

# Prevailing Wage and Apprenticeships:

## Important Updates in Treasury's Final Rules

July 12, 2024



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*Building a strong solar industry to power America*



Federal, State &  
Local Policy



Climate &  
Equity



Managing  
Growth



Trade, Technology  
& Manufacturing

# Today's Presenters

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# Agenda

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- 2:00 – 2:20 pm ET - Changes, clarifications, and updates to PWA requirements in Final Rules
- 2:20 – 2:25 pm - Registered Apprenticeship Resources
- 2:25 – 2:45 pm - Updated PWA Compliance Best Practices with Final Rules
- 2:45 – 3:00 pm - Q & A



# Overview of Treasury's Final PWA Rules

**Ben Norris, VP, Regulatory Affairs, SEIA**

# Overview of the IRA's PWA Requirements

## In General

- The Inflation Reduction Act of 2022 expanded and extended federal tax credits for solar and storage facilities, among other energy technologies
- Beyond just tax credits for businesses and individuals, many provisions help open up the clean energy economy of the future for underserved areas, local and community governments and organizations, and, critically, American workers and the families they support

## Effect on credit amounts

- Taxpayers who meet prevailing wage and apprenticeship requirements can increase their base credits fivefold (6% -> 30%)
- They can also increase their bonus credits fivefold (2% -> 10%)
- PWA requirements can be equivalent to a 40% ITC



# Overview of Final Rules

## Publication and Effective Date

- The Final Rules were pre-published on June 18, and [published in the Federal Register](#) on June 25, 2024
  - Treasury also released a fact sheet, overview, and updated FAQ documents, available at <https://www.irs.gov/inflation-reduction-act-of-2022>
- The Final Rules are effective beginning August 26, 2024

## Prior Guidance

- Treasury published initial guidance for prevailing wage and apprenticeship requirements on November 30, 2022, and a Notice of Proposed Rulemaking on August 30, 2023
- SEIA's previous webinar on the Proposed Rules is available on our website to SEIA members



# Applicability

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## **The Final Rules will apply to twelve energy credits in the Internal Revenue Code**

- Sections 30C, 45, 45L, 45Q, 45U, 45V, 45Y, 45Z, 48, 48C, 48E, and 179D
- This presentation focuses on the Production Tax Credit (sections 45 & 45Y) and Investment Tax Credit (sections 48 & 48E)

**In general, the Final Rules apply to facilities placed in service in taxable years ending after June 25, 2024, and the construction of which begins after June 25, 2024**

### **The requirements in the Final Rules do NOT apply:**

- If the facility has a maximum net output of less than 1 MW<sub>AC</sub>
- If the facility began construction before January 29, 2023
- With respect to apprenticeship requirements only, after the facility is placed in service



# Prevailing Wage Requirements: In General

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## In General, Taxpayers Must Ensure:

- Prevailing wages are paid
- To “laborers and mechanics”
- Who perform “construction, alteration, or repair”

## Prevailing Wage Determinations

- Determined by the U.S. Department of Labor, and available at SAM.gov, for various types of labor performed in a given geographic location
- Determined at the time a contract for construction, alteration, or repair is executed between a taxpayer and a contractor (and applicable to subcontractors)
  - In the absence of a contract or a determinable execution date, prevailing wages in effect at the beginning of construction control
  - Contracts which significantly expand the original scope of work or have terms extended may need to be updated (does not apply in the case of merely incidental additional work)
  - Contracts of an indefinite period should update prevailing wages annually
- Where there is no prevailing wage determination available, a supplemental wage determination request should be submitted to [IRAPrevailingWage@dol.gov](mailto:IRAPrevailingWage@dol.gov)

# Prevailing Wage Requirements: Key Definitions

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## Construction, Alteration, or Repair

- Means “construction, prosecution, completion, or repair” as defined in 29 C.F.R. § 5.2(j)
- Does not include work that is ordinary and regular in nature that is designed to maintain and preserve existing functionalities of a facility after it is placed in service
  - For example, regular inspections, cleaning, calibration, and replacing parts with limited life spans
  - Such work that occurs before the facility is placed in service may constitute construction for which prevailing wages must be paid

