



Inflation Reduction Act (“IRA”) Overview and Planning Process

August 16, 2024

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The background of the slide is a photograph of a classroom. On the left side, there is a solid red vertical overlay. The rest of the image shows a group of students in a classroom setting, with several of them raising their hands, suggesting an interactive or active learning environment. The image is slightly faded and serves as a backdrop for the text.

Presented by

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Inflation Reduction Act

Referred to as “Act” or IRA/IRA 2022



Aug. 16, 2022
signed into law



728
pages



\$738 billion
in funding



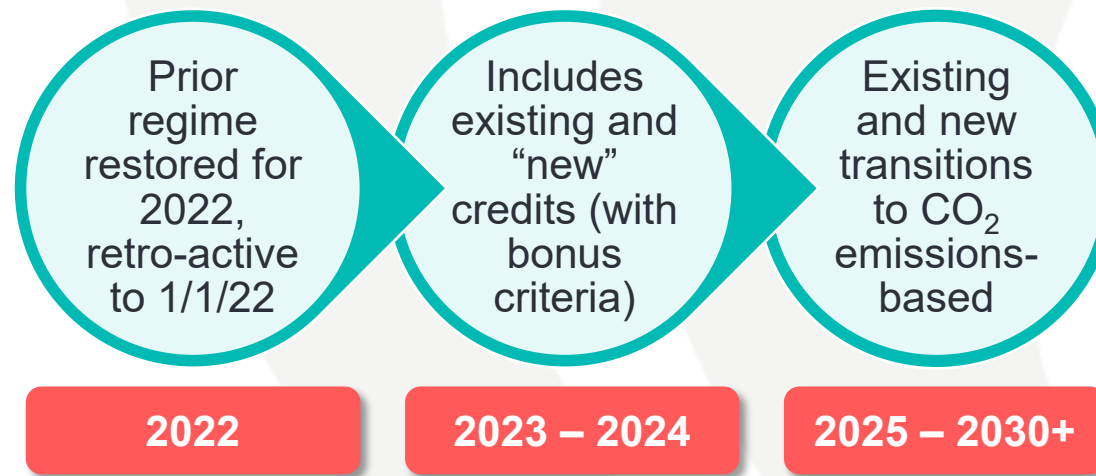
\$499 billion
in new spending
and tax cuts

