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Internal Revenue Service
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Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: "Guidance on Clean Electricity Low-Income Communities Bonus Credit Amount Program," 89 Fed. Reg. 71,193 (Sept. 3, 2024)

The Solar Energy Industries Association ("SEIA") is the national trade association of the U.S. solar and storage industry. Our members promote socially responsible development of distributed rooftop and ground-mount solar energy and storage projects. We are committed to working with federal agencies, environmental and conservation organizations, Tribal governments, state agencies, and other stakeholders to achieve this goal. As the national trade association for the U.S. solar and storage industry, which employs more than 260,000 Americans, SEIA represents over 1,200 organizations that manufacture, install, and support the development of solar and storage projects, including projects supported by allocated tax credits under Section 48(e).

Advanced Energy United ("United") is a national business association representing the full spectrum of advanced and clean energy companies and technologies, including wind, solar, energy efficiency, electric vehicles, transmission, and more. United works to educate, engage, and advocate for policies nationwide that allow our member companies to compete to repower our economy with 100% clean energy. The businesses we represent are creating millions of new jobs across the country, lowering consumer costs, and providing the full range of clean, efficient, and reliable energy solutions.

On behalf of our member companies, SEIA and United appreciate the opportunity to provide these comments on the Internal Revenue Service's ("IRS") "Guidance on Clean Electricity Low-Income Communities Bonus Credit Amount Program," 89 Fed. Reg. 71,193 (Sept. 3, 2024) ("Proposed Rule").

I. Introduction

SEIA and United are committed to building a strong solar and storage industry to speed the country's energy transition and address the climate crisis. We firmly believe that the clean energy

transition must be based on principles of equity and opportunity. These values are infused throughout our organization and ones we are actively working to advance within our industry.

Implementation of the tax credit provisions of the Inflation Reduction Act ("IRA"), which will reduce the impacts of the power sector on historically overburdened communities, is a top priority for the solar and storage industry. Solar energy is clean, abundant, and the United States has some of the richest solar resources in the world. Deploying more solar energy with firm storage assets reduces carbon emissions and other harmful pollutants, which have disproportionately impacted low- and moderate-income ("LMI") neighborhoods and communities of color. It is an energy solution that provides clean, reliable electricity, increases consumer choice, and helps consumers and business owners save money on their utility bills. Critically, solar energy helps our nation address the threats of climate change, which imposes billions of dollars of additional costs on LMI communities every year.

Climate change poses unique risks to LMI communities, many of which have already borne disproportionate burdens related to the emissions-generating activity that causes climate change. This is because LMI communities suffer disproportionate impacts of the natural disasters and extreme heat caused by climate change. As has been well-documented, this is due to inadequate housing, infrastructure,[1] inability to contend with potential losses of income,[2] and fewer resources to address health impacts[3] due to extreme weather, among other factors. By spurring more investment in localized clean energy deployment, the IRA is creating good-paying jobs and local business opportunities while reducing the emissions that contribute to extreme weather.

The solar and storage industry is deeply committed to helping our nation enhance domestic energy security and meet our renewable energy targets in a just and equitable manner. In order to modernize the grid, solar energy must account for at least 30 percent of U.S. generation by the end of this decade and 40-50 percent by 2035. That means roughly quadrupling our current pace of installations by 2030, and the IRA is a critical tool to help meet the nation's growing energy demands in communities most in need of new and cleaner economic opportunities.

Given the significant role in power sector decarbonization that solar energy and storage will have, we believe that every tool in the toolbox – including the IRA – should be used to spur its development. Promoting clean energy investment activities that will abate the GHG emissions that cause climate change represents a rare opportunity to simultaneously advance at least three urgent priorities: advancing environmental justice, improving public health, and creating jobs.

