



November 4, 2022

To: Internal Revenue Service
Fm: Andy Johnson, Executive Director, Clean Energy Districts of Iowa
Re: Notice 2022-51

I respectfully submit the following response to the “Request for Comments on Prevailing Wage, Apprenticeship, Domestic Content, and Energy Communities Requirements Under the Act Commonly Known as the Inflation Reduction Act of 2022.”

- .02 Prevailing Wage Requirement. “Section 48(a)(10) provides, in general, that a taxpayer satisfies the prevailing wage requirements with respect to an energy project if the taxpayer ensures that any laborers and mechanics employed by the taxpayer or any contractor or subcontractor in the construction of such energy project, and for the 5-year period beginning on the date such project is originally placed in service the alteration or repair of such project, are paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such project is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40 of the United States Code.” (pp. 2-3)
 - Where can interested parties find these prevailing wage requirements as determined by the Secretary of Labor? Are these available at a website online?
 - The taxpayer will have to rely on contractors to vouch that this prevailing wage requirement has been met. Treasury or the IRS should develop a form that taxpayers can give to contractors to verify that the apprenticeship requirements have been met. The form needs to make it clear that the contractor is legally responsible for meeting the requirements they're vouching for, and must keep appropriate records to prove to the IRS if an evaluation or audit were to take place.
 - This would help address question #3 about whether “documentation or substantiation should be required to show compliance with the prevailing wage requirements”. (p. 11)
- .03 Apprenticeship Requirements. “Section 45(b)(8)(A)(i) provides that a taxpayer satisfies the apprenticeship requirements with respect to the construction of any qualified facility if the taxpayer ensures that not less than the applicable percentage of the total labor hours of the construction, alteration, or repair work (including such work performed

by any contractor or subcontractor) with respect to such facility is, subject to § 45(b)(8)(B), performed by qualified apprentices.” (p.5)

- The taxpayer will have to rely on contractors to vouch that this requirement has been met. Treasury or the IRS should develop a form that taxpayers can give to contractors to verify that the apprenticeship requirements have been met. The form needs to make it clear that the contractor is legally responsible for meeting the requirements they're vouching for, and must keep appropriate records to prove to the IRS if an evaluation or audit were to take place.
 - Question #1 asks: “What factors should the Treasury Department and the IRS consider regarding the appropriate duration of employment of individuals for construction, alteration, or repair work for purposes of this requirement?”
 - It isn't clear whether the question is asking about how long an apprenticeship program has been in place or how much time an apprentice spent on this project.
- .04 Domestic Content Requirement. “Section 45(b)(9)(B)(i) provides that with respect to any qualified facility, the domestic content requirement is satisfied if the taxpayer certifies to the Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that any steel, iron, or manufactured product that is a component of such facility (upon completion of construction) was produced in the United States (as determined under 49 C.F.R. § 661).” (p. 8)
 - Question 1a asks: “(a) What regulations, if any, under 49 C.F.R. 661 (such as 49 C.F.R. 661.5 or 661.6) should apply in determining whether the requirements of section §§ 45(b)(9)(B) and 45Y(g)(11)(B) are satisfied?” In addition question 1d ask: “(d) What records or documentation do taxpayers maintain or could they create to substantiate a taxpayer’s certification that they have satisfied the domestic content requirements? “
 - The taxpayer will have to rely on contractors to vouch that this requirement has been met. Treasury or the IRS should develop a form that taxpayers can give to contractors to verify that the domestic content requirements have been met. The form needs to make it clear that the contractor is legally responsible for meeting the requirements they're vouching for, and must keep appropriate records to prove to the IRS if an evaluation or audit were to take place.
 - Question 2a asks: “(a) Does the term “component of a qualified facility” need further clarification? If so, what should be clarified and is any clarification needed for specific types of property, such as qualified interconnection property?”
 - Would the metal in solar panels count as a component vs. the mounting superstructure that holds the panels?
 - .05 Energy Community Requirement.
 - “Section 45(b)(11)(B) provides that for purposes of § 45(b)(11), the term energy community means: ... (3) A census tract (i) in which a coal mine has closed after December 31, 1999; or (ii) in which a coal-fired electric generating unit has been

retired after December 31, 2009; or (iii) that is directly adjoining to any census tract described in § 45(b)(11)(B)(iii)(I).” (p. 10)

- Some utilities are replacing coal-fired power with natural gas as the primary fuel in the power plant. Clarify whether census tracts (and those that adjoin them) that have had a coal plant retired and replaced with natural gas generation qualify as an energy community.
- Question 4: “Which source or sources of information should the Treasury Department and the IRS consider in determining census tracts that had a coal mine closed after December 31, 1999, or had a coal-fired electric generating unit retired after December 31, 2009, under § 45(b)(11)(B)(iii)? How should the closure of a coal mine or the retirement of a coal-fired electric generating unit be defined under § 45(b)(11)(B)(iii)?” (p. 17)
 - The retirement of a coal-fired electric generating unit should be verified via official notices filed by the utility with the relevant state’s public utility commission, regional transmission operator, FERC, etc.

Please contact me if you have any concerns or questions. We appreciate the opportunity to provide this feedback.

Sincerely,



Andrew Johnson
Executive Director
Clean Energy Districts of Iowa
P.O. Box 5
Decorah, IA 52101
(563) 382-4207
andy@energydistrict.org