Per the Congressional Budget Office – September 7, 2022

Inflation Reduction Act

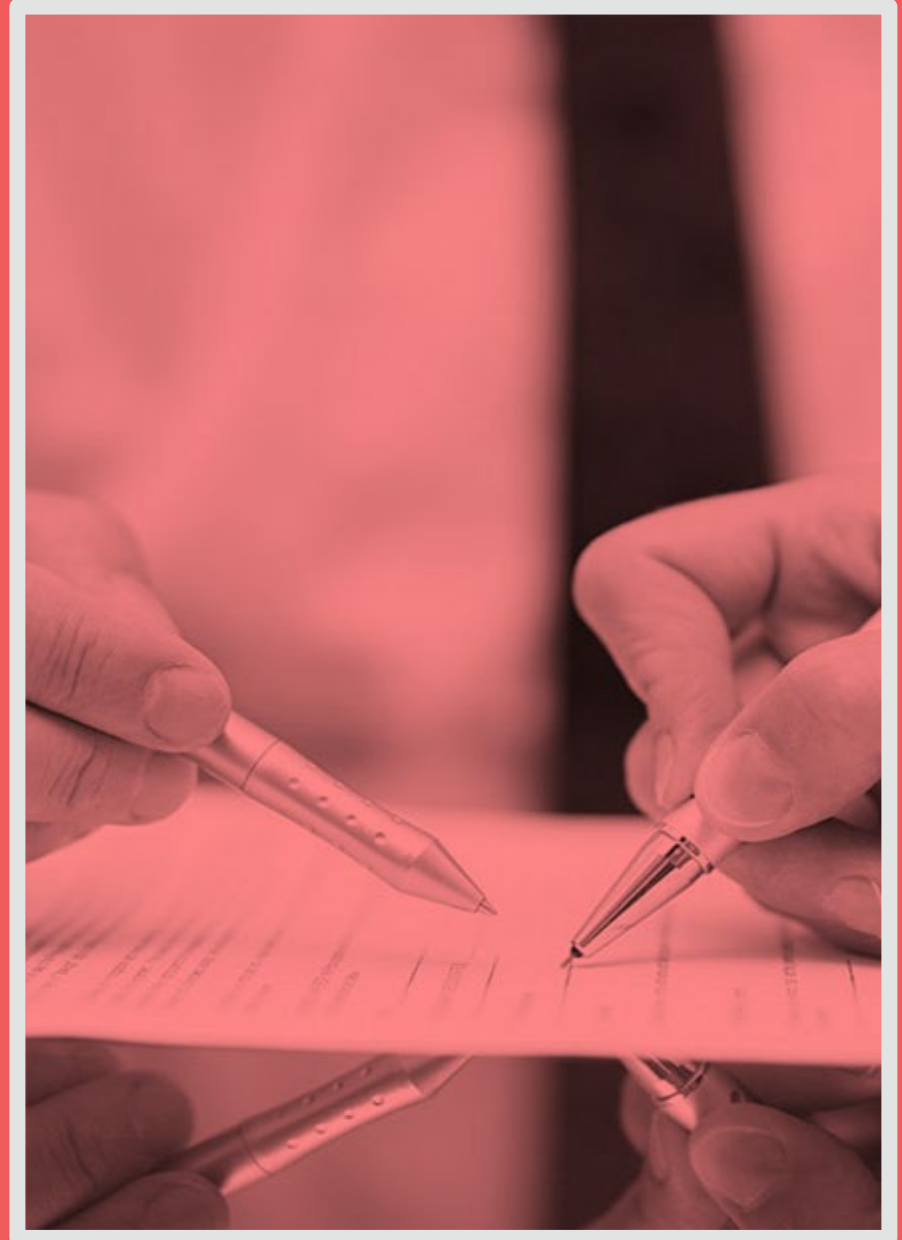
- Over 70 separate tax credits in the IRA
- Many of these credits and incentives are entitlements, meaning if your project meets specific criteria, you are entitled to the tax credit
- Most credits are effectively good through 2032
 - The longest U.S. “energy policy” timeframe ever

Timeline summary:



“Direct pay” tax credits

- For the first time, a segment of public sector energy project owners will have access to “direct pay” tax credits
- Public sector owners can receive a “direct payment” as a cash payment from the IRS.