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[1] *See, e.g.,* Eleanor Kruse and Richard V. Reeves, "Hurricanes Hit the Poor the Hardest," THE BROOKINGS INSTITUTION (Sept. 18, 2017), *available at* https://www.brookings.edu/blog/social-mobility-memos/2017/09/18/hurricanes-hit-the-poor-the-hardest/; U.S. GLOBAL RESEARCH PROGRAM, Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States, *available at* https://nca2018.globalchange.gov/; Bev Wilson, "Urban Heat Management and the Legacy of Redlining," 86 J. OF THE AMER. PLANNING ASSOC. 443, (2020), *available at* https://www.tandfonline.com/doi/full/10.1080/.

[2] Patrick Sisson, "In Many Cities, Climate Change Will Flood Affordable Housing," BLOOMBERG (Dec. 1, 2020), *available at* https://www.bloomberg.com/news/articles/2020-12-01/how-climate-change-is-targeting-affordable-housing.

[3] *See* Eleanor Kruse and Richard V. Reeves, *supra* n.1.

II. Executive Summary

SEIA and United appreciate the efforts of Treasury and IRS to implement the low-income communities bonus credit program ("LIC Program" or "Program"), including this Proposed Rule. Final rules should clarify that energy storage technology will remain eligible for low-income communities bonus credits, as they are under current IRS regulations. The current minimum bill discount rate of 20% for Category 4 projects should be retained. Treasury and IRS should adopt an "application safe harbor" for Category 1 projects that would not disqualify projects placed in service from receiving an award, provided they have submitted an application. Finally, SEIA and United recommend a number of other Program improvements that could be adopted in a final rule or other forthcoming guidance.

III. Energy Storage Technology

The preamble to the Proposed Rule states that "eligible property does not include any qualified investment with respect to energy storage technology."[4] In other words, the basis of qualified property for purposes of the 10 or 20 percent bonus credit only includes generation equipment (such as PV solar modules) and qualified interconnection property, but not storage equipment such as residential battery storage systems. Similarly, this limitation excludes the battery portion of hybrid solar and storage systems installed by a taxpayer. This is a complete departure from the current low-income communities bonus credit regulations under Section 48(e).[5] Thus, while battery storage systems installed with solar systems qualified for bonus credits in 2023 and 2024, they will no longer qualify in 2025 and beyond. Such a result is not compelled by the text of the IRA and contravenes numerous Congressional and administration policy decisions to increase the deployment of energy storage and improve reliability and resiliency in the communities most vulnerable to climate change.

As SEIA has previously commented in response to IRS's proposed rules under Sections 45Y and 48E,[6] we believe a reading of Section 48E that bifurcates the qualified facility from the energy storage technology for purposes of the investment tax credit is erroneous, contrary to Congressional intent and policy, and should be revised in final regulations under Section 48E. The "single, best meaning"[7] of Section 48E(h) is one that is consistent with an interpretation of the rest of Section 48E, and as SEIA has previously written, that encompasses an elective option to treat hybrid solar and storage systems as a single qualified investment.

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[4] 89 Fed. Reg. 71,197.
[5] 26 C.F.R. § 1.48(e)-1(c)(1)-(2).
[6] *See* https://downloads.regulations.gov/IRS-2024-0026-1689/attachment_1.pdf, at 2-5. SEIA reincorporates these comments as if fully restated herein.
[7] *Loper Bright Enterprises v. Raimondo*, 114 S.Ct. 2244, 2266 (2024).

There is no statutory bar to an interpretation of "qualified facility" that includes a hybrid solar and storage system, provided that the system meets the requirements of Section 48E(b)(3). Critically, a hybrid solar and storage system "is used for the generation of electricity,"[8] even if some of the electricity generated is stored in a battery. The only explicit exclusions from the statutory definition of "qualified facility" appear in Section 48E(b)(3)(C) and pertain only to facilities that claim another enumerated energy tax credit. If Congress intended to exclude hybrid solar and storage systems from the scope of "applicable facility[ies]" eligible for a Section 48E(h) bonus credit, it could have done so either as an enumerated exclusion from the definition of "qualified facility" or from the definition of "applicable facility." Congress did neither.

