

Internal Revenue Service
United States Department of the Treasury
Ben Franklin Station
P.O. Box 7604, Room 5203
Washington, D.C., 20044

November 4, 2022

Re: Credit Enhancements Pertaining to Prevailing Wages and Registered Apprenticeship Requirements in the Inflation Reduction Act

Dear Secretary Yellen and Commissioner Rettig:

Thank you for the opportunity to provide feedback on the multiple layers of implementation of the clean energy tax incentives included in the Inflation Reduction Act. These incentives are the keystone of the climate, justice, and jobs strategy that motivated this legislation, and efficient implementation of them will be critical to meeting our climate goals. Not only are these tax incentives desperately needed as investments in clean energy, but they also mean we can build the clean energy economy in a way that empowers workers with high quality, accessible, family-sustaining jobs; ensures a stable, well-qualified workforce on current publicly-supported projects; and builds a pipeline of workers for decades to come.

The Inflation Reduction Act directly linked clean energy investments to construction labor standards—specifically prevailing wages and registered apprenticeship programs. These two standards form the bedrock of assurance that the construction jobs associated with the clean energy infrastructure resulting from this legislation will be good jobs attached to training pipelines. We appreciate your dedication to ensuring that these principles of good jobs will be implemented expeditiously and comprehensively. In addition to the following detailed recommendations, overall we believe that implementation **must maintain the explicit intent of the legislation to create high quality jobs in the United States that are connected to training pathways.**

- *Coordination with the Department of Labor*

Couched as credit enhancements, the legislation incorporated multipliers onto the credits aimed at strengthening the quality of construction jobs and providing pathways to them through registered apprenticeships. It is critical that Treasury establishes an official collaboration with the Department of Labor (DOL) to utilize the DOL's expertise and data on prevailing wages and registered apprenticeships—including but not limited to any information needed for uniform application of relevant existing DOL rulings and wage determinations, interpretations and collection of requested certified payroll reports, monitoring of “bona fide” programs,” and funding dedicated to apprenticeship expansion, diversity and compliance.

Collaboration with the DOL—such as through a memorandum of understanding (MOU)—is common practice and has most recently been utilized by various agencies throughout the implementation of the Infrastructure Investment and Jobs Act.¹ An MOU will allow Treasury staff to lean on the expertise that already exists within the DOL and the technical assistance structures of the Good Jobs Initiative, and to utilize existing data and data gathering methods in practice.

- *Good Faith Communication*

Transparency is vital to the success not only of the labor standards but to the functioning of the credits as a whole. As such, it is critical that any taxpayer seeking to utilize the full value of the credit by deploying associated credit enhancements provide information regarding the location and nature of the project. The Treasury Department should then publicly disclose this information.

- *Enforcement*

For this program to succeed, Treasury needs the tools to properly and effectively enforce the provisions as laid out within the text of the legislation. This includes a declaration by the taxpayer, with appropriate documentation such as a filed return, that certifies compliance with the requirements of the law and all associated guidance and related contractual language.

Additionally, investigations should be initiated once a complaint is filed or through internal initiative. The Secretary—as part of cooperation with the DOL—should request and review payroll records of contractors and subcontractors, interview employees, and request documentation from the taxpayer to determine prevailing wage and apprenticeship compliance. If the taxpayer is found to have falsified their compliance with the prevailing wage requirements, then they should be held liable for unpaid wages, interest, and significant administrative penalties, as the Inflation Reduction Act requires. And if repeated violations or intentional disregard are found, then the taxpayer and all associated partners and responsible officers should no longer be able to qualify for a credit or deduction under this program and potentially result in debarment.

If the taxpayer is found to fail to make good faith efforts to meet apprenticeship utilization requirements, then similar penalties should apply. Treasury should further coordinate with DOL to ensure sufficient compliance capacity under DOL's Office of Apprenticeship and State Apprenticeship Agencies so that growth of apprenticeship programs that is likely to occur as a result of Inflation Reduction Act implementation does not compromise on program quality or EEO requirements.

We appreciate your efforts to implement the *Inflation Reduction Act*, a once-in-a-generation opportunity to not only change whether this country addresses the climate crisis, but in how we do so. These credit enhancements associated with prevailing wages and registered

¹ U.S. Department of Labor, Making Good Jobs Through Federal Investments, 2022. Available online: <https://www.dol.gov/general/good-jobs/making-good-jobs-through-federal-investments>

apprenticeships embody what President Biden campaigned on and continues to stress—that climate action means good jobs.

Sincerely,

Center for American Progress
BlueGreen Alliance
Environmental Defense Fund
Evergreen Action
League of Conservation Voters
Sierra Club