential-serving community solar

		(2) Enabling upgrades when certified by a contractor as necessary to deploy the solar installation and approved by NCEF (3) Associated storage upon approval by NCEF
Range of funding to be provided	For projects in NV Energy's service territory under 1 MW: • $500 per kWdc for project hosts that are community-based or community-led organizations, such as Tribes, community-based nonprofit organizations, local governments, and rural electric cooperatives, and affordable housing, state governments, and nonprofits • $250 per kWdc for all other project hosts Any solar installation over 1 MW will be reviewed on a case-by-case basis to determine appropriate rebate size. Rebate size for projects outside of NV Energy's service territory will be determined on a case-by-case basis.	Up to $5,000,000 per installation (exceptions considered on a case-by-case basis)

Interest Rates & Term	Forgivable loan forgiven upon receipt of placed in service documentation (e.g. Closed Building Permit, Certificate of Completion, Utility Interconnection Validation, Permission to Operate)	• 24-month Section 48 tax credit bridge loan with 3% interest
		• 12-year loan for the remaining project costs with interest rates as follows:
		  o 3% to 8% for project hosts that are community-based or community-led organizations, such as Tribes, community-based nonprofit organizations, local governments, and rural electric cooperatives, and affordable housing, state governments, and nonprofits
		  o 5% to 10% for all other project hosts

Fees	3% closing fee Prepayment penalties on the 10-year loan	
Security	Project assets and/or Section 48 investment tax credit elective payment where appropriate and/or property lien and/or cash and cash reserves and/or corporate guarantee	

NCEF will disburse financial assistance after performing due diligence on the site host and project specifics (e.g., the contractor's quote) and executing an agreement with the site host. Due diligence will also consider whether projects are leveraging additional funds to implement complementary measures, such as enabling upgrades or energy efficiency upgrades. NCEF encourages participants who qualify to use other sources of complementary funds for enabling upgrades. To avoid instances of excessive benefit (i.e., grant funds exceeding 100% of the cost of the project), applicants are required to disclose information about other sources and uses of funds.

Technical Assistance:
NCEF supports a range of activities, including education and outreach and community engagement. NCEF can provide a financial model template to support community solar hosts in understanding the economics of solar and the potential NSFA financing. Reach out to communitysolar@nevadacef.org to make an appointment with an NCEF team member and gain access to this financial model.

NCEF supports project hosts monetizing federal clean energy tax credits and deductions, including non-taxed entities using the IRS Direct Pay process, private entities transferring credits to third-party buyers, and tax-exempt entities seeking to benefit from the Section 48, Section 45L, or Section 179D tax credits and deduction. NCEF's technical assistance will includes applying for allocated bonuses to the Investment Tax Credit, pre-filing registration for Direct Pay, project structuring guidelines to optimize for Direct Pay and/or Transferability, and other ad-hoc supports.

NCEF provides community solar hosts access to vetted contractors, who will be monitored for compliance with minimum contract requirements and disclosures in accordance with all applicable laws, regulations, and best practices, including performance guarantees. NCEF's vetted contractor network includes developers able to implement third party-owned systems.

NCEF provides resources to facilitate Build America Buy America (BABA) and Davis Bacon and Related Acts (DBRA) compliance where applicable.

NCEF and its partners will continue to monitor building code and NEM regulations and policies and educate policymakers and others, as needed, on the importance of protecting NEM benefits for low-income and disadvantaged households

NSFA has a solar training voucher program to provide job training funds in the form of participant support costs that allow affordable housing property owners, community solar project hosts (e.g., municipalities, Tribes, community-based organizations, schools), and solar contractors to train employees on low-income solar deployment and enable access to technical assistance resources. Applicants can apply for vouchers for trainings and capacity building resources, including for associated registration, travel, and training material costs, in the following solar-related areas: financial modeling, project design, siting, permitting, installation, operations, maintenance, safety, Good Jobs Principles, Davis Bacon compliance, and diversity, equity, inclusion, and accessibility. More details about this program are available at https://nevadacef.org/solar-for-all/.

