

Agenda

- · Introduction and disclaimers
- Overview of IRA Prevailing Wage and Registered Apprenticeship Requirements
- Prevailing Wage and Registered Apprenticeship Resources
- Compliance
- Conclusion



Ground Rules: Disclaimers

- This deck provides an overview of certain Inflation Reduction Act tax provisions for general informational purposes only and is not itself tax guidance.
- The content in this presentation is based on final regulations and other tax information on IRS.gov.
- This deck relies on simplifications and generalizations to convey high-level points about Inflation Reduction Act tax provisions. Please refer to guidance issued by the IRS for detailed information on the rules associated with Inflation Reduction Act tax provisions.



The Significance of IRA Prevailing Wage and Apprenticeship Requirements

"President Biden's Inflation Reduction Act has driven an investment boom while ensuring that workers building the clean energy economy benefit from good pay and new opportunities to get ahead. Treasury's final rules ensure we have skilled workers ready to take advantage of the jobs being created by these historic investments."

Janet L. Yellen, Secretary of the Treasury



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Overview of IRA Prevailing Wage and Apprenticeship Requirements

The Inflation Reduction Act provides increased tax benefits for a range of clean energy projects to taxpayers that ensure Davis-Bacon Act prevailing wages are paid to workers on such projects and that registered apprentices are utilized.

- ➤ The Inflation Reduction Act amended several clean energy tax incentives in which taxpayers can increase the base amounts of the credits by 5x if certain prevailing wage and registered apprenticeship (PWA) requirements are met.
- ➤ This provision has been put into effect for qualifying facilities, projects, property, or equipment for which construction began **on or after January 29, 2023.**
- Taxpayers must keep records sufficient to establish, among other things, the amount of any credit or deduction claimed and to establish compliance with both the prevailing wage and apprenticeship requirements.



IRA Prevailing Wage Requirements

What is prevailing wage?

- The combination of the basic hourly wage rate and any bona fide fringe benefits.
- Paid to workers in a specific labor classification
- For the type of construction being performed
- In the geographic area where construction is performed
- As determined by the Secretary of Labor
- To meet the prevailing wage requirements, any laborers and mechanics employed by the taxpayer (or any contractor or subcontractor) must be paid wages at rates not less than the prevailing rates based on the geographic area for the type of construction and the type of work performed.
- Local prevailing wage is determined in accordance with Department of Labor standards under the Davis-Bacon Act. More information is available at SAM.gov.



IRA Apprenticeship Requirements

What is a registered apprenticeship?

- An industry-driven, high-quality career pathway where employers can develop and prepare their future workforce, and individuals can obtain paid work experience with a mentor, receive progressive wage increases, classroom instruction, and a portable, nationally-recognized credential.
- Taxpayers (and their contractors and subcontractors) must employ qualified apprentices for work on qualified facilities during the construction phase, prior to the facility being placed in service. The rules generally require a certain number of apprentice hours based on the percentage of overall hours on a project.
- Apprenticeship Rules:
 - Qualified apprentices must be from registered apprenticeship programs.
 - Minimum percentage of total labor hours by qualified apprentices (12.5% for projects beginning construction in 2023, 15% beginning construction in 2024).
 - Apprentice-to-journey worker ratios of DOL or the applicable State apprenticeship agency.
 - Each taxpayer, contractor, or subcontractor who employs 4 or more individuals to perform work on a
 qualified facility must employ one or more apprentices across the full range of work.



Statutory Exceptions to IRA Prevailing Wage and Apprenticeship Requirements

Taxpayers can generally receive the increased credit amount without being subject to PWA requirements if:

- ➤ Construction of a facility began **before January 29, 2023**; OR
- ➤ For the clean energy production and investment tax credits (45, 45Y, 48, and 48E), the facility has a maximum net output of less than 1 megawatt alternating current
 - 1 megawatt exception also applies to thermal energy under 48 and energy storage technology under 48E.



Penalties and Cure

If the prevailing wage or apprenticeship requirements were not met during any period of the construction, alteration, or repair of a facility, taxpayers may still be eligible to get the PWA increased credit amount by making correction and penalty payments.

