GRANT FUNDING SERIES · FEDERAL ENERGY AWARDS · EC-WP-906

IRA Bonus Credit Stacking as a Documentation Discipline

The four IRA bonus credits treated as documentation architecture, not a tax position.

Each bonus adder carries its own evidence and examination exposure. This reference maps the file each one needs, updated for 2025 law.

energycomplianceinc.com

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Disclaimer & Legal Notice

This document is a long-form professional reference on the documentation discipline required to substantiate federal clean energy tax credits and the bonus credit amounts available under sections 45, 45Y, 48 and 48E of the Internal Revenue Code, together with the elective payment and transfer elections under sections 6417 and 6418. It is not tax counsel, legal advice, an opinion on the tax treatment of any specific project, or a substitute for engagement with qualified tax counsel and certified public accountants. Tax positions on energy credits depend on facts specific to each project and require professional tax advice. Energy Compliance, Inc. supports the documentation and operational architecture underlying credit claims. The tax position itself is the work of the project's tax counsel and CPA.

Statutory and regulatory references reflect the Internal Revenue Code as amended through Public Law 119-21 (July 4, 2025), the Treasury regulations in the Electronic Code of Federal Regulations, and IRS notices and published guidance available as of October 25, 2026. This area keeps moving. Litigation over IRS guidance is active, and Treasury has said more proposed regulations are coming. Verify any specific provision against current Treasury and IRS guidance before relying on it.

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Foreword

The Inflation Reduction Act of 2022 did something the federal energy tax credit regime had not done in decades. It created a stacking structure under which a base credit could be multiplied through compliance with documentation-driven adders. The base credit by itself is real money. The full stack changes project economics. The capture is not automatic. Each adder carries its own documentation discipline, its own timing requirements, its own verification standard, and its own examination exposure. A project that meets every substantive adder requirement but fails the documentation requirement loses the adder at examination. The examiner cannot credit substance the file does not show. The file is the substance.

This reference belongs to the Energy Compliance, Inc. Grant Funding Series. The audience is the people responsible for the documentation architecture on credit-eligible energy projects: the project finance lead, the tax director carrying credit positions through the audit committee, the development VP coordinating with construction on prevailing wage and apprenticeship compliance, the EPC procurement lead tracking domestic content, and the legal counsel papering the credit transfer agreement. It is not written for tax counsel. Tax counsel takes the credit position. That position rests on a documentation architecture that was either built during construction or was not. This reference is about the architecture.

The thirty years I have spent inside energy regulation and compliance taught me a habit that translates well to the IRA credit context. I read failures backward from the finding.

Applied to credits, that points at a specific risk: a disallowance can be a documentation failure rather than a substance failure. The project genuinely is in an energy community. The project genuinely employs apprentices in qualifying roles. The domestic content calculation is genuinely accurate at the time. What is missing is the contemporaneous evidence an examiner needs to confirm the facts independently. That is the gap this reference closes.

My read is that many developers approach IRA credits the way developers approached the original Production Tax Credit and Investment Tax Credit. The base credit calculation gets attention. The adders get assigned to whoever has bandwidth. By the time the project is placed in service, the adder file exists in fragments scattered across construction managers, EPC contractors, payroll providers, and equipment vendors. Rebuilding that file at examination takes months and leaves gaps. Reconstruction is not the discipline. The contemporaneous architecture is. The credit stack is wide enough and large enough that treating the documentation as an afterthought puts money at risk that never needed to be.

This reference walks through the documentation architecture for each bonus credit category: prevailing wage and apprenticeship, domestic content, energy community, and the low-income communities increase. It also covers elective payment under section 6417 and transfer under section 6418, which changed how these credits are monetized and brought their own documentation demands. It is not exhaustive. It is the architecture Energy Compliance, Inc. uses in its IRA documentation engagements.

This edition also carries the law forward. Public Law 119-21, enacted July 4, 2025, ended the wind and solar credits under sections 45Y and 48E for facilities placed in service after 2027 unless construction began by July 4, 2026, and it added prohibited

foreign entity rules that create a new documentation stream of their own. Those changes are worked into the chapters where they bite.

Build it, or bring in a firm that builds it with you. Either way, the project that captures the full stack is the project that built the file during construction.

Rob Smith

Founder and Principal, Energy Compliance, Inc.

Executive Summary

A clean energy tax credit is two things at once: a legal position and a body of evidence. Tax counsel owns the position. Somebody has to own the evidence, and on most projects nobody does until an examiner or a credit buyer asks for it.