## Geographic Area and Locality

- Generally, the county, city, or other political subdivision of the State in which the facility is located
- The locality of the facility also includes secondary locations where a significant portion of the facility is constructed, altered, or repaired provided that such construction is for specific use at that facility and does not simply reflect the manufacture or construction of a product made available to the general public, and provided further that the site is either established specifically for, or dedicated exclusively for a specific period of time to, the construction, alteration, or repair of the facility

# Prevailing Wage Requirements: Cure Provisions

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**If the IRS makes a final determination that the taxpayer has failed to satisfy the prevailing wage requirements, the taxpayer can still be deemed to have satisfied the requirements by making correction payments and, where required, penalty payments, within 180 days**

## **Amounts**

- Correction: the amount of underpayment plus interest
- Penalty: \$5,000 per underpaid individual
- In the case of “intentional disregard,” correction payments are tripled and penalty payments are doubled

## **Intentional Disregard**

- A “failure to ensure” payment of prevailing wages that is “knowing or willful”
- Fifteen non-exhaustive factors
- Rebuttable presumption that prevailing wage requirements were not intentionally disregarded if correction and penalty payments are made before receiving an IRS notice of exam
  - Penalties can also be waived in certain circumstances

# Apprenticeship Requirements: In General

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## Labor Hours Requirement

Qualified apprentices must perform not less than the applicable percentage of the total labor hours of construction, alteration, or repair work

For facilities beginning construction after Dec. 31, 2023, the applicable percentage is 15%

## Ratio Requirement

The ratio of apprentices-to-journeyworkers must adhere to the ratios of the Department of Labor or applicable State Apprenticeship Agency for the registered apprenticeship program on a daily basis.

If more than one ratio could apply, the ratio for the geographic location of the facility controls

## Participation Requirement

Each taxpayer, contractor, or subcontractor who employs four or more individuals to perform construction, alteration, or repair work with respect to the construction of a qualified facility must employ one or more qualified apprentices



# Apprenticeship Requirements: Good Faith Effort Exception

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- **Request**

- The taxpayer, contractor, or subcontractor must submit at least one written request for qualified apprentices to at least one registered apprenticeship program that operates (but need not be headquartered) in the geographic area that includes the location of the facility
- The preamble notes that taxpayers and contractors are “encouraged” to start their own apprenticeship programs, but the failure to operate a self-sponsored program in the geographic area of the facility will not excuse the requirement to contact at non-self-sponsored program
- The preamble also recommends that taxpayers contact the DOL Office of Apprenticeship if a program cannot be located

- **Denial or Failure to Respond**

- A registered apprenticeship program denies or fails to respond to a request within five business days
- Denial cannot be the result of employer refusal to comply with program standards
- Response must be substantive, not automated or pro forma

- **Duration: 365 days (366 days in Leap Years)**

# Apprenticeship Requirements: Cure Provisions

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- **Intentional Disregard**

- A “failure to satisfy” apprenticeship requirements that is “knowing or willful”
- Thirteen non-exhaustive factors
- Rebuttable presumption that apprenticeship requirements were not intentionally disregarded if penalty payments are made before receiving an IRS notice of exam

- **Penalties and Waivers**

- Labor Hours Requirement: \$50 per number of hours not satisfied
- Participation Requirement: \$50 per number of hours not satisfied
- Penalties above increase to \$500 in the case of intentional disregard
- Penalties can be waived if a PLA is in place, except in the case of intentional disregard

# Summary of Significant Changes in the Final Rules

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- **Prevailing wages**

- Date of determination of prevailing wage rates moved back to the date of contract execution from 90 days prior to the beginning of construction
- 30-day deadline for DOL to respond to requests for supplemental wage determinations

- **Apprenticeships**

- Do not apply after a facility is placed in service
- Extending the duration of the Good Faith Effort exception from 120 days to one year
- Limiting the geographic scope for requesting apprentices by removing “reasonably expected to” language from the Proposed Rules