IRA tax credit project funding illustration



Solar

Project cost: \$1,000,000
30% tax credit 30%

Dollar amount \$300,000



Geothermal

Project cost: \$5,000,000
30% tax credit 30%

Dollar amount \$1,500,000



Thermal Energy Storage Tanks

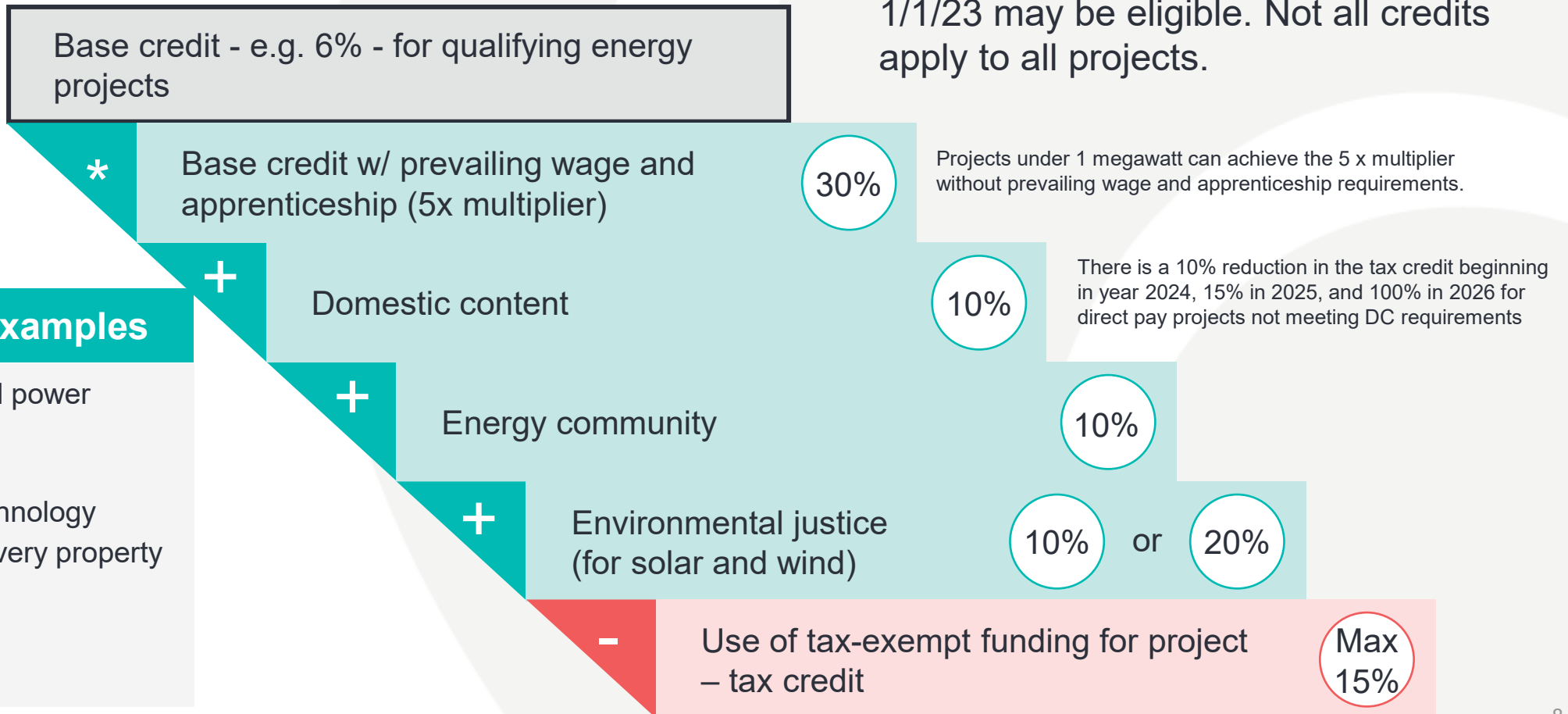
Project cost: \$1,600,000
30% tax credit 30%

Dollar amount \$480,000

Direct pay tax credits

“Base credit” + “Bonus criteria” is the overriding theme of the new credit regime

- Projects that completed construction after 1/1/23 may be eligible. Not all credits apply to all projects.



Eligible project examples

- Combined heat and power property
- Solar and wind
- Energy storage technology
- Waste energy recovery property
- Geothermal energy
- Biogas property

Domestic Content Reductions

Projects that begin construction in 2023 and do not meet domestic content are eligible for **100%** direct payment.

Projects that begin construction in 2024 and do not meet domestic content are eligible for **90%** direct payment.

Projects that begin construction in 2025 and do not meet domestic content are eligible for **85%** direct payment.

Projects that begin construction in 2026 and do not meet domestic content are eligible for **0%** direct payment.

30% prevailing wage and apprenticeship not meeting domestic content illustration is below.

	Calendar Year 2023	Calendar Year 2024	Calendar Year 2025	Calendar Year 2026
Eligible project cost	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
30% prevailing wage and apprenticeship Times domestic content reduction percentage	30% 100%	30% 90%	30% 85%	30% 0%
Tax credit percentage	<u>30.00%</u>	<u>27.00%</u>	<u>25.50%</u>	<u>0.00%</u>
Tax credit dollar amount	<u><u>\$1,500,000</u></u>	<u><u>\$1,350,000</u></u>	<u><u>\$1,275,000</u></u>	<u><u>\$0</u></u>

***Note:** projects under 1 megawatt are not subject to the above limitations.



1 Project or Multiple Projects Test

If two of the below conditions are met, then it is one combined project.