Accordingly, SEIA and United request that the proposed definition of "eligible property," proposed 26 C.F.R. § 1.48E(h)-1(c), be amended to include the following second sentence: "In the case of a qualified investment with respect to an applicable facility that includes both a qualified facility and energy storage technology, such energy storage technology may be treated as qualified property."[9]

Without changes, there is little question that the Proposed Rules as currently drafted will directly conflict with many key policy issues at the heart of the LIC Program. They will increase the costs of energy storage technology relative to generation equipment, which will reduce adoption of storage options for low-income consumers. This in turn will reduce the reliability and resiliency of projects receiving allocation awards, reducing their value to consumers during severe weather and other power service interruptions. It will also limit flexibility for grid operators who increasingly turn to firm battery storage assets for dispatchability during periods of high demand. That will increase demand for dirtier sources of backup generation such as diesel generators and natural gas peaking facilities, directly contravening the Program's interests in reducing health impacts on vulnerable populations. Last, the Proposed Rules will reduce demand for batteries and related equipment, which are increasingly being produced domestically thanks to other tax credit provisions of the IRA, chilling additional investment and hiring in critical manufacturing sectors.

For these reasons, SEIA and United respectfully urge Treasury and IRS to modify the proposed definition of "eligible property" so as not to categorically exclude energy storage technology commonly incorporated into hybrid systems. This modification should be made consistent with other requested changes to proposed rules under Section 48E, including, if necessary, the

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[8] 26 U.S.C. § 48E(b)(3)(A)(i).

[9] IRS's recently proposed rules under Section 30C provide additional support for a broader reading of "qualified property" that includes energy storage technology as an "integral part" of a qualified facility. In proposed 26 C.F.R. § 1.30C-1(b)(15), an "integral part" of refueling or recharging property contemplates property that "is specifically designed to be integrated with the refueling property or recharging property with which it is associated." *See* "Section 30C Alternative Fuel Vehicle Refueling Property Credit," 89 Fed. Reg. 76,759, at 76,770-71 (Sept. 19, 2024). This definitional prong does not appear in the parallel definition of "integral part" under the proposed Section 48E regulations. Incorporating such a concept into Section 48E or 48E(h) regulations may provide a useful approach to energy storage technology; *i.e.*, that such energy storage technology may be treated as an "integral part" of a qualified facility provided that it is "specifically designed" to be integrated with a rooftop solar array.

qualification that such energy storage technology be "specifically designed" to be integrated with a qualified facility for purposes of the Section 48E(h) bonus credit.[10]

IV. Bill Credit Discount Rate for Category 4 Facilities

Proposed § 1.48E(h)-1(f)(1)(iii) would increase the minimum bill discount rate for Qualifying Households served by a Category 4 facility from 20 percent to 30 percent. SEIA and United understand and support Treasury's efforts to ensure that more financial benefits from applicable facilities flow through to their primary intended beneficiaries. However, we are concerned that without additional criteria, a blanket increase in the minimum bill discount rate could chill investment in Category 4 facilities and hinder uptake of Section 48E(h) bonus credits, reducing overall deployment and bill savings. In particular, we are concerned that the potential treatment of sales of renewable energy credits ("RECs") could badly damage the economics of community solar projects and unintentionally render the bonus credit unworkable for such projects. SEIA and United respectfully recommend that the 20 percent minimum discount rate be retained in final rules.

The low-income communities bonus credit has only been available to taxpayers for less than a year.[11] For the 2023 and 2024 capacity award years, non-Additional Selection Criteria capacity has been substantially oversubscribed in Categories 1 and 4. Taxpayers that have received awards have reported additional challenges in claiming the bonus credits (as described further below), including but not limited to inability to timely notice transfers of ownership, inconsistent technical assistance, and technical and recordkeeping-related delays from utilities, among others. As a result, to date, very little of the 1.8 gigawatts of annual capacity in 2023 and 2024 has been constructed. Until required annual savings reports from projects claiming the low-income communities bonus credit begin to be submitted to Treasury, every project's ability to achieve the 20% bill discount rate is unsubstantiated. Any change to the minimum bill discount rate should be based on and informed by these reports on verified household savings.