# Registered Apprenticeship Programs

**Beck Long, Director, Workforce Services &  
Apprenticeship, SEIA**



# SEIA's Key Priorities for 2020s



**Enacting smart, effective  
state-level policies**



**Streamlining permitting,  
interconnection and  
transmission buildout**



**Strengthening political  
engagement and  
influence**



**Fostering a robust domestic  
supply chain and life-cycle view  
of manufacturing**



**Scaling a  
diverse  
workforce**

# What is a Registered Apprenticeship Program?

- **Registered Apprenticeship Programs (RAPs)** prepare workers for careers in an occupation while meeting the needs of businesses for a highly skilled workforce.
- **“Earn while you learn”** model – Apprenticeship is a **paid job** from day one, with **On-the-Job Learning** (at least 2,000 hours) under the supervision of a mentor or journeyworker along with **Related Instruction** (144 hours/year minimum).
- Registered Apprenticeship Programs are registered with and follow the policies and regulations of the **U.S. Dept. of Labor Office of Apprenticeships (OA)** or an approved **State Apprenticeship Agency (SAA)**.



Photo: Solar Energy International

# Where Should My Company Start?

1. Consider Apprenticeable Occupation(s)
2. Consider Types of Registered Apprenticeship Programs
3. Seek Assistance and Resources
  - Apprenticeships in Clean Energy (ACE) Network
  - SEIA IRA Apprenticeship Task Force
  - Office of Apprenticeship or State Apprenticeship Agency Contact
  - Apprenticeship.gov Partner Find Tool



# Common Apprenticeship Occupations for Construction Trades Work in Solar

Example Solar Job Title	U.S. Dept. of Labor Approved Apprenticeable Occupations	Duration
Electrician	<a href="#">Electrician</a>	4 - 5 years
Solar Laborer / Assembler / Installer	<a href="#">Construction Craft Laborer</a>	2 years
Equipment Operator	<a href="#">Operating Engineer</a>	2 – 4 years
Carpenter/Variety of titles	<a href="#">Carpenter</a>	4 years

This table above includes examples and is not an exclusive list. For full list of over 1,000 occupations Dept. of Labor recognizes as apprenticeable visit: <https://www.apprenticeship.gov/apprenticeship-occupations>



# Registered Apprenticeship Program Types

## Joint Labor–Management Sponsored



Participate in an apprenticeship program in collaboration with a labor union through a Project Labor Agreement, becoming a union signatory contractor, or other arrangement.

## Group–Sponsored (Non-Joint)



Participate in a group apprenticeship program sponsored by an organization like an educational institution, trade association, community-based organization, or employer consortium.

## Employer–Sponsored



Create, register, and administer an apprenticeship program in-house as an employer-sponsored program.



# Technical Assistance & Experience Sharing

## No-Cost Technical Assistance

- **Apprenticeships in Clean Energy (ACE) Network** – U.S. Dept. of Labor funded partnership to promote apprenticeships through no cost technical assistance & financial support to companies and organizations looking to develop, register, join, or expand Registered Apprenticeship Programs. Registered Apprenticeship Programs. Led by Interstate Renewable Energy Council (IREC), with SEIA as a key partner.
- To receive assistance (SEIA membership not required), click on **Sign Up** at:  
<https://irecusa.org/programs/ace-network/>
- [apprenticeships@irecusa.org](mailto:apprenticeships@irecusa.org)



## SEIA IRA Apprenticeship Task Force

- SEIA Member only group (Watt level & above) seeking to identify areas of collaboration around registered apprenticeships and develop tools/resources to assist members in securing tax credits and center quality, safe apprentice experiences.
- Meetings include speakers and peer experience sharing opportunities.
- Email [workforce@seia.org](mailto:workforce@seia.org) for questions or to join this group.

