

1SUPPORTING STATEMENT  
Internal Revenue Service  
Increased Credit or Deduction Amounts for Satisfying Certain Prevailing  
Wage and Registered Apprenticeship Requirements  
REG-100908-23  
OMB Control Number 1545-XXXX

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

On August 16, 2022, Public Law 117-169, 136 Stat. 1818, commonly referred to as the Inflation Reduction Act of 2022 (IRA), added sections 45U, 45V, 45Y, 45Z, and 48E to the Internal Revenue Code (Code) and amended existing Code sections 30C, 45, 45L, 45Q, 48, 48C, and 179D. These Code sections, either newly enacted or as amended, are effective for tax years beginning after December 31, 2022.

Among other things, each of these Code sections allow for an increased credit or deduction amount if the taxpayer places in service a qualified facility, project, property, or equipment. As described in the Code sections listed above, a qualified facility, project, property, or equipment is one that either has a net output of less than one megawatt (or capacity under section 48E), or the construction (or installation under section 179D) of which began prior to January 29, 2023, or the construction, alteration, or repair of which was performed in accordance with certain prevailing wage and apprenticeship requirements. In the case of a qualified facility, project, property, or equipment placed in service by the taxpayer, the base amount of the tax credit or deduction allowed by statute is generally multiplied by 5.

A facility, project, property, or equipment which has a beginning of construction (or installation under section 179D) date on or after January 29, 2023, or with a net output (or capacity under section 48E) of greater than one megawatt, may qualify for the increased amount only if the taxpayer, contractor, or subcontractor has paid all laborers and mechanics employed for the construction, alteration, or repair prevailing wages in accordance with the Davis-Bacon Act (40 U.S.C. § 3141 et. seq.). Additionally, the taxpayer must ensure that apprentices are hired to perform the applicable percentage of labor hours in the construction, alteration, or repair of the facility, project, property, or equipment; the taxpayer must ensure compliance with specified apprentice-to-journeyworker ratios; and the taxpayer, contractor, or subcontractor that employs 4 or more individuals in the construction, alteration, or repair of the facility must hire at least one qualified apprentice. The apprenticeship requirements do not apply to sections 45L and 45U.

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) are issuing this notice of proposed rulemaking (NPRM) to set forth proposed rules for taxpayers intending to satisfy the prevailing wage and apprenticeship requirements to claim increased credit or deduction amounts under Code sections 30C, 45, 45L, 45Q,

45U, 45V, 45Y, 45Z, 48, 48C, 48E, and 179D. This NPRM will be published in the Federal Register to request comments.

The Treasury Department and the IRS have decided that supporting documentation must be provided by the taxpayer at the time of filing its tax return in order to claim the increased credit or deduction amount. This information will include the location and type of the facility, project, property, or equipment, the applicable prevailing wage determinations for the type and location of the facility or project, the aggregate wages paid and hours worked by laborers and mechanics on the facility or project, the aggregate wages paid and hours worked by qualified apprentices on the facility, project, property, or equipment, the total hours worked for the construction, alteration, or repair, and the total credit or deduction claimed by the taxpayer. Taxpayers who claim an increased credit or deduction on a return are required to maintain and preserve sufficient records to establish that all laborers and mechanics were paid wages at the applicable prevailing wage rates and the applicable percentage of labor hours was performed by qualified apprentices.

The collection will also include third party disclosures. The NPRM provides that taxpayers would be eligible for a presumption against a finding of intentional disregard of the prevailing wage requirements if they notify laborers and mechanics working on a facility, project, property, or equipment of applicable wage determinations for the type and location of the construction. Taxpayers seeking to comply with the apprenticeship requirement will be required to request the dispatch of apprentices from a registered apprenticeship program. The taxpayer's request will be required to include proposed dates of employment, the labor classification of apprentices needed, the location of the work to be performed, the number of apprentices and hours needed, and the name and contact information of the taxpayer, contractor, or subcontractor making the request.

The likely respondents are individual, business, trust and estate filers, and tax-exempt organizations.

**2. USE OF DATA**

The information collected at the time of filing will be used by the IRS for validation of the increased portion of the credit or deduction amounts claimed by a taxpayer on a return.

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

Electronic filing is not appropriate for the third-party disclosure requirement of the collection. The reporting information submitted by the taxpayer will be attached to the tax return as a statement. Taxpayers will be able to attach the statement to a return that is filed electronically. The IRS plans to develop forms to submit the reporting information by electronic filing. It is not currently known how long the development of such forms

will take.