The bonus structure makes that gap expensive. Under sections 48 and 48E, a facility that meets the prevailing wage and apprenticeship requirements earns a 30 percent investment credit instead of 6 percent. Domestic content and energy community status each add 10 percentage points on a project that meets prevailing wage and apprenticeship. A facility under 5 megawatts AC that is not a combustion or gasification facility, holding a low-income communities allocation, can add 10 or 20 points more. On the production side, the same requirements multiply the per-kilowatt-hour amount by five, and the other adders add 10 percent each. Every one of those increases depends on records the taxpayer must be able to produce.

The chapters that follow take each layer in turn:

- **Chapter 1** separates the tax position from the evidence the file must carry.
- **Chapters 2 and 3** cover the base credit, the move from sections 45 and 48 to sections 45Y and 48E, the 2025 wind and solar termination and prohibited foreign entity rules, and the beginning-of-construction tests that decide which rules apply.
- **Chapters 4 and 5** cover prevailing wage and apprenticeship, including the cure and penalty provisions that reward self-identification.
- **Chapters 6 through 8** cover domestic content, energy community, and the low-income communities allocation program.
- **Chapter 9** covers elective payment, transfer, pre-filing registration and recapture.
- **Chapters 10 and 11** cover examination requests and how EC, tax counsel and the CPA divide the work.

Three things changed since the first edition. First, wind and solar facilities under sections 45Y and 48E that did not begin construction by July 4, 2026 must be placed in service by December 31, 2027. Second, facilities beginning construction after December 31, 2025 must clear the material assistance test for prohibited foreign entities, and Notice 2026-15 supplies interim safe harbors for doing so. Third, the IRS notice that narrowed beginning-of-construction methods for wind and solar, Notice 2025-42, was vacated by the U.S. District Court for the District of Columbia on June 6, 2026.

1 Tax Positions vs. Documentation: A Working Distinction

The first move that separates effective IRA credit work from ineffective IRA credit work is a working distinction between a tax position and a documentation architecture. They are related. They are not the same.

A tax position is the legal interpretation tax counsel takes on behalf of the project about how a specific credit, adder, or election applies to the project's facts. A documentation architecture is the operational system that captures those facts as they happen, organizes them by credit category, and produces the evidence file an examiner will use to test the position. A project can have a strong tax position and a weak documentation architecture. That project loses credits at examination, not because the position was wrong, but because the file did not support it. A project whose architecture captures everything contemporaneously gives tax counsel the substance to take stronger positions and leaves the examiner less ambiguity to resolve against the taxpayer.

1.1 The Examiner's Questions

An examiner working an energy credit case works from the statute, the Treasury regulations, and the IRS notices that implement them. The questions on each credit category are predictable. What credit is being claimed? What is the legal basis for it? What evidence shows the taxpayer met each statutory and regulatory requirement? Where is that evidence? Who created it, and when? Does it support the position the taxpayer took?

That last question is where documentation discipline pays off or fails. The position is fixed when the return is filed. The evidence supporting it is either in the file or it is not. The examiner does not reward effort. The examiner reads the file.

For prevailing wage and apprenticeship, the recordkeeping rule in 26 CFR 1.45-12 is covered in Chapter 4. For energy community, Notice 2023-29 points taxpayers to the general recordkeeping rules of section 6001.

1.2 Why Contemporaneous Matters

Documentation created at the time of the underlying activity carries more weight than documentation reconstructed later. A payroll record produced weekly during construction is more defensible than a reconstruction produced two years later from secondary sources. A domestic content certification signed by a manufacturer at the time of supply is more defensible than a confirmation letter requested at year-end. An energy community determination documented when the site was selected and again at beginning of construction is more defensible than one produced after the project was placed in service.

My view, after a career on the regulator's side of the table: reconstructed evidence gets discounted and contemporaneous evidence gets credited. Projects that built the architecture during construction walk into examination with documents that carry their own credibility. Projects that build it after the return is filed walk in defending reconstructions. Sometimes the reconstructions hold. Counting on that is not a plan.