Prevailing Wage Correction and Penalty Payments

- Taxpayers who employed laborers or mechanics at wages below prevailing rates must pay the difference between what they paid and the prevailing wage to the laborers and mechanics, plus interest.
- They must also pay a penalty to the IRS of \$5,000 per worker who was paid wages below the prevailing rates.
- If the IRS determines that the failure is due to intentional disregard of the requirements, taxpayers must pay the
 workers three times the difference between what they paid and the prevailing wage, and they must pay an
 enhanced penalty to the IRS of \$10,000 per worker who was paid wages below the prevailing rates.

Apprenticeships Cure

- To cure a failure to meet the apprenticeship requirements, a taxpayer must pay a penalty of \$50 multiplied by the
 total labor hours for which the apprenticeship requirements were not met. Penalties apply for failure to satisfy the
 labor hours requirement and the participation requirement.
- The amount of the penalty with respect to the apprenticeship requirements is also increased to \$500 per labor hour if the IRS determines the failure was due to intentional disregard.



IRA Prevailing Wage and Registered Apprenticeship Increased Credit

From Day 1 - Prevailing Wage

Pay laborers and mechanics employed in construction, alteration, or repair no less than applicable prevailing wage rates

- · Wage Determinations
- · Labor classifications

From Day 1 - Apprenticeships

Employ apprentices from registered apprenticeship programs for a certain number of labor hours

- Submit written request for registered apprentices no later than 45 days before the qualified apprentices are requested to start work
- · Calculate labor hours and meet participation requirements
- · Apprentice-to-journeyworker ratio requirements apply daily

Ongoing Compliance

Meet recordkeeping requirements

- Must maintain and preserve payroll records related to the employment of laborers, mechanics, an apprentices (including records of any contractor/subcontractor)
- Other examples that would demonstrate compliance include identifying information or laborers, mechanics, and apprentices, labor classifications and the applicable wage determination, hourly rate(s) of wages paid for each applicable labor classification, agreements with registered apprenticeship programs, etc.

Contemporaneous monitoring through tax filing date

Address any needed penalties and cures

 Taxpayers who fail to meet the prevailing wage and apprenticeship requirements may still be able to claim the increased tax incentive amounts by making certain correction and penalty payments

Tax return filed

Receive credit

Increase the base amounts of the credit by 5 times in the calendar year that the facility being claimed was placed in service



Tax Benefits Eligible for IRA Prevailing Wage and Apprenticeship Increase

Tax Provision

Description

Energy Generation & Carbon Capture	Production Tax Credit for Electricity from Renewables (§ 45)	For production of electricity from qualified renewable sources, including wind, biomass, geothermal, solar, landfill gas, and trash, hydropower, marine and hydrokinetic energy. Credit Amount: 0.3 cents/kilowatt (kW) (1/2 rate for electricity produced from open-loop biomass, landfill gas, and trash); 1.5 cents/kW if PWA requirements are met. 1,2,3,7
	Clean Electricity Production Tax Credit (§ 45Y, 2025 onwards)	Technology-neutral tax credit for production of clean electricity for facilities that are placed in service after 2024. Credit Amount: 0.3 cents/kilowatt (kW); 1.5 cents/kW if PWA requirements are met. 1.2,3,6,7
	Investment Tax Credit for Energy Property (§ 48)	For investment in renewable energy projects including fuel cell, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat and power system property. Credit Amount: 6% of qualified investment (basis); 30% if PWA requirements are met. 1,4,5,6,8
	Clean Electricity Investment Tax Credit (§ 48E, 2025 onwards)	Technology-neutral tax credit for investment in facilities that generate clean electricity and qualified energy storage technologies that are placed in service after 2024. Credit Amount: 6% of qualified investment (basis); 30% if PWA requirements are met. 1,4,5,6
Energy	Credit for Carbon Oxide Sequestration (§ 45Q)	Credit for carbon dioxide sequestration for carbon oxide captured and either permanently disposed of, used as a tertiary injectant for enhanced oil or natural gas recovery, or utilized. Credit Amount: \$12-36 per metric ton depending on the specified end-use; \$60-\$180 per metric ton if PWA requirements are met. 1,7
	Zero-Emission Nuclear Power Production Credit (§ 45U)	For electricity from existing nuclear power facilities in operation prior to August 16, 2022. Credit Amount (for 2023): 0.3 cents/kWh (reduced rate that goes to zero for facilities whose gross receipts exceed a certain amount); 1.5 cent/kWh if prevailing wage requirements are met.1,7 Apprenticeship requirements do not apply.
Manu- facturing	Qualifying Advanced Energy Project Credit (§ 48C) Application required	For investments in advanced energy projects. A total of \$10 billion will be allocated, not less than \$4 billion of which will be allocated to projects in certain energy communities. Credit Amount: 6% of taxpayer's qualified investment; 30% if PWA requirements are met. 1