While the Departments of Energy ("DOE") and Treasury should be commended for establishing a complex bonus credit program following passage of the IRA, the Program is not yet mature, at least compared to many state-level LMI incentive programs, and additional hurdles should be anticipated as the Program transitions to a more broadly inclusive technology-neutral construct under Section 48E. In other words, less than a year into the LIC Program and during a time of significant transition, the time is simply not ripe to raise discount rates for Category 4 facilities by 50 percent.

SEIA and United are also concerned that the treatment of RECs in proposed § 1.48E(h)-1(f)(2) could substantially undermine the economic viability of many community solar projects. The proposed

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[10] At a minimum, final rules should clarify that a qualified facility that is connected to energy storage technology will not be considered ineligible for an allocated bonus credit. For example, a final rule could clarify that the costs of the energy storage technology associated with the qualified facility are excluded from basis for purposes of the low-income communities bonus credit only.

[11] The application window for 2023 allocation awards opened on October 19, 2023.

rule creates a new category for calculation of financial benefits for a Category 4 facility's bill credit discount rate that does not appear in § 1.48(e)-1(f), proposed § 1.48E(h)-1(f)(1)(iii), that would require not less than 30 percent of the value of a sale of renewable energy credits generated by the facility be provided as a bill credit. In many states, the value derived from RECs is an essential component of the overall project revenue stream. This revenue is crucial for community solar providers to offer any bill discount to subscribers; without it, many projects would not be able to provide savings at all. The income generated from RECs is typically intertwined with other project revenue elements to enable the project to provide bill savings to subscribers. Redirecting a significant portion of REC value solely to additional bill savings could reduce or eliminate the very discounts the proposal aims to enhance.

It is important to consider the complexity and variability of REC structures across different states. Many states have developed complex REC values designed to address specific state-level energy goals and requirements. For instance, in New Jersey, RECs serve to offset additional state-imposed costs associated with siting projects on rooftops. In Illinois, specific labor mandates and complex consumer protection structures, in addition to certain subscriber requirements, have given rise to a specific REC calculation tool to ensure financeable project development. These state-designed structures reflect the unique regulatory environments and policy objectives of each state. An across-the-board federal "REC haircut" would disrupt carefully priced state REC programs, impeding the growth and success of state-level community solar initiatives.

REC values and terms also vary significantly across states, further complicating the impact of a blanket federal requirement. For example, in California, RECs are automatically retired on behalf of the customer, meaning that the project developer does not retain the REC value. In other states, such as Delaware, developers generally sell RECs into a fluctuating PJM spot market. The valuation and commercial use of RECs are far from uniform from state to state, making a single standardized requirement for community challenging to implement in the context of a federal tax credit.

The proposed change would also come at a time of substantial transition for the community solar segment of the industry. Only 14 states currently have regulatory regimes that permit community solar business models, and disruption of a major nascent federal incentive could stymie adoption of community solar regulatory regimes in the majority of states. Moreover, new business models are emerging in the market that enshrine RECs as a fundamental part of the capital stack for a project. These financing models are new and need time to mature before regulatory changes are made to federal tax treatment of RECs.[12] It is imperative Treasury maintain the current bill discount rate for now to allow new financial products and innovative project finance models to come to market.

Finally, implementing proposed § 1.48E(h)-1(f)(1)(iii) would pose significant administrability and enforcement challenges. Developers would need to disclose confidential cost information, which raises concerns about the protection of proprietary data and places a substantial administrative

[12] While RECs are typically defined as being connected to the positive environmental attributes of clean energy, some markets have signaled new REC-like products can be transacted on. There is an opportunity for additional financial products, like an "impact credit" (which quantifies economic investments and household savings in low-income and disadvantaged communities), to gain momentum.

burden on both developers and the IRS. The process of analyzing and verifying the allocation of each individual REC sale to bill savings would require intricate cost analysis and ongoing monitoring. This would demand considerable resources from IRS to ensure compliance, making this requirement not only administratively complex but also potentially costly to enforce. Such a process could create delays and uncertainties, ultimately hindering the development and deployment of community solar projects. In light of these considerations, we strongly urge the Treasury Department and IRS to remove the proposed requirement to allocate 30 percent of a project's REC value or any other separate values to additional bill savings.