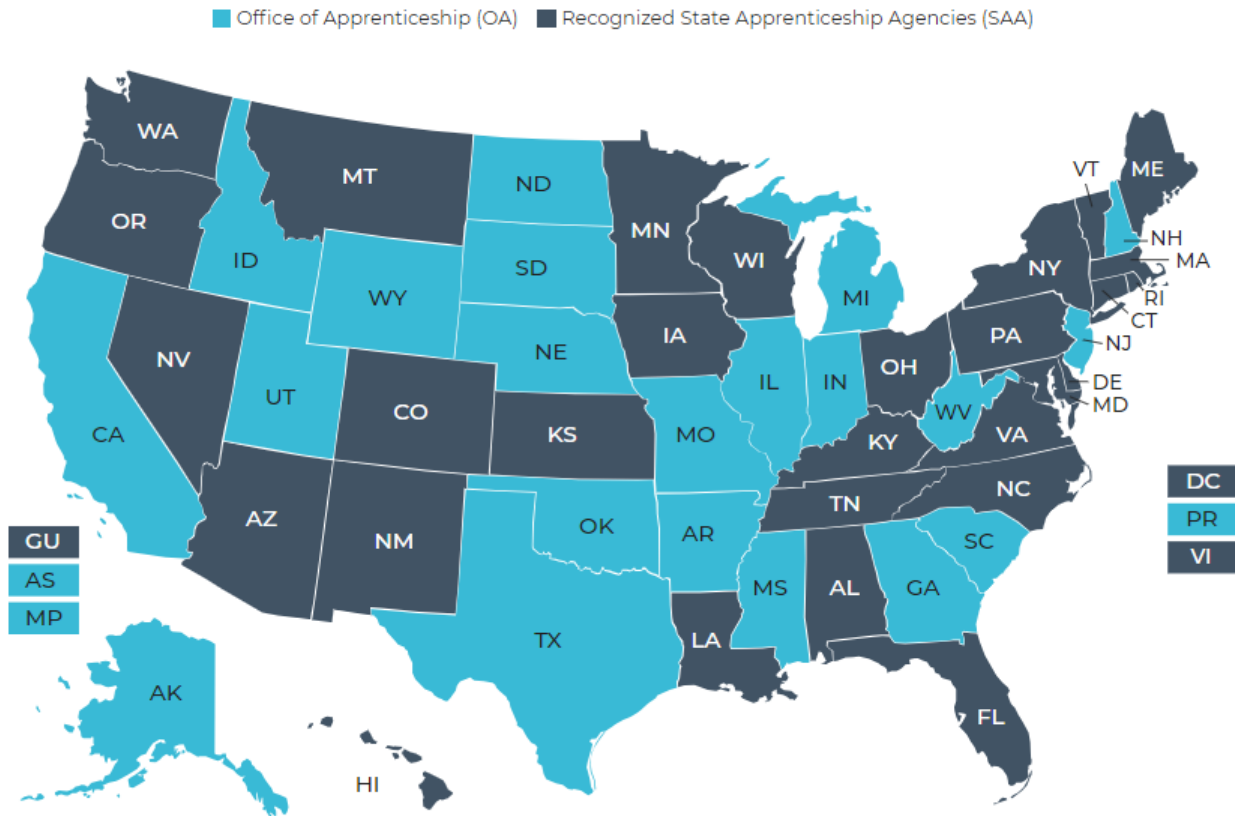


# U.S. Apprenticeship System Map & Support

For support from the U.S. Apprenticeship System, go to:

<https://www.apprenticeship.gov/about-us/apprenticeship-system>

and click on the state of your project on the map to find the DOL Office of Apprenticeship (OA) contact for that state or the State Apprenticeship Agency(SAA) contact.



# Finding Apprenticeship Programs

To find existing joint labor-management or non-joint group apprenticeship programs that may be available in the project area:

1. As recommended in PWA Final Rules, best way is to **contact the DOL Office of Apprenticeship reps for your state or your State Apprenticeship Agency**. Contacts are available here: <https://www.apprenticeship.gov/about-us/apprenticeship-system>
2. If your company is working across several states in a region, it may be helpful to reach out to the DOL, Office of Apprenticeship, Regional Office: <https://www.apprenticeship.gov/about-us/regional-offices>



Photo: SOLV Energy

# Apprenticeship Partner Finder Tool

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Some joint and non-joint apprenticeship group program sponsors (but **NOT** all) are listed on the DOL's Apprenticeship site: [Partner Finder | Apprenticeship.gov](#). Follow these steps to use the tool:

1. Enter the location and the occupation, and check the box that says, "**I want to join an existing program**". Then click on the green "**Search**" button.
2. Then refine your results to programs that your company could potentially join by going the "**Filter By**" section of the page, and click on "**Registration Type**" and then click on "**Group**" (this will include joint labor-management and non-joint group programs) and then "**Search**" button again.
3. You should then see a list of relevant Group programs (both joint labor-management and non-joint) for that occupation.

