(A) With respect to the determination of the start of construction, it is assumed that the 5% safe harbor still applies. Given that assumption:

1) Is it still necessary for the “look-through” rule also to apply, by which amounts paid or incurred with respect to energy property by a contractor before the energy property is provided to a taxpayer are not deemed to be paid or incurred by the taxpayer until its contractor pays or incurs the amounts? Is not a negotiated, binding contract with the contractor sufficient evidence that the taxpayer has made a payment or incurred an obligation with respect to the property?

2) Assume that the look-through rule is still deemed to be necessary. Given the vagaries in the availability of certain domestically manufactured products, will there be any relaxation of the “economic performance” requirement for purposes of determining if a cost has been “incurred”? Currently, economic performance may be met if an accrual method taxpayer pays for the product and reasonably expects to take title or delivery within 3 1/2 months of payment, which may not be practical given supply-chain constraints.

(B) In determining whether a solar project meets the 40% threshold for domestic content for purposes of the 10% ITC enhancement, is iron or steel to be considered a “manufactured” product, separate and apart from the 100% domestic iron/steel requirement? See 41 USC sections 8302(c)(1) and 8303(c)(1), which allow for iron and steel to be deemed to be “manufactured” in the US.

(C) Please clarify the methodology to be employed to determine what constitutes domestic manufacturing, and specifically the extent to which assembly in the United States of solar modules will be counted toward the determination of domestic content for purposes of the 10% ITC enhancement.

(D) If domestic assembly of solar modules is not to be counted toward the determination of domestic content for purposes of the 10% ITC enhancement, will Treasury guidance clarify if relief from the 40% threshold for domestic manufactured product is available under IRA should the inclusion of domestic product materially increase the overall project costs, or if domestic product is not produced in sufficient and reasonably available quantities or satisfactory quality? Note provisions at 41 USC sections 8302(a)(1) and 8303(b)(3) applicable to public works, allowing Federal agency waivers of domestic manufacturing requirements where costs are unreasonable or products are not manufactured in sufficient and reasonably available commercial quantities and satisfactory quality.