Because taxpayers are still assessing the financial outcomes from the 2023 and 2024 Programs, we urge Treasury to maintain the 20% bill credit discount rate through Program Years 2025 and 2026 at a minimum, and to revisit a potential increase at a later date. Doing so would increase regulatory certainty and allow the Program to fully mature so that stakeholders can thoughtfully evaluate next steps with more meaningful data and insight.

V. Relax the Requirement to Place in Service After Allocation Award By Creating an Application Safe Harbor for Category 1 Facilities

The proposed rule retains the existing Section 48(e) rule's limitation that facilities placed in service prior to being awarded an allocation of Capacity Limitation are not eligible to receive an allocation. As has been borne out through industry experience with Category 1 awards since 2023, this requirement remains incompatible with single-family residential rooftop installation timelines, which are typically measured in weeks, while final awards have taken months. Retaining this inflexible rule hinders deployment in the communities the Program aims to reach.

Single-family residential rooftop facilities are typically installed in a matter of weeks and move rapidly from first contact with a potential customer to contract execution, installation, and permission to operate from the electric utility. Requiring such rooftop facilities to wait months for the results of an application and allocation award process make it difficult or impossible for such facilities to participate in the Program. Whether to install a renewable energy system is a complex decision for homeowners. Creating additional burdens on low-income homeowners through unnecessary delays to placing systems in service (and thus delays in taking advantage of the benefits of clean, lower-cost energy) is unfair. Notably, these delays are more acutely experienced by low-income homeowners, not more affluent homeowners. SEIA is aware of potentially thousands of Category 1 facilities receiving an award in 2023 or 2024 that have fallen out of eligibility due to months-long delays in processing.

For Category 1 facilities, Treasury and IRS should create a safe harbor to allow single-family residential rooftop facilities to be placed in service in the normal course of business once an application is submitted but prior to allocation award. If a taxpayer has greater certainty that they will be able to apply the allocation award to a facility prior to entering into a contract for a facility in a low-income community, the taxpayer will be better positioned to share clear benefits of the

allocation award with the consumer. The possibility of an incentive increases the expected return on an investment, even if the incentive is not guaranteed. This application safe harbor would thus increase the deployment of eligible projects and provide accompanying benefits to homeowners faster.

While SEIA and United understand and are sympathetic to the overall Program's rationale behind not allowing projects that are already in service from applying for the bonus credit, that rationale does not hold for Category 1 projects that were not in service at the time of application but are placed in service in the period between application and award. Category 1 projects are already required to have a contract with the host customer, final system design, and cannot be placed in service. This necessarily limits applications to projects that are already under development and therefore will be at risk of being placed in service through the normal course of business.

The current rule is essentially a proxy for a project's "need" for a geography-based bonus credit. But it is a poor one: whether and when a Category 1 project is placed in service is primarily a function of timing and luck that are outside of the applicant's control, not the project's "need." Whether a project is placed in service one day before or after it receives an allocation of capacity has no bearing on the need for a project, and therefore should not be a reason for mass disqualification of projects SEIA has observed in 2023 and 2024.

As noted above, thousands of projects that apply and receive a capacity allocation ultimately are disqualified due to this mismatch in timing. These are projects that have had considerable time and resources invested in them by taxpayers, DOE, and Treasury. All of these are wasted when the project, through the normal course of business, ends up being placed in service prior to an award. This also results in a significant amount of unused Program capacity that is then either tied up for up to four years, or that must be proactively withdrawn by the applicant. This is highly inefficient, and in the first two Program years, has only served to disqualify bona fide projects without any accompanying benefit or protection.