Fuels

Tax Benefits Eligible for IRA Prevailing Wage and Apprenticeship Increase

Alternative Fuel Vehicle Refueling Property Credit (§ 30C) For alternative fuel vehicle refueling and charging property located in low-income and non-urban areas. Qualified alternative fuels include electricity, ethanol, natural gas, liquefied petroleum gas, hydrogen, and biodiesel.

Credit Amount: 6% of basis for businesses; 30% if PWA requirements are met. 1

Clean Hydrogen									
Production	Tax	Credit							
(8 45V)									

For qualified clean hydrogen produced at a qualified clean hydrogen production facility.

Credit Amount: \$0.60/kg of qualified clean hydrogen multiplied by the applicable percentage (20% to 100%, depending on lifecycle greenhouse gas emissions rate); amount increases if PWA requirements are met. ^{1,7}

Clean Fuel Production Credit

Technology-neutral tax credit for domestic production of clean transportation fuels, including sustainable aviation fuels, beginning in 2025.

(§ 45Z, 2025 onwards)

Credit Amount: For transportation fuel which is not sustainable aviation fuel, \$0.20/gallon (\$1.00/gallon if PWA requirements are met) multiplied by the "emissions factor"; for sustainable aviation fuel, \$0.35/gallon (\$1.75/gallon if PWA requirements are met) multiplied by the "emissions factor". ^{1,7}

New Energy Efficient Homes Credit (§ 45L)

Provides a tax credit for construction and sale or lease of qualified new energy efficient homes (including certain multifamily homes).

Credit Amount: For a building eligible to participate in the Energy Star Multifamily New Construction (MFNC) Program (qualifying building), the base amount is \$500 per dwelling unit for a unit meeting certain MFNC national and regional program requirements and \$1,000 per dwelling unit for a unit certified as a zero energy ready home (ZERH) under the applicable ZERH program. If prevailing wage requirements are met for a qualifying building, \$2,500 per unit for a unit meeting certain MFNC national and regional program requirements and \$5,000 per unit for a unit certified as a ZERH under the applicable ZERH program. Apprenticeship requirements do not apply.¹

Energy Efficient Commercial Buildings Deduction (§ 179D)

Provides a tax deduction for installing certain energy efficient property in a commercial building, as part of its interior lighting systems; heating, cooling, ventilation, and hot water systems; or building envelope.

Deduction Amount: \$0.50-\$1 per square foot, depending on increase in efficiency (a minimum of 25% energy and power cost savings must be achieved in order to qualify). Caps based on deduction taken in preceding years and capped at \$1 per square foot. \$2.50-\$5 per square foot if PWA requirements are met.

An alternative deduction is available for building retrofit projects that are expected to reduce a building's energy use intensity by 25% or more. 1,7,9



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Where to find Prevailing Wage Rates

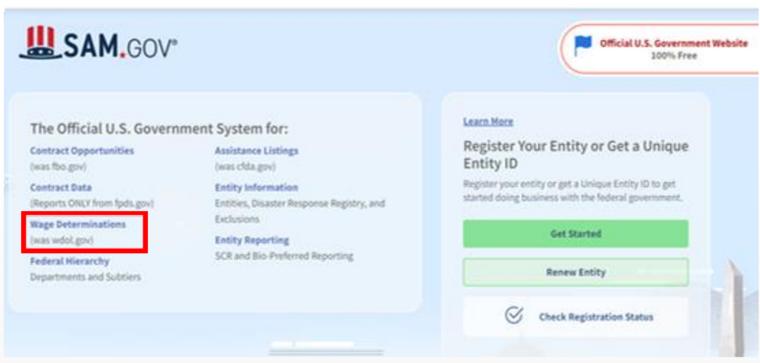
Prevailing wage rates are found in Wage Determinations (WD).