**4. EFFORTS TO IDENTIFY DUPLICATION**

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

**5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

The IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The IRS also seeks input regarding the burden estimates from the public via notices and tax product instructions. The impact to small businesses is not currently known based on available information.

**6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Consequences of less frequent collection on federal programs or policy activities would consist of decreased amount of taxes collected by the IRS, inaccurate and untimely filing of tax returns, and an increase in tax violations. A less frequent collection could prevent taxpayers from being able to claim the increased credit and deduction amounts available under Code sections 30C, 45, 45L, 45Q, 45U, 45V, 45Y, 45Z, 48, 48C, 48E, and 179D.

**7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

**8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

On October 24, 2022, the IRS published Notice 2022-51 (2022-43 I.R.B. 331), requesting public comments on questions arising under the new prevailing wage and apprenticeship provisions. A notice of proposed rulemaking (NPRM) was published in the Federal Register soliciting comments on August 30, 2023 (88 FR 60018). Comments received will be addressed in the final rule.

**9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

No payment or gift has been provided to any respondents.

**10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

**11. JUSTIFICATION OF SENSITIVE QUESTIONS**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master File (BMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The IRS PIAs can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

The proposed regulations would set forth procedures for requesting supplemental wage determinations and wage rates for additional classifications from the Department of Labor (DOL). This collection is approved by the Office of Management and Budget (OMB) under the DOL’s Control Number 1235-0034. The proposed regulations do not alter any of the DOL collections approved under this control number.

The proposed regulations would include requirements to keep sufficient records, as detailed in §1.45-12, to demonstrate that the prevailing wage and apprenticeship requirements have been met or that an exception applies. For purposes of the PRA, the recordkeeping requirements of proposed §1.45-12 are considered general tax records. These general tax records are approved annually under 1545-0074 for individuals/sole proprietors, 1545-0123 for business entities, and 1545-0047 for tax-exempt organizations. IRS will seek OMB approval under a new OMB Control number (1545-NEW) for the burden for trust and estate filers.

The proposed regulations would include reporting requirements that taxpayers provide a statement with the tax return that claims an increased credit or deduction amount that includes aggregate information as detailed in §1.45-12. The Treasury Department and the IRS may issue forms and instructions in future guidance for the purpose of meeting these reporting requirements. These reporting requirements will be covered under 1545-0074 for individuals/sole proprietors, 1545-0123 for business entities. IRS will solicit public comments on this requirement and the associated burden for trusts and estates filers as reflected below; and will seek OMB approval under a new OMB Control

Number (1545-NEW) for trust and estate filers.

The proposed regulations would include third-party disclosures that include notifying laborers and mechanics of the applicable prevailing wage rates as detailed in §1.45-7. The proposed regulations would also include third party disclosures for taxpayers requesting the dispatch of apprentices from a registered apprenticeship program as detailed in §1.45-8. IRS will solicit public comment on this requirement and associated burden for all filers reflected below; and will seek OMB approval under a new OMB Control Number (1545-NEW) for all filers for the disclosure requirement.

Burden associated with claiming an increased credit are identified on the attached burden table and the total burden identified is:

<b>IRC</b>	<b>Description</b>	<b># Respondents</b>	<b># Responses Per Respondent</b>	<b>Total Annual Responses</b>	<b>Hours Per Response</b>	<b>Total Burden</b>
§1.45-12	compile the data needed/keep records for the statement attached to return	70	1	70	40 hours	2,800
§1.45-7 and 1.45-8	Third party reporting; display the prevailing wages rates and to request the dispatch of apprentices	70,000	1	70,000	2 hours	140,000
<b>Total</b>		70,070		70,070	42	142,800

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

The government cost will be accounted for in 1545-0074 for individual filer reporting, and 1545-0123 for business filer reporting. The government cost for trust/estate filer reporting is expected to be minimal. There will be no government cost for the third-party disclosure requirements for all filers.

**15. REASONS FOR CHANGE IN BURDEN**

This is a new collection due to the amendment of Code sections 30C, 45, 45L, 45Q, 48,

48C, and 179D and the enactment of new Code sections 45U, 45V, 45Y, 45Z, and 48E.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

There are no plans for tabulation, statistical analysis, and publication.

**17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions to the certification statement.

**Note:** The following paragraph applies to all the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.