

KEWEENAW BAY INDIAN COMMUNITY

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November 2, 2022
Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-51)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: Comments of the Keweenaw Bay Indian Community on IRS Notice-2022-51

To Whom It May Concern:

On behalf of the Keweenaw Bay Indian Community, I hereby submit these written comments in response to IRS Notice 2022-51 related to request for comments on prevailing wage, apprenticeship and energy communities. The Keweenaw Bay Indian Community is located in Michigan on the Southern Shores of Lake Superior. The Tribe has over 3500 tribal members, and over 59,000 acres on the L'Anse Indian Reservation. Since 2008, the Tribe has pursued clean energy project opportunities, including efforts to investigate the feasibility of wind, solar, microgrids, geothermal, biomass projects on the Reservation and subsequently develop and deploy solar and geothermal. Up to now, these efforts have been almost entirely dependent on federal financial assistance, such as grants.

With the newly enacted Inflation Reduction Act, the Tribe now has opportunities to develop, deploy, own and control clean energy projects on the Reservation that will serve to meet the Tribe's clean energy and economic development goals and can help the Tribe contribute to the United States' overall clean energy goals. Our comments are submitted in the context of trying to take full advantage of the new authorities, tax benefits, and opportunities the IRA is intended to create for tribes.

Specific Comments

Sec.3.01 Prevailing Wage Requirements

Q.(1) Treasury should allow tribes to set their own prevailing wage scales, as is authorized under many other federal government programs. For example, HUD's NAHASDA and ICDBG programs authorize tribes to substitute tribal wage scales for Davis-Bacon Act prevailing wage requirements. Because many tribes are in very rural - or remote - locations, the Davis-Bacon Act wage scales are inappropriate and ill-fitting for tribal workforces. Allowing tribes to set their own prevailing wage scales both supports tribal sovereign authority to regulate their own labor

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and wage requirements but also acknowledges a more appropriate wage scale for tribal lands in very rural and remote circumstances.

Q.(3) If tribal prevailing wages are used, typical documentation includes certified tribal wage scales, as approved by the tribal government, TERO compliance agreements, or other tribal government information.

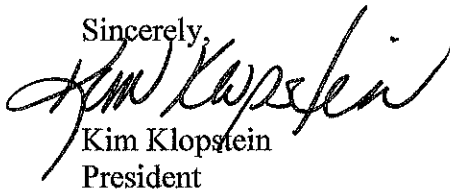
Sec.3.04 Energy Communities

Q.(1) Tribes can meet the definition of energy communities in many ways. Treasury should clarify that projects must be primarily or substantially located within an energy community to qualify for the energy community increased credit amount.

Q.(2) Any tribal community that has a brownfield site, as defined under CERCLA, should be designated an energy community.

Again, thank you for the opportunity to present comments on behalf of the Keweenaw Bay Indian Community.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Klopstein", is written over the typed name and title.

Kim Klopstein
President