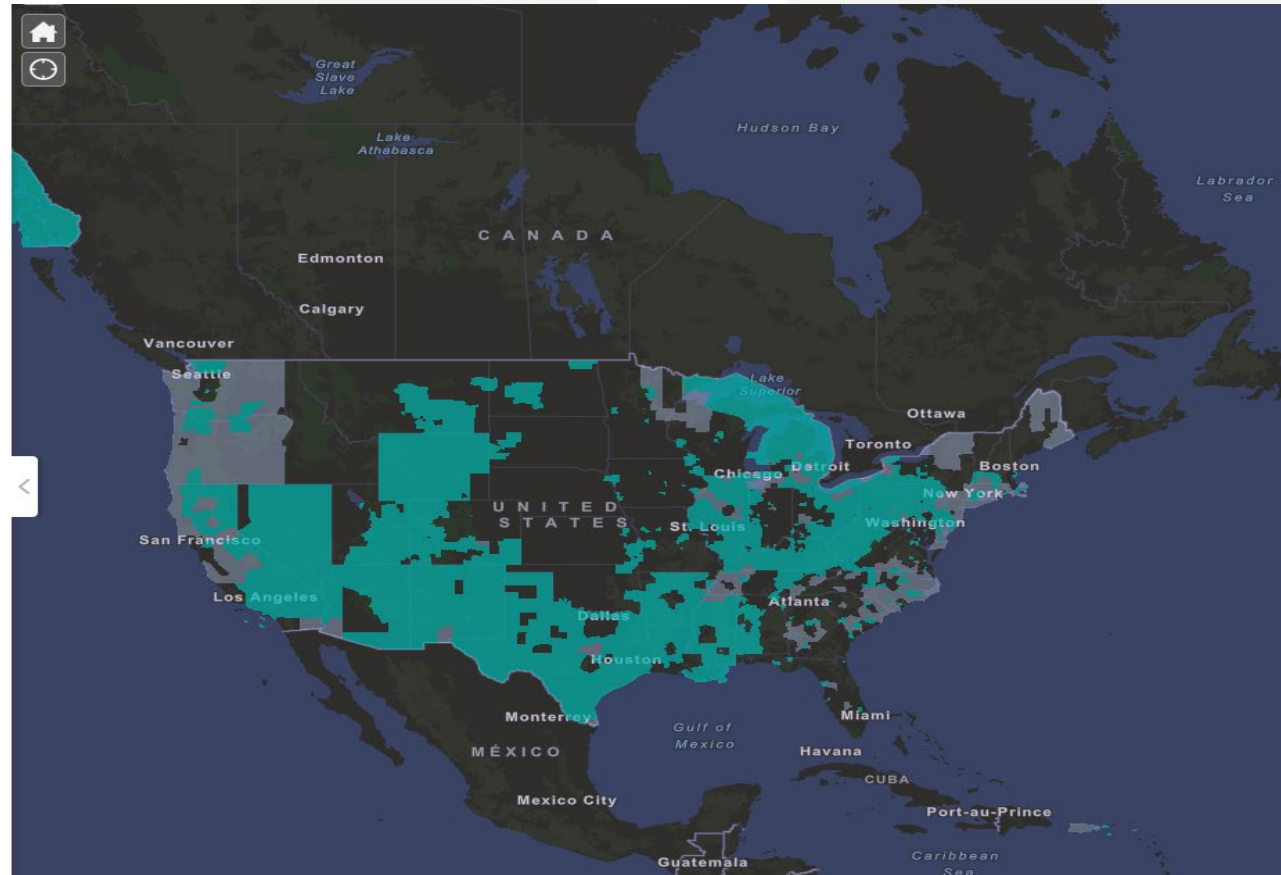
- $W_{S \bullet E}^N$ (i) The energy properties are constructed on contiguous pieces of land;
- $W_{S \bullet E}^N$ (ii) The energy properties are described in a common power purchase, thermal energy, or other off-take agreement or agreements;
- $W_{S \bullet E}^N$ (iii) The energy properties have a common intertie;
- $W_{S \bullet E}^N$ (iv) The energy properties share a common substation, or thermal energy off-take point;
- $W_{S \bullet E}^N$ (v) The energy properties are described in one or more common environmental or other regulatory permits;
- $W_{S \bullet E}^N$ (vi) The energy properties are constructed pursuant to a single master construction contract; or
- $W_{S \bullet E}^N$ (vii) The construction of the energy properties are financed pursuant to the same loan agreement

Energy community

Energy community – 2 - 10% additional credit value

- ➡ Brownfield
- ➡ Economies tied to coal, oil and/or natural gas
- ➡ Locations where coal mines have closed since 1999 or coal power plants have closed since 2009

Find address or place



<https://www.bakertilly.com/page/energy-community-mapping-tool>

<https://www.bakertilly.com/page/inflation-reduction-act-energy-tax-credits>



Prevailing wage recordkeeping

- Maintain and preserve sufficient records
- DBRA requires for records during the course of the work and for a period of three years thereafter
- Weekly certified payroll reports (Form WH-347)
 - Name, address, social security number for each worker
 - Worker classification
 - Hourly rate of pay, including costs for fringe benefits
 - Daily and weekly hours worked
 - Deductions made
 - Actual wages paid
 - Detail on fringe benefit plans and programs
 - Detail regarding apprenticeship or trainee programs