4. Program Application and Participation

i. Application

Potential site hosts are invited to apply via the online application on the NCEF website.[2] Applications are accepted on a rolling basis. NCEF will continuously consider applications and work with applicants to provide technical assistance. If necessary, NCEF may implement a waitlist system. Key elements that are required during the application process include the eligibility criteria as presented in Section 3.2, the type of the solar project (e.g., rooftop, ground-mounted, carport), a quote from an eligible contractor or third-party developer, and anticipated project size.

ii. Timeline

NCEF will provide financial assistance and technical assistance to community solar hosts and owners from January 2025 to April 2029. The community solar systems are expected to have a usable life of at least 20 years. NCEF's program guidance includes best practices for working with contractors to cover operations and maintenance needs over the system life. NCEF aims to continue to provide financial and technical assistance to community solar hosts after the formal conclusion of the Solar for All program.

iii. Tax Credit Monetization

Community solar projects under the NCEF SFA programs may qualify for the Investment Tax Credit (ITC) as defined under Section 48 of the Internal Revenue Code. The ITC can cover between 30% and 70% of the eligible system's installed cost. The percentage relevant to your project will depend on a number of factors, such as the use of domestically sourced materials, project size, project location, and use of prevailing wages. Please see Table 3 for more details. If you are uncertain about the ITC level for which your project is eligible, please indicate that in your application and NCEF can provide assistance.

Table 3. ITC Bonus Levels & Criteria

Base ITC[1, 2]	**30%**
+ Bonus for Meeting Domestic Content Minimums[3]	10%
+ Bonus for siting in "Energy Community"	10%
+ Allocated Low-Income Bonus[4] • Projects Located in Low-Income Communities or Indian Land OR Bonus for Qualified Low-Income Projects	 10% 20%

[1] Bonuses are effective for projects in service after December 31, 2022.
[2] Entities can choose between an investment tax credit (ITC) and a production tax credit (PTC). The ITC includes bonuses for projects benefiting low-income communities.
[3] Must include 100% domestic iron/steel and an increasing percent of manufactured goods over time.
[4] Allocation will be based on an award process developed by the Secretary of the Treasury. Max 1.8 GW_{ac}/year.

Community solar site hosts have several options for monetizing the ITC:

- Directly, provided the host has sufficient tax liability
- Through a tax equity investor (small projects lack sufficient scale and incur high transaction costs in a tax equity transaction)
- Through the IRS Transferability option, i.e., selling tax credits to a third party
- Hybrid transaction structures, combining transferability and tax equity
- In the case of tax-exempt entities (e.g., Tribes, local government, 501c3 nonprofits), the IRS Direct Pay (also known as Elective Pay) can provide a cash reimbursement for the value of the tax credit

[2] https://nevadacef.org/solar-for-all/

NCEF can provide technical assistance throughout its application intake and project due diligence process to assist applicants in understanding the tax credit monetization options available to their project. In addition, NCEF is exploring partnerships that can facilitate tax credit sales for SFA projects under the Transferability mechanism or hybrid transaction structures. Entities interested in purchasing tax credits under Solar for All should contact NCEF at nevadasolarforall@nevadacef.org with the subject line “SFA Tax Credit Purchase”.

iv. Renewable Energy Certificates (RECs)

Solar projects generate Renewable Energy Certificates (RECs). RECs are legal and market-based instruments representing the property rights to the environmental, social, and other non-power attributes of renewable electricity generation.[3] RECs are issued when electricity is generated and delivered to the grid from a renewable energy resource. RECs are issued when electricity is generated and delivered to the grid from a renewable energy resource. RECs are market-based and can be traded separately from the sale of the physical power from a renewable energy project. A REC that is sold separately from the associated physical power is called an unbundled REC, while a REC sold in conjunction with the physical power is called a bundled REC. A buyer might purchase and retire RECs to meet mandatory or voluntary renewable electricity commitments or other environmental, social, and governance (ESG) goals.

The Program’s funding agreements will stipulate that NCEF has claim to the RECs, with exceptions considered on a case-by-case basis.[3] NCEF plans to aggregate and sell the unbundled RECs associated with NSFA-funded projects and use the proceeds to support further financial assistance for clean energy projects in Nevada. Entities interested in purchasing RECs should contact NCEF at nevadasolarforall@nevadacef.org with the subject line “SFA REC Purchase”.

To participate in REC transactions, NCEF must monitor and report on energy production from the installed photovoltaic system. RECs are certified and tracked across the Western Interconnection territory by the Western Renewable Energy Generation Information System (WREGIS). NCEF will aggregate and report solar energy production data across NSFA projects to WREGIS. To do this NCEF must have access to the production monitoring platform or a separately installed REC meter for each project. For smaller PV systems (under 360 kW-ac) this requires the installation of a specific inverter type and complementary monitoring software (currently Enphase, SolarEdge, Tesla, and SMA offer solar monitoring platforms, with Enphase being the best in class and providing the most granular data). For larger projects (over 360 kW-ac), the project owner also has the option of setting up an agreement with NV Energy or the relevant utility (a Qualified Reporting Entity) to report the generation of each project (based on their meter data) directly to WREGIS.