The safe harbor approach we recommend strikes an appropriate balance between ensuring that the program is not providing unnecessary support to already completed projects while increasing program efficiency and certainty for taxpayers. The alternative is to ensure that Category 1 applications are all reviewed and approved in a matter of weeks instead of months, a task which may not be feasible due to the high volume of applications received.

VI. Category 3 Eligibility

SEIA and United respectfully request two additions and one clarification regarding Category 3 qualified low-income residential building projects. A final rule or forthcoming Revenue Procedure should expand the scope of covered housing programs to include the State of California's "Project Homekey" program, as well as certain housing projects funded through the Community Development Block Grant ("CDBG") program. 26 U.S.C. § 48E(h)(2)(B)(i) authorizes Treasury to

treat facilities as part of a qualified low-income residential building project if the facility is installed on a residential rental building participating in an enumerated program "or such other affordable housing program as the Secretary may provide." Project Homekey provides housing for formerly unhoused individuals, and CDBG funds low-income housing projects where evidenced by an appropriate regulatory agreement clearly stating that funds are being used for that purpose. Both programs advance the policy goals of reducing burdens on vulnerable and low-income households and should be included as covered housing programs in a final rule.

In addition, while Section 42 Low-Income Housing Credits are already included in the definition of covered housing programs, a final rule should clarify that a valid reservation letter from the appropriate state agency for an allocation of such credit constitutes sufficient evidence of participation. This clarification will ease construction and financing timeline issues taxpayers have encountered under the current 48(e) program and better align with the existing Section 42 process.

VII. Update the Implementation and Selection Process

Sections VII-IX of these comments generally address broader LIC Program design issues than those contained in the Proposed Rule. While all of the issues raised in these Sections could be codified as regulations, they are offered here to inform all formal elements of the Program, including final rules under Section 48E(h), forthcoming Revenue Procedures for the 2025 Capacity Limitation award year, and other implementation matters managed by DOE, Treasury, and IRS.

A. Designate IRS as the Sole Program Administrator

Treasury and IRS propose that: "[t]o assist with the collections of information, the DOE will provide certain administration services for the Program. Among other things, DOE will establish a website portal to review the applications for eligibility criteria and will provide recommendations to the IRS regarding the selection of applications for an allocation of Capacity Limitation."[13] Having two administrators for a program with ambiguous roles can lead—and has led—to unnecessary uncertainty, complexity, and reduced transparency during program implementation, as well as confusion by taxpayers.

Instead of splitting responsibilities across two very large federal agencies, the IRS should be the sole implementer of the LIC Program. While SEIA and United support the efforts of both DOE and Treasury, this streamlining would create a more transparent and efficient implementation process. Treasury has the same jurisdictional authority and ability as DOE to administer the LIC Program. Moreover, the IRS is better positioned to lead the implementation of the LIC Program. The IRS has decades of experience in implementing the Low Income Housing Tax Credit, to use one example, which has many similarities to the LIC Program. Moreover, the IRS is the sole administrator for every other energy tax credit added or expanded in the IRA besides the Section 48C Qualifying

[13] 89 Fed. Reg. 71,205.

Advanced Energy Project Credit, which was established over a decade before the IRA.[14] The IRS's primary mission is to "help the large majority of compliant taxpayers with the tax law, while ensuring that the minority who are unwilling to comply pay their fair share,"[15] better ensuring allocated LIC credits reach their intended audiences in a fashion that promotes the highest degree of Program auditability and integrity. This in turn will help ensure longer-term viability, and potential expansion, of the Program. Additionally, designating Treasury as the sole program administrator does not prevent Treasury from consulting with DOE when needed, as it does on other provisions of the IRA. Last, the IRA provided the IRS with supplemental funding including for program implementation, which the IRS could use to expand its role as the sole implementor of the LIC Program.[16]