**Note:** *If you use this tool, it is still important to contact the state's Office of Apprenticeship rep or State Apprenticeship Agency rep as this Partner Finder tool does not list all programs and is not always accurate with occupations.*

# Apprenticeship Partner Finder Tool - Screenshot

[HOME](#) / [PARTNER FINDER](#) / [LISTINGS](#)

SEARCH BY NEED

SEARCH BY NAME

SEARCH SPONSORS


Location (City, State, or Zip)

GA

\*AND/OR

☒ Search by Occupation ☐ Search by Industry

Construction Craft Laborer

Refine Your Search (Optional) 


Registered Apprenticeship Program (RAP)


- ☒ I want to join an existing program
- ☐ I need an educator to join my program
- ☐ I want to create my own program
- ☐ I want help funding my program
- ☐ I want help recruiting talent
- ☐ I want to learn from sponsors

SEARCH



MY SAVED PARTNERS

Browse partners you have saved previously. To remove partners from your saved list, click, or tap, the heart icon on the partner page. Please note that your saved partners are only saved temporarily. 

Filter by: [Location](#) [Organization Type](#) [Program Type](#) [Audience](#) [Service Area](#) [Instruction Method](#) [Registration Type](#)  [Partner Type](#) [Reset](#)

GROUP





# Apprenticeship Partner Finder Tool – Ex. Results Screenshot

- Results of the search on the previous slide includes these four programs. You may click on each program to learn more about it.
- It is still recommended to reach out to the state's DOL Office of Apprenticeship contact or State Apprenticeship Agency contact as this Partner Finder tool does not list all programs and is not always completely accurate with occupations.

1 - 4 of 4 Results for Construction Craft Laborer near GA

## LABORERS' SOUTHEAST TRAINING FUND

STONE MOUNTAIN, GA

RAP Sponsor

## BRICKLAYERS JATC Local 8

ATLANTA, GA

RAP Sponsor

## United Youth of America, Inc.

ATLANTA, GA

RAP Sponsor

## TCSG-Southern Regional Technical College

THOMASVILLE, GA

RAP Sponsor



# Best Practice in Recordkeeping & Compliance

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# Preliminary Oversight

1. Taxpayer ensure that they have the commitment of all contractors, subcontractors, tier contractors to adhere to the Prevailing Wage & Apprenticeship (PWA) requirements:
  - Incorporate PWA requirements into subcontract agreements.
  - Ensure that sub/tier contractors are also aware of the PWA requirements.
1. Obtain/Provide the following information:
  - a. Obtain executed contract dates between taxpayer and prime contractors.
  - b. Provide contractors subject to PWA requirements their applicable wage rates.
  - c. Verify each contractors' intended classification is a Department of Labor (DOL) recognized craft/classification, if not, submit request for additional classification.



# Sample of Additional Craft Request

Submit an Additional Craft Request to [IRAprevailingwage@dol.gov](mailto:IRAprevailingwage@dol.gov)

This request should include: project name, facility type, location, the proposed classification, the job description & tools used, and the wage rates the contractor is requesting to pay.

The DOL will respond confirming the additional classifications requested.