When unbundled RECs from a solar project are sold to a third party, communications about the project must comply with relevant Federal Trade Commission (FTC) regulations, namely that

[3] Solar project owners may opt to keep the RECs themselves, resulting in a reduction in the rebate amount equal to the discounted lifetime value of the RECs.

the project owner or host cannot represent, directly or by implication, that the electricity generated by the solar projects is "renewable."[4]

v. Contractors and Construction

Direct Ownership

Community solar site hosts must work with solar contractors who belong to NCEF's vetted contractor network. NCEF evaluates contractors to ensure they are properly licensed and insured, comply with state regulation and consumer protection laws, and adhere to best practices in solar system design, operation, and maintenance. This is intended to ensure that all contractors installing systems under Nevada Solar for All possess the necessary knowledge, expertise, and experience to optimize system performance and longevity throughout the estimated 20-year project lifetime. Contractors interested in participating in NSFA as a vetted contractor should apply to join the network at https://nevadacef.org/contractors/.

Third-Party Ownership

Community solar hosts that are unable to or prefer not to directly own the solar asset can participate in the Program through the TPO pathway. Under the TPO pathway, a site host enters into a power purchase agreement (PPA) or lease agreement with third-party solar provider who builds, owns, and operates a solar system on the property of the site host. The site host then pays the third-party entity a monthly lease payment or a per-kilowatt hour (kWh) PPA payment. NCEF will select one or more TPO providers as part of this program that will be available in 2025. NCEF reserves the right to grant exemptions on a case-by-case basis.

The TPO arrangement can be simpler for site hosts who do not have the in-house capacity to manage ownership or maintenance of a solar asset, monetize tax credits associated with the solar asset, or provide ongoing reporting to NCEF. Site hosts interested in the TPO pathway should indicate this in their application and plan to solicit a quote from a TPO-eligible solar developer. TPO-eligible solar developers must undergo additional evaluation and vetting by NCEF (beyond the requirements of the vetted contractor network) to participate in NSFA. Entities interested in becoming eligible third-party owners under the NSFA program should contact nevadasolarforall@nevadacef.org.

Davis-Bacon and Related Acts Compliance

Davis-Bacon and Related Acts may or may not apply to an NSFA-supported project. All projects whose construction is funded by Nevada Solar for All federal funds must comply with all Davis Bacon and Related Acts (DBRA) (40 U.S.C. 3141 et seq.) requirements. Financial assistance recipients are responsible for complying with DBRA requirements. NCEF assists NSFA financial recipients with DBRA compliance via its vetted contractor network, training vouchers, and informational resources. Questions about DBRA compliance should be sent to communitysolar@nevadacef.org

Properties should be advised that if using NSFA federal funds for structural components of a new construction project such as roof reinforcements, DBRA requirements may apply to the entire property. EPA applies the Purpose, Time, and Place (PTP) test to define the scope of a project. Additional information on the PTP test is provided below.

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[4] Federal Trade Commission. Guides for the Use of Environmental Marketing Claims. October 12, 2012. https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguides.pdf

Note, however, that under Solar for All, DBRA requirements do not apply to any form of Financial Assistance which meets any of the following criteria:

- Financial Assistance which exclusively funds pre-construction (e.g. permitting or design work) or post-construction activities (e.g. subsidies for subscriptions to already constructed solar assets).
- Financial Assistance which serves end-users who are individual homeowners or tenants of single-family homes or multifamily buildings when these individual end-users ultimately select the contractor(s) and execute the contract(s) for the construction work, as opposed to NCEF, a Subrecipient, or a contractor hired by NCEF or a Subrecipient.
- Financial Assistance which serves end-users who meet the definition of Federally Recognized Tribal Entities, as defined under this Assistance Agreement, when these Federally Recognized Tribal Entities ultimately select the contractor(s) and execute the contract(s) for the construction work, as opposed to NCEF, Subrecipient, or a contractor hired by NCEF or Subrecipient.
- Financial Assistance which serves any end-user when such Financial Assistance is less than $250,000 for a project and the end-user ultimately selects the contractor(s) and executes the contract(s) for the construction work, as opposed to NCEF, Subrecipient, or a contractor hired by NCEF or Subrecipient.

Build America Buy America Compliance

Build America Buy America may or may not apply to an NSFA-supported project. The Build America, Buy America Act – Public Law 117-58 (41 U.S.C. 83), requires that federal funds used for the construction of a public infrastructure project must comply with the following:

1. All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. All manufactured products used in the project are produced in the United States— this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and
3. All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

BABA applies to "public infrastructure," which is defined broadly in 2 CFR 184.4(d). The following types of Solar for All projects are deemed infrastructure for the purposes of BABA applicability:

1. The public infrastructure portion of any property (e.g., retail in a mixed-use multi-family property) where the principal purpose of the Financial Assistance is to directly benefit such portion of the property;
2. Privately-owned commercial buildings when they meet the "public function" test;
3. Residential-serving community solar projects, which EPA deems "structures, facilities, and equipment that generate, transport, and distribute energy" per 2 CFR 184.4(c).