B. Align Application Window with the Calendar Year

Treasury and IRS propose "to provide a process that includes one or more initial application windows in which applications received by a certain time and date would be evaluated together, followed by a rolling application process if Capacity Limitation is not fully allocated after an initial application window closes."[17] Treasury and IRS further propose "[i]f the Annual Capacity Limitation for any calendar year exceeds the aggregate amount of Annual Capacity Limitation allocated for a calendar year under paragraph (g)(1) of this section, the Annual Capacity Limitation for the succeeding calendar year will be increased by the amount of such excess."[18]

In 2024, the LIC Program application portal did not open until May 28.[19] After initial application windows are set, applicants remain unaware of the timeline for the next steps regarding their submitted applications. This has led to uncertainty and delays for taxpayers as they are less able to plan and set timelines for their projects hoping to utilize the LIC Program. This is particularly problematic for single-family residential rooftop installation timelines, which are typically measured in weeks instead of months. Furthermore, if initial application windows open later in the calendar year, that increases the amount of time any unused capacity from the previous year sits unclaimed.

Instead, Treasury and the IRS should set a regular cadence of initial application windows as close to the beginning of each calendar year as possible. They should make clear at that time which capacity limitations will be increased for the year, and by how much. Treasury and IRS should also annually provide a timeline of expected next steps for applicants. This should include expeditious review

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[14] The 48C credit was established by the American Recovery and Reinvestment Act of 2009.
[15] *See* https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority.
[16] Such resources could be directed, for example, to the creation of a low-income communities bonus credit project liaison office, which would provide technical expertise and service directly to taxpayers.
[17] 89 Fed. Reg. 71,202.
[18] *Id*. at 71,200.
[19] *See* https://www.irs.gov/newsroom/department-of-treasury-irs-and-department-of-energy-announce-opening-of-application-portal-for-2024-program-year-of-the-low-income-communities-bonus-credit-program.

timelines for Category 1 projects. These solutions will help applicants pursue the LIC Program with greater ease, better ensuring the credits reach their intended beneficiaries.

C. Reallocate Capacity Across the Four Facility Categories According to the Additional Selection Criteria

Treasury and IRS have specified how the annual Capacity Limitation would be allocated across the four facility categories. If one or more of the four facility categories are undersubscribed, Treasury and IRS should first prioritize reallocations to facility categories with more than 25 percent of facilities meeting the Additional Selection Criteria. By awarding allocations from undersubscribed facility categories, Treasury and IRS would meet their goal of awarding allocations to facilities meeting the Additional Selection Criteria while avoiding prejudicing facilities that do not meet the criteria.

VIII. Update the Application Portal

Treasury and IRS propose to "require applicants to submit certain information, documentation, and attestations when applying for an allocation."[20] Furthermore, Section 48E(h)(4)(A) states: "the Secretary shall provide procedures to allow for an efficient allocation process, including, when determined appropriate, consideration of multiple projects in a single application if such projects will be placed in service by a single taxpayer." SEIA and United respectfully request that Treasury and IRS implement the following improvements to enhance the efficiency of the application process.

A. Allow for Bulk Application Submissions

Currently, there is no option to submit applications as a bulk upload in the application portal. Larger owners of residential renewable energy facilities can have tens of thousands of potentially eligible projects. Submitting each application individually is time-consuming and inefficient. Compounding matters, each application involves multiple steps, requiring the applicant to toggle to subsequent screens to complete a single application.

Treasury and IRS should design an application intake mechanism to allow for bulk application submissions, including attestations. For example, applicants could submit a spreadsheet of multiple projects at once, along with the required attestations. Some existing state programs allow for such bulk application submissions and could serve as a model for this application process. If Treasury and IRS choose not to create a bulk upload mechanism, then they should confine the application

[20] 89 Fed. Reg. 71,203.

process to a single page, so that an applicant can input all necessary data and documents without advancing through multiple prompts on different pages.

B. Permit Bulk Downloads of Approval Letters

Currently, applicants can only download one approval letter at a time, making internal recordkeeping difficult for applicants with multiple projects. Additionally, approval letters do not include the applicant's project name, the project's physical address, or the project's capacity information. The letters instead include the Treasury-appointed control number, which it also uses as the file name. Applicants with large submissions must then manually download and edit file names for thousands of applications.