- WDs are issued by the U.S. Department of Labor's Wage and Hour Division
- Published on www.sam.gov

There are four types of construction for which wage determinations are published:

- Heavy
- Highway
- Building
- Residential

How to Find a Wage Determination



- Go to sam.gov
- Select Wage Determinations
- Select Public Building or Works
- Select the applicable State, County, and Construction Type
- Select the applicable Wage Determination on www.sam.gov

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U.S. Department of Labor | Wage and Hour Division

Assistance Finding a Wage Determination

For more information on finding the applicable Wage Determination, please consult WHD's "Guide to Finding Your Wage Determination on sam.gov" at https://www.dol.gov/agencies/whd/IRA

U.S. Department of Labor | Wage and Hour Division 17

Utilizing Appropriate Labor Classifications

Wage determinations include labor classifications based generally on trades or occupations.

A taxpayer should identify the labor classifications needed to perform work on the facility and compare them to the labor classifications on the wage determination.

An additional labor classification should be requested only when the work needed for a project is *not* performed by a labor classification *already* listed on the applicable wage determination.

If a wage determination does not include a needed labor classification, an additional classification may be requested at IRAprevailingwage@dol.gov

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Requests for Additional Labor Classifications for IRA

Where the work needed for a project is *not* performed by a labor classification already listed on the applicable wage determination, an additional labor classification can be requested.

A request for prevailing wage rates for additional classifications should be made:

- 1. Where there is a contract for construction: any time after a contract for the construction, alteration, or repair of a facility has been executed between the taxpayer and a contractor **OR** no more than 90 days before the taxpayer expects to execute the primary contract for the construction, alteration, or repair of the facility.
- 2. In the absence of a contract: no more than 90 days before construction, alteration, or repair of the facility starts.



Requests for Supplemental Wage Determinations for IRA

In limited circumstances, there may not be a general wage determination for a certain geographic area or for the specified type of construction applicable to the construction, alteration or repair of a qualified facility.

In such circumstances, the taxpayer, contractor, or subcontractor may request a supplemental wage determination applicable to the construction, alteration, or repair of that facility by emailing IRAprevailingwage@dol.gov

- Where there is a contract for construction: no more than 90 days before the taxpayer (or the taxpayer's designee, assignee, or agent) expects to execute the contract for the construction, alteration, or repair of the facility
- 2. In the absence of a contract: requests no more than 90 days before construction, alteration, or repair of the facility starts.

Wage and Hour Division Support & Assistance

WHD can provide technical and compliance assistance

Additional Resources:

- DOL IRA landing page: https://www.dol.gov/general/inflation-reduction-act-tax-credit
- WHD IRA landing page: https://www.dol.gov/agencies/whd/IRA
- Wage Determinations available at <u>www.sam.gov</u>
- Request IRA prevailing wage information: IRAprevailingwage@dol.gov
- Clean Energy Powered by the IRA

U.S. Department of Labor | Wage and Hour Division

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Apprenticeship & IRA
Resources for business
taxpayers and
stakeholders



REGISTERED APPRENTICESHIP HAS A PROVEN TRACK RECORD OF PRODUCING STRONG RESULTS FOR EMPLOYERS AND WORKERS

IMPRESSIVE INDIVIDUAL – EMPLOYEE – PUBLIC RETURN ON INVESTMENT



44.3%

Employer return on investment in Registered Apprenticeship

93%

Of those that complete their apprenticeship retain employment after completion.

\$28

In benefits for every \$1 invested by the government

\$77K

Completers earn per year on average

\$300K+

Apprentices' lifetime earning average



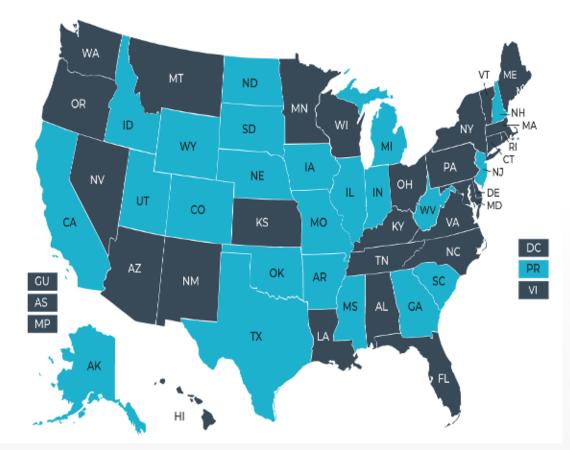
THE REGISTERED APPRENTICESHIP SYSTEM

Office of Apprenticeship (OA) Recognized State Apprenticeship Agencies (SAA)