The following types of Solar for All projects are not deemed infrastructure for the purposes of BABA applicability:

1. Single family homes;
2. Privately-owned, non-mixed-use, multi-family housing properties;
3. Privately-owned residential portions of mixed-use properties;
4. Any privately-owned, behind-the-meter energy generation and storage project that does not otherwise meet the definition of infrastructure.

The inclusion of the following types of funding, support, guarantee, or sponsorship in the funding stack of any Solar for All project does not trigger BABA, in and of itself or in combination:

1. Low-Income Housing Tax Credit (LIHTC);
2. Fannie Mae and Freddie Mac Backed Multifamily Mortgages;
3. Federal Housing Administration Insured Multifamily Mortgages;
4. HUD Section 8 Funding;
5. Other Federal, State, Tribal, or Local Housing Assistance Funding Sources: in general, subsidies issued by federal, state, Tribal, or local housing assistance funding sources that do not confer equity or ownership stakes for the governmental funding source do not trigger BABA applicability.

The ultimate determination on BABA applicability for a particular project is always *fact-specific*. BABA applicability is assessed at the time of provision of Financial Assistance based on the terms, limitations, and requirements of the Financial Assistance. Applicability does not change retroactively based on a change of use (e.g., if a ground floor apartment is re-zoned for a restaurant). Recipients may not temporarily modify or mischaracterize usage to intentionally avoid BABA compliance.

There are program-wide BABA waivers and project-specific BABA waivers. EPA has issued several program-wide waivers that may be applicable to certain projects. This includes a temporary BABA waiver for domestically assembled solar modules to some Solar for All awardees, including NCEF, on January 10, 2025. The waiver applies to expenditures on solar panels made on or after January 10, 2025 until December 31, 2025, so long as those panels are installed by June 30, 2026. The EPA's full waiver can be found here. In addition, the *De Minimis Waiver*, which states that there may be costs associated with the project that would be subject to BABA but are considered de minimis to the overall project (no more than a total of 5% of total project cost). In this instance, the recipient may qualify for a De Minimis Waiver. The *Small Project Waiver* for projects under $250,000 may or may or may not apply to NSFA projects. EPA could issue additional program-wide BABA waivers in the future. If you believe your project is covered by a program-wide waiver, notify NCEF. Additional information on requesting a project-specific BABA waiver is provided below.

NSFA funds that refinance a construction loan using non-federal funding sources for eligible technologies following the completion of construction may not implicate BABA.

Site hosts are responsible for ensuring that they comply with BABA, if applicable. NSFA requires manufacturer certification letters for every product used in each BABA-applicable project unless a valid waiver is in place. BABA certification letters are needed for each project and cannot be copied between projects. Contractors do not create the certification letter; the manufacturer of the item being purchased (e.g., the company producing the iron used on a project) is required to attest to the required information. Multiple items supplied from the same manufacturer may be listed on one certification letter. A BABA-applicable project using many products will likely need many separate certification letters.

Site hosts should be advised that if using NSFA federal funds for structural components of a new construction project such as roof reinforcements, BABA requirements may apply to the entire property. EPA applies the Purpose, Time, and Place (PTP) test to define the scope of a project. Additional information on the PTP test is provided below.

Site hosts should reach out to NCEF if they have questions about BABA applicability.

Requesting a Project-Specific BABA Waiver

Pursuant to Section 70914(b) of BABA and 2 CFR 184.7 EPA may waive BABA requirements where EPA finds that:

1) applying the domestic content procurement preference would be inconsistent with the public interest;
2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

Waivers may be requested from EPA if assistance recipients reasonably believe a waiver is justified under paragraph (a) of 2 CFR 184.7. A request from assistance recipients to waive the application of the Buy America Preference must be provided to EPA in writing. Note that there is currently no public interest waiver that applies generally to the Solar for All program. EPA expects project-level public interest waivers to be rare, as most projects should be able to comply with BABA requirements by obtaining certification letters, requesting project-level product non-availability waivers where appropriate, and using the already approved De Minimis Waiver. EPA expects waiver requests to take several months (2 to 6+) for approval after submission to the EPA.

Purpose, Time, and Place (PTP) Test

EPA applies the Purpose, Time, and Place (PTP) test to define the scope of a project. Additional information on the PTP test is provided below.