Prevailing wage conformance

Taxpayer shall be treated as satisfying prevailing wage requirements if

OR

Failure to pay prevailing wage is corrected by contractor

OR

Failure to pay prevailing wage is defined as 'Intentional disregard'

- Contractor pays wages at rates not less than the prevailing rates or construction, alteration, or repair AND
- Maintains and preserves sufficient records to demonstrate laborers and mechanics were paid wages not less than prevailing wage rate

- Making worker whole for all unpaid prevailing wage AND
- Paying worker 6% interest on wage underpayment AND
- Paying a penalty to Treasury at a rate of \$5,000/underpaid worker each year

- Making worker whole for 3x the sum of all unpaid prevailing wage AND
- Paying worker 6% interest on wage underpayment AND
- Paying a penalty to Treasury at a rate of \$10,000/underpaid worker each year

Apprenticeship recordkeeping

Maintain and preserve sufficient records to prove that:

- The apprentice to journey worker ratio of the Registered Apprenticeship program was met **on each day** that an apprentice was working
- The apprentice labor hours for construction, alteration or repair were met
- The apprentice participation requirements were met
- ‘Good faith effort’ was met with documentation of requests (and responses, if any) for apprentices from Registered Apprenticeship Program

Apprenticeship conformance

Taxpayer shall be treated as satisfying apprenticeship requirements if:

OR

Contractor makes 'Good faith effort' to satisfy apprenticeship requirements

OR

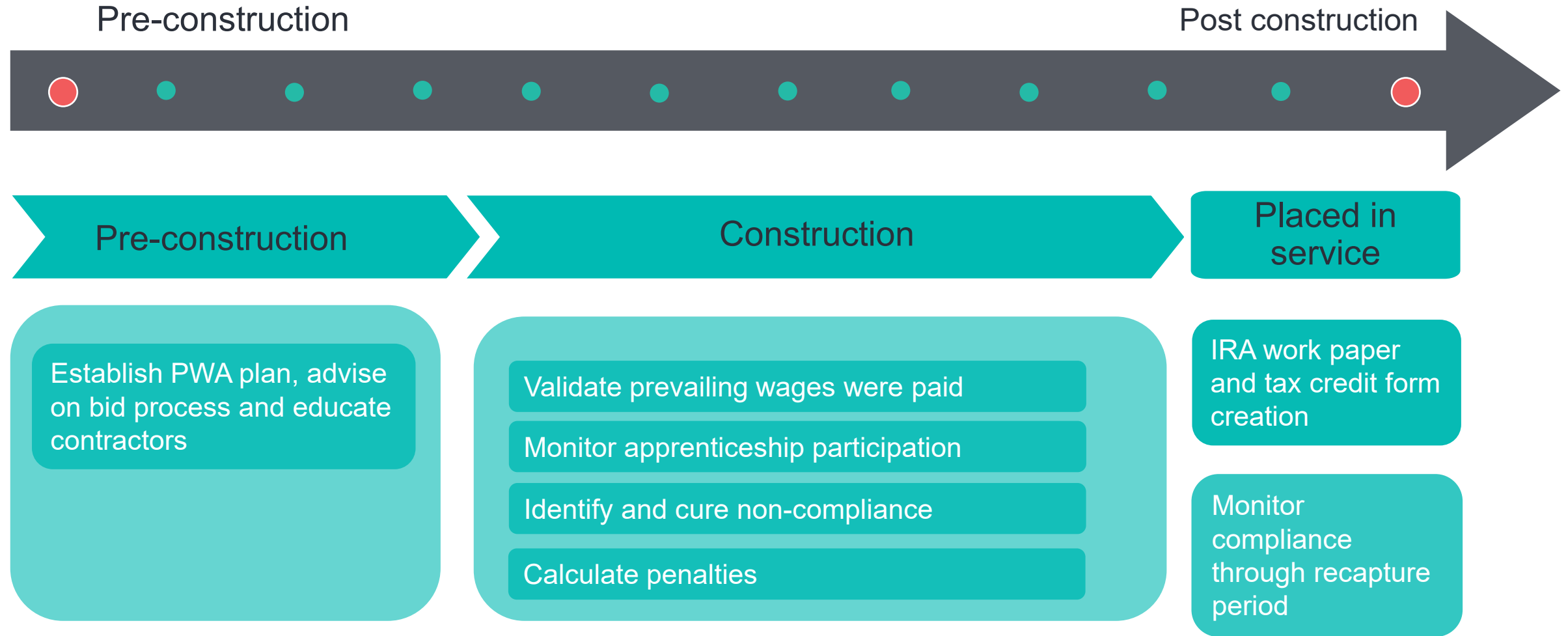
Contractor demonstrates 'intentional disregard' for apprenticeship requirements