Technical Assistance

Both OA and SAA staff have a significant role to play in supporting these organizations with technical assistance on joining, developing, or starting Registered Apprenticeship programs in the clean and renewable energy sector.

OA and SAA staff are uniquely positioned as key resources for assisting new employers to join existing group programs or in starting their own programs, assisting in providing referrals to existing programs, and answering questions about Registered Apprenticeship.



Pathways to Registered Apprenticeship Programs

Existing Registered Apprenticeship Program

A company can join an existing program

New RA Program

- A company, group of companies, labor organization, NPO, etc. can sponsor a new program
- DOL OA facilitates free services though intermediaries who can assist in establishing and having a program certified, and connect companies with other partners such as educators.
- Someone must administer the program including activity reporting requirements

For more information, go to DOL's Apprenticeship Homepage

Registered Apprenticeship Representatives

- There are Registered Apprenticeship representatives serving in every state across the country to:
 - Provide technical assistance and support to Registered Apprenticeship Program sponsors and administrators
 - Assist organizations interested in developing and maintaining new programs
 - Partner with State Apprenticeship Agencies to assist organizations in getting their existing program approved (registered) by DOL;
 - Answer questions about the Registered Apprenticeship model;
 - Connect businesses to a network of partners including training providers;
 - Provide training in how to use recruitment tools available to Registered Programs and insight on recruitment sources;
 - Work with program sponsors to ensure that Registered Apprenticeship opportunities are inclusive and made available to diverse populations;
 - Compile and share marketing resources and tools;
 - Advise partners on available funding sources to support Registered Apprenticeship, including awarding and providing oversight for Registered Apprenticeship investments across the country.

Registered Apprenticeship Resources

Partner Finder Tool

Our Partner Finder Tool can connect you with the right partners to help you learn more about existing programs and how to design, develop, or enhance
your program.

Occupation Finder Tool

Our Occupation Finder Tool can help you find occupations approved for use in a Registered Apprenticeship Program along with descriptions, alternative titles, and related occupations.

Standards Builder Tool

Our Standards Builder Tool can help you quickly customize and register your program in a single centralized place.

Express Interest

Learn more about Registered Apprenticeships and how you can get started as an employer or a career seeker through our Express Interest portal

State Offices

State Apprenticeship offices are located across the nation to provide technical assistance and support to program sponsors, answer questions about the
apprenticeship model, guide partners on each phase of developing a program, connect business to training providers, advise partners on available funding
sources to support apprenticeships, and register eligible programs.

https://www.apprenticeship.gov/inflation-reduction-act-apprenticeship-resources-

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Compliance Overview

- ➤ The **statutory structure** of the PWA requirements provides a very **strong incentive to comply**, as 80 percent of the value of the credit depends on compliance with these requirements.
- Treasury is already seeing seeing credit buyers and insurers in the transferability and tax equity markets conducting thorough due diligence of these requirements, reflecting the significant amounts at stake and a belief in the effectiveness of the IRS audit process.
- ➤ The IRS, which has a long history of effective tax enforcement, will ramp up its efforts and dedicate resources to ensure compliance and enforce the final rules.
- Treasury and the IRS will also be involved in an ongoing collaboration with the Department of Labor (DOL) to ensure that we are leveraging the expertise of both agencies for IRS enforcement.
- The final rules build on the statute with incentives for taxpayers to undertake additional activities that will support compliance, including providing adequate notice to workers and including flow-down provisions in their contracts.