EPA will use a “Purpose, Time, and Place” (PTP) test to determine a “project” for BABA and DBRA applicability. This ensures that projects are not intentionally separated into pieces as an attempt to avoid BABA or DBRA compliance. As an example, if federal funds provide $1 to a Qualified Project involving construction work, as defined under 29 CFR Part 5, that also receives non-federal funds to ensure the completion of the same project, DBRA and BABA would apply to all construction work necessary to complete that project if the PTP test is met. While each analysis will be fact specific, generally the PTP test will consider whether, regardless of the number of individual contracts, the contracts or activities funded are closely related in purpose, time, and place. The PTP test considers whether the activities are integrally and proximately related to the whole, but also recognizes that many activities are undertaken in segregable phases that are distinct in purpose, time, or place. All three elements must be consistent for the activity to be considered a “project.”

Purpose: Is the purpose for the funded activity segregable? For example, are there clear and discrete phases in the project that separate solar panel installation from general construction, which indicates that solar serves a *different purpose* than general construction under the PTP test? Are the solar panels essential for residency (i.e., is a *certificate of occupancy possible without the solar panels*, and *is there electricity without the solar*, thereby making the panels ancillary rather than integral? A "yes" answer to both of these questions would indicate that solar serves a *different purpose* than general construction under the PTP test. For example, a Brownfields Revolving Loan Fund (RLF) Cooperative Agreement is awarded for $5M. The recipient plans to award five loans for $1M each to different recipients for different projects. The purpose for the award is distinct and each loan would be considered distinct "projects."

Time: Is the timing of the funded activity distinct? For example, in FY23, a state receives a cooperative agreement to develop the structure and guidance for a recycling grant program for their state. In FY24, the state award is amended and it receives additional funds that will fund the grant pool. These are both distinct in purpose and time and would be distinct "projects."

Place: A county receives a grant from the state in the "time" example above. The city plans to use the grant to fund two recycling facilities. One in the upper county and one in the lower county. Each has unique structural requirements. The place of the activity is distinct and would be considered separate "projects.

vi. Compliance Procedures & Reporting

Community solar hosts receiving direct financing from NCEF must adhere to program requirements and federal and state regulations, including Build America, Buy America (BABA), Davis Bacon and Related Acts (DBRA), and system permitting and interconnection requirements. In addition, site hosts must provide semi-annual reporting to NCEF on data such as system performance and jobs. These requirements will be outlined in detail in the participant support cost and/or financing agreement that the site host executes with NCEF. Non-compliance may lead to fines/penalties, project delays, loss of funding, project suspension, project termination, or inability to participate in future NCEF programs. Community solar site hosts unable to provide ongoing reporting to NCEF or with concerns about compliance can consider the third-party ownership (TPO) pathway described in Section 3.4.v.

vii. Measurement & Verification

NCEF shall collaborate with contractors and site hosts to monitor solar systems to track generation and overall system performance. This could include on-site or virtual site inspections that ensure that the installed solar systems are operating efficiently and as expected. Site hosts are expected to facilitate access to such inspections throughout the Solar for All Period of Performance, with advanced notice provided to the site host as outlined in the participation agreement.

viii. Operations and Maintenance Guidelines

Direct Financing

Under the direct financing option, site hosts are responsible for ongoing operations and maintenance of the project throughout the project life, anticipated to extend 20 years or more. NSFA also requires site hosts to work with solar contractors in NCEF's vetted contractor network. NCEF evaluates contractors to ensure they are properly licensed and insured, comply with state regulation and consumer protection laws, and adhere to best practices in solar system design, operation, and maintenance. In addition, site hosts should ensure installed systems have equipment and labor warranties in accordance with state requirements and assess whether non-standard additional maintenance services are available from the contractor during or beyond the warranty periods (e.g., regular inspections, panel cleaning, etc.).

Third-Party Ownership
Community solar hosts that are unable to or prefer not to directly own and maintain the solar asset can participate in the Program through a Third-Party Ownership (TPO) pathway, as described in Section 3.4.v. Under the TPO pathway, the building owner enters into a lease or power purchase agreement with a TPO provider. Community solar hosts will be required to grant these contractors access to the solar systems to allow effective day to day management of the solar facility.

ix. Benefit Sharing

NCEF will establish and manage processes that transfer monetary benefits from community site hosts to community solar project subscribers. NCEF is partnering with vendors and community-based organizations to facilitate household subscription and benefit transfer. NCEF will use community solar site host loan repayments as the source of funds to transfer benefits in the form cash equivalent to eligible households.