Treasury and IRS should permit applicants to bulk download approval letters for all applications submitted by a company and its related tax equity partnerships. Those approval letters should include the applicant's project name/ID, the project's physical address, and the project's capacity information. The bulk download feature should also allow flexibility in file name conventions so that applicants can assign their own project IDs/names to the file name to avoid manual editing.

C. Allow Related Entities to Manage and Edit Applications

The application portal currently has a single applicant profile for each entity, preventing a company from submitting and reviewing applications on behalf of any related partners. While a residential renewable energy company services residential facilities, those facilities are often owned by partnerships. To enhance application process collaboration and efficiency, Treasury and IRS should permit a company to submit and monitor applications on behalf of related partnership entities, including allowing more than one email address-based login to access such applications.

Additionally, applicants who are signed out of the application portal can remain logged into their Login.gov account, creating lock-out errors in the portal which delay application submissions. Treasury and IRS should coordinate with IT protocols for Login.gov to avoid these issues.

D. Permit Edits to Data Fields and Submitted Applications

The data fields currently available on the "My Applications" page are limited. This makes it difficult for applicants to monitor approval dates across an entire pool of applications. An applicant must manually download the approval letter for each application and then identify the approval dates. In some cases, an applicant must download thousands of approval letters.

Treasury and IRS should permit applicants to edit the list of data fields. An applicant should be able to see and sort by the following data fields: approval date, project name, the system ID used by the

applicant (as opposed to the control ID assigned by Treasury), and other relevant data in the viewer that shows all project submissions for an applicant. Applicants could then quickly compare approval date data with their own placed-in-service date data to verify which projects remain eligible for the bonus. If a "sort" function is not possible, applicants should be able to export the data to a spreadsheet file to sort themselves.

Additionally, once an application is submitted to the application portal, there is currently no mechanism to further edit the application. If an applicant wants to make any edit to their application, however minor, they must rescind the entire application and make a new submission, even if Treasury or DOE has not reviewed the application yet. Treasury and DOE should permit applicants to make changes to their applications, both the data entry and file uploads, if Treasury or DOE have not yet reviewed the application.

IX. Update Application Materials and Clarify Application Requirements

A. Clarify Certain Documentation and Attestation Requirements

Treasury and IRS "expect that the specific application information, documentation, and attestation requirements provided in procedural guidance applicable to the Program published in the Internal Revenue Bulletin will be substantially similar to requirements applicable the section 48(e) Low-Income Communities Bonus Program provided in Revenue Procedure 2024-19, 2024-16 I.R.B. 899.[21] Treasury and IRS further propose "[f]or any facility that receives an allocation of Capacity Limitation, the owner of the facility must report to the DOE the date the eligible property was placed in service."[22]

Treasury should accept more documents to show that a project was completed and placed in service, including a permission to operate letter, commissioning report, or an activation email to customers. The contractor should then be able to select what documentation they provide from a list of options to confirm the placed in service date.

In the case that an interconnection service agreement is amended after the submission of the initial application, Treasury and IRS should clarify whether such an amendment must be submitted to Treasury.

Additionally, Treasury and IRS should provide template attestation forms for each of the four facility categories. This functionality is particularly important for residential renewable energy facility owners submitting multiple projects.

[21] *Id*. at 71,203.
[22] *Id*.

X. Conclusion

SEIA and United appreciate the efforts by Treasury and IRS to implement the LIC Program under Section 48E. As described above, this effort represents an incredible opportunity to minimize the harmful effects of fossil fuel combustion, climate change, and extreme weather on historically underserved communities, including rural communities, communities of color, and Native communities, while boosting both local and national economies. We look forward to continuing to work with you on implementation.

Thank you for the opportunity to provide comments. If you have any questions, please contact Ben Norris at (202) 556-2909 or bnorris@seia.org, or Alec Ward at award@seia.org.

Sincerely,

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