- Contractor satisfies the requirement by having not less than the applicable percentage of total labor hours performed by qualified apprentices.
(based on construction start date)

- By requesting qualified apprentices from a Registered Apprenticeship Program (RAP) **AND**
- Providing proof of denial to provide apprentices from RAP **OR**
- Not receiving response to request within five business days from receipt of request **AND**
- Paying a penalty to Treasury of \$50/hour for any unmet apprenticeship hours

- Paying a penalty to Treasury of \$500/hour for any unmet apprenticeship hours

PWA Compliance Process



Process and overview

Phase 1

Estimates and options

In the beginning stage, government officials work with construction and tax consultants to evaluate the project eligibility and estimated dollars available through the IRA.

- Construction professionals provide key information regarding construction costs, timing and differences in future operating expenses upon project completion.
- Tax consultants review the design, timing, size, location, financing and other considerations to estimate the potential IRA dollars available. With key construction and tax information, school district officials can evaluate the advantages and disadvantages of the energy project along with different routes on how to proceed.
- Remember that direct pay tax credit dollars are not received until after project completion. Part of the planning process includes identifying funding and how IRA tax credit dollars will be utilized once received after project completion.

Phase 2

Planning, bidding, and construction

Once a project begins, collaboration between the working group is imperative. Many government projects include eligible and non-eligible IRA costs.

- A planning meeting should occur between the construction team and tax consultant regarding the best way to bid the projects in conformity with IRA tax rules.
- In addition, if the project is over 1 megawatt and will be subject to the IRA prevailing wage and apprenticeship requirements, project bid documents must include the appropriate language and a system must be identified to track payroll and apprenticeship requirements during construction.
- Errors in any of these areas can result in a bad start that potentially jeopardizes IRA tax credit dollars.

Phase 3

Workpapers and tax credit filing

Several steps occur once the project is nearing and achieving completion.

- Projects approaching completion need to be filed in the IRS pre-registration portal.
- Next, workpapers including invoice copies identifying IRA eligible and non-eligible costs need to be organized for documentation.
- Reports presenting the IRA eligible project size and applicable tax credit percentage are needed. For projects subject to prevailing wage and apprenticeship rules, payroll records along with apprenticeship ratio documentation need substantiation.
- Once the project is complete and all workpapers organized, final filing and registration with the IRS is initiated to receive the funds. These steps coincide with the government's fiscal year.

When hiring an “IRA consultant” make sure you are hiring a tax compliance consultant. The consultant should have IRS tax credit filing experience, assist with workpapers and IRS filings, and will be available to support you in the event of IRS audit of tax credit.



Tax credit owner declaration

“Under penalties of perjury, I declare that I have examined this statement, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this statement are true, correct, and complete”

Electric Vehicles

Tax credit overview: - Effective 12/31/22 – 12/31/32

- The maximum credit is capped at \$40,000 for vehicles greater than 14,000lbs and \$7,500 for vehicles under 14,000lbs.

Electric Vehicle (“EV”) Infrastructure

- Tax credit overview:**
- Effective 12/31/22 – 12/31/32.
 - Credit is available per charging station.
 - 6% base credit
or
 - Allows for 30% of cost with a maximum allowable credit of \$100,000 if they meet prevailing wage and apprenticeship construction rules.
 - **Subject to specific geographic areas. Must be low income or nonurban areas.**
 - 1) Urban area is defined by census bureau.
 - 2) Low-income community.



How Baker Tilly can help

The Inflation Reduction Act is very complicated. Baker Tilly's energy, tax and industry specialists can help your organization understand the complexities and how to effectively position your project to receive eligible credits. Our phased approach helps clients navigate project planning through to monetizing tax credits.



Disclosure

The information provided here is of a general nature and is not intended to address the specific circumstances of any individual or entity. In specific circumstances, the services of a professional should be sought.

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