**Project Name: Geothermal Project**

**Location: Beaver County, Utah**

**Construction Type: Heavy**

Provided Job Title	Provided Job Description	Tools Utilized	Suggested DOL Recognized Classification(s)	Proposed Basic Hourly Rate	Proposed Fringe Rate
Operator Driller	Personnel responsible for operating heavy equipment and performing essential drilling activities including assembling directional tools, confirming directions while drilling or surveying, running inhole and supporting the wireline engineers with operations etc. Responsible for installing, removing, testing of all wellhead/tree equipment and operate heavy equipment. Includes assembling the water handling system and maintaining it. Perform repairs, turning over fluid to avoid freezing, opening lines for operational teams, etc. operating heavy equipment, including their casing handling systems, and optimizing the casing running process, transporting fishing tools, making up tools on the workstring, and leading fishing operations. Includes teams of personnel responsible for inspecting the pipe and providing a report to GC, either on location or in their yards	drilling machine	Request Additional Craft	\$18.25	NA



# Approval Letter Received

[REDACTED]  
Labor Compliance Analyst  
Go-Alliant  
8185 Camino Santa Fe, No. 2  
San Diego, California 92121

RE: Decision on request to add additional classification to a wage determination under the prevailing wage provisions of the Inflation Reduction Act

Project Name or No: [REDACTED]  
Wage Decision No: UT20230017 mod 0  
Location: [REDACTED] Beaver, Utah

Dear [REDACTED]:

This is in response to your request proposing the addition of a classification and wage rate to the above wage decision in accordance with 29 CFR 5.5(a)(1)(ii) and Public Law 117-169, 136 Stat. 1818, commonly known as the Inflation Reduction Act of 2022 (IRA).

You have proposed the following additional classifications and wage rates are:

<u>CLASSIFICATION</u>	<u>BASIC HOURLY RATE</u>	<u>FRINGE BENEFITS</u>
Operator Driller	\$18.25	\$0

Your requested classifications and wage rates above are approved and have been added to wage determination number UT20230017 mod 0. The additional classifications and wage rates shall be





# Retain Records

**It is Best Practice to acquire and retain documentation that prove satisfaction of PWA requirements. For example:**

Prevailing Wage Documentation:

- Payroll Records
- Proof of Payment
- Fringe Benefit Statements
- Voluntary Employee Deduction Authorizations

Apprenticeship Documentation:

- Apprentice Certification from a Registered Apprentice Program
- Apprentice Rates-Dispatch Paperwork
- Master Labor Agreement (MLA)/Collective Bargaining Agreement (CBA) to verify proper supervision/ratio requirement
- Request for Apprentice documentation and Valid Denial



# Document Good Faith Effort

1. A Request for Apprentice(s) must be submitted at least 45 days prior to start of work (initial request), 14 days (subsequent requests) AND have specific details in order to be deemed as a valid request.
1. It is best practice to keep proof (email receipt, fax transmittals, etc.) that apprentices have been properly requested from a registered apprenticeship program as well as proof of a response or lack thereof from the registered apprenticeship program.
1. Apprentices must be formally registered with a recognized State Apprenticeship Agency (SAA) or federal Department of Labor Office of Apprenticeship (OA) in order to be considered qualified. Please provide a state or federal certification for any apprentices used on-site. Refer to the definition of “qualified apprentice” stated above.
  - Map of SAAs and OAs: <https://www.apprenticeship.gov/about-us/apprenticeship-system>





Try Pitch

# Sample of Request for Apprentice

## Date

Greetings,

Our company is interested in requesting apprentices from your registered apprenticeship program. This request for qualified apprentices is made with an intent to employ qualified apprentices in the occupation for which they are being trained and in accordance with the requirements and standards of the registered apprenticeship program and to employ qualified apprentices consistent with the expected number of hours and dates of employment specified in the request.

Please find details below as it pertains to this request:

**Project Name:**

**Project Location/Address:**

**Requesting Company Name:**

**Requesting Company Phone Contact:**

**Requesting Company Email Contact:**

Below are details on the type of work the qualified apprentices will be required to perform:

**Occupation of Apprentice:**

**Scope of Work:**

**Location of the Work to be Performed:**

**Number of Apprentice(s) Needed:**

**Expected # of Labor Hours to be Performed by Each Apprentice:**

**xx** hours per week

**Dates of Employment for Each Apprentice:** Start Date: **xx/xx/20xx**

End Date: **xx/xx/20xx**

**Time to Report:**





# Q & A