Compliance: PWA vs. Davis-Bacon Act (DBA)

Areas of alignment:

- Workers can report suspected violations. In the tax system, anyone can refer information of suspected violations of tax law to the IRS by using the Form 3949-A. However, due to taxpayer privacy laws, the IRS cannot communicate with external parties about the results of a complaint or the status of an investigation.
- PWA requirements and DBA use same prevailing wage determinations, key definitions, and worker classifications.
- Rules apply to all contractors and subcontractors.
- Taxpayers can reduce risk of intentional disregard penalties for PWA by adopting some additional DBA practices, such as providing notice to workers of prevailing wages (e.g., notice at the site of work) and including flow-down provisions in contracts with contractors and subcontractors.



Compliance: Form 3949-A

- If you suspect that PWA increased tax credits are being claimed for a project that isn't meeting these requirements, you can report the suspected tax violation to the IRS using Form 3949-A, Information Referral www.irs.gov/formspubs/about-form-3949-a
- To complete the form, visit: Form 3949-A. Indicate "PWA" in the "Comments" field, and provide as much specific information as possible, including the address of the job site at which the construction took place

Form 3949-A (October 2020)		Information Referral						
CAUTION: READ THE I	NSTRUCTIONS BE	FORE COMPLET	TING THIS FORM	law violations by a person. M. There may be other			ecific to yo	ur complaint.
Section A - Informat				teporting				
	porting an Individual			a business only. Compl	ete 1 and 2	if you are reporting	g a busines	s and its owner.
	NO GO HOL NIGHTY						- B-11	
a. Name of individual			b. Social Security Number/TIN			c. Date of birth		
f. Street address				e. City			f. State	g. ZIP code
h. Occupation				i. Ernall address				
Marital status (check o	ne, if known)				k. Name of	spouse		
Married Si	ngle 🔲 Head o	f Household	Divorced	Separated				
Za. Name of business				b. Employer Tax ID	number (Ell	N)	c. Telepho	ne number
f. Street address				e. City			f. State	g. ZIP code
h. Email address				i. Website				
Section B - Describe								
False Exemption False Deductions Multiple Filings Organized Crime		Unsubstantialed Earned Income Public/Political (False/Altered D	Credit Corruption	Unreported Income Failure to Willshold Tax Narcotco Income Failure to File Return Kickback Failure to Pay Tax Wagering/Gambling Other (describe in 5)				etum ixx
another sheet, If need								
Additional information a. Are book/records a b. Do you consider th c. Banks, Financial In	vailable? (if availabl e taxpayer dangerou	e, do not send no se		e blank. cl you, if they are neede	d for an inv	tstigation.)		Yes No
Name				Name				
Street address	Street address							
⊇ty		State	ZIP code	City			State	ZIP code
Section C - Informat	ion About Yours	elf	•	•				
We never share this info			you are reporting	1.)				
				ve need to contact you fi	or any addit	ional information.		
a. Your name				b. Telephone numb		. Best time to call		
I. Street address				e. City			f. State	g. ZIP code
Print and send your co	mpleted form to: In	ternal Revenue PO Box 380 Ogden, UT 84	1					
Catalog Number 47872E			www.ir	rs.gov		Fo	m 3949	-A (Rev. 10-2)



Compliance: PWA vs. Davis-Bacon Act (DBA)

Areas of difference:

- <u>Timing:</u> IRS cannot make determinations of eligibility for credit until a return claiming a credit is filed; IRS then conducts audits and requests records as appropriate. If a taxpayer ultimately claims the increased PWA credit, the IRS considers all relevant information on any applicable audit.
- Primary compliance mechanisms:
 - DBA requirements are enforced by the DOL under its regulations and requires the submission of weekly certified payrolls and DOL will investigate compliance at the time the project is being constructed.
 - Tax enforcement is primarily through audits after filing. In an audit, the IRS can access employer records, conduct site visits and interviews, and request any additional relevant information as needed.



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Closing

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- IRS general IRA landing page: IRS.gov/CleanEnergy
- IRS IRA PWA page: IRS.gov/PWA
- IRS PWA Overview: IRS.gov/pub/irs-pdf/p5855.pdf
- IRS Fact Sheet: IRS.gov/pub/irs-pdf/p5983.pdf
- IRS Form 3949-A: IRS.gov/pub/irs-pdf/f3949a.pdf
- DOL IRA PWA page: DOL.gov/agencies/whd/IRA
- DOL IRA apprenticeship page: Apprenticeship.gov/inflation-reduction-actapprenticeship-resources
- Wage Determinations: SAM.gov



Thank You