1.3 The Evidence Streams the Architecture Tracks

For a typical investment credit project claiming the full bonus stack, the architecture tracks evidence across at least nine streams:

1. **Base eligibility.** Qualifying property classification, placed-in-service date, ownership structure, and tax basis.
2. **Beginning of construction.** Physical work of a significant nature, or the Five Percent Safe Harbor expenditure where that method is available, plus continuity.
3. **Prevailing wage.** Wage determinations, payroll records, classification reviews, and any correction payments.
4. **Apprenticeship.** Labor hour totals, apprentice-to-journeyworker ratios, contractor participation, registered program documentation, and any Good Faith Effort requests.
5. **Domestic content.** The steel and iron analysis, the manufactured product calculation or the elective safe harbor, supplier certifications, and the Domestic Content Certification Statement.
6. **Energy community.** The category the location qualifies under, the supporting data, and the beginning-of-construction date if the project relies on that rule.
7. **Low-income communities increase,** where an allocation was received.
8. **Prohibited foreign entity compliance** for facilities beginning construction after December 31, 2025: entity status and the material assistance cost ratio.
9. **Elective payment or transfer,** if elected: pre-filing registration, the election, the transfer agreement, and the diligence file.

Each stream is documented separately. Each stream has different evidence and a different collection schedule, and an examiner tests each one separately. The architecture treats them as parallel streams that converge at the return.

1.4 What Tax Counsel Needs From the Architecture

Tax counsel takes the position, and the position is informed by the architecture. If the architecture shows that payroll records were collected and reviewed weekly across the construction period and the correct wage determination was applied, counsel can support the prevailing wage position with confidence. If the architecture has gaps, counsel either softens the position or asks for more verification before the return goes out. Counsel that supports a return position without a substantive look at the architecture is carrying professional risk it should not carry.

The same architecture is the diligence file a credit buyer asks for when the project transfers the credit under section 6418.

2 The Base Credit: Sections 48, 48E, 45 and 45Y

The base credit is the foundation of the stack. Projects that misclassify the base credit, misidentify qualifying property, or misapply the placed-in-service rules create problems that cascade through every adder. If the base is wrong, the adders are wrong with it.

2.1 Two Statutory Generations

The Inflation Reduction Act kept the legacy investment credit under section 48 and production credit under section 45 for property that began construction before January 1, 2025, and added technology-neutral successors: the clean electricity investment credit under section 48E and the clean electricity production credit under section 45Y, for facilities placed in service after December 31, 2024. The statute bars double-dipping. A facility for which a section 45 or section 48 credit has been allowed cannot also claim section 48E, and the reverse holds as well.

Active portfolios now span both generations. Which regime a project falls under depends on its beginning-of-construction date and its placed-in-service date, and the architecture has to document both.

Under section 48E and section 45Y, eligibility turns on emissions rather than on technology. A qualified facility must have a greenhouse gas emissions rate (under section 48E, an anticipated rate) of not greater than zero. Section 48E(g) adds a recapture rule: if the Secretary determines a facility's rate is greater than 10 grams of CO2e per kilowatt-hour, the property ceases to be investment credit property in the year of that determination.

2.2 The 2025 Changes: Wind and Solar Termination

Public Law 119-21, enacted July 4, 2025, rewrote the back end of sections 45Y and 48E. The provisions that matter most for documentation:

- **Wind and solar termination.** Sections 45Y(d)(4) and 48E(e)(4) deny the credit for a wind or solar facility placed in service after December 31, 2027. Under sections 70512(l)(4) and 70513(g)(5) of the Act, the termination applies to facilities whose construction began after July 4, 2026. A wind or solar facility that began construction on or before July 4, 2026 keeps the ordinary rules. One that did not must be in service by the end of 2027.
- **Storage carved out.** Energy storage technology placed in service at a wind or solar facility is not caught by the termination under section 48E(e)(4)(C).
- **Phase-out for everything else.** For other qualified facilities and storage, the credit phases down based on when construction begins after the applicable year, which section 45Y(d)(3) now sets at calendar year 2032: 100 percent for construction beginning in 2033, 75 percent in 2034, 50 percent in 2035, and zero after that.

For any wind or solar project still in development, the beginning-of-construction file is now the most valuable document in the project record. Chapter 3 covers how construction is established and why the record behind it matters more than ever.

2.3 The 2025 Changes: Prohibited Foreign Entities

The same Act added two restrictions that create a new documentation stream.

The first concerns the taxpayer. Section 48E(d)(6) denies the credit for any taxable year in which the taxpayer is a specified foreign entity or a foreign-influenced entity, as those terms are defined in section 7701(a)(51).

The second concerns the supply chain. Under section 48E(b)(6) and (c)(3), a qualified facility, qualified interconnection property, or energy storage technology whose construction begins after December 31, 2025 does not qualify if its construction includes material assistance from a prohibited foreign entity. Section 7701(a)(52) measures that through a material assistance cost ratio compared to a threshold that rises each year. For qualified facilities, the threshold is 40 percent for construction beginning in 2026, rising to 60 percent after 2029. For energy storage technology, it starts at 55 percent in 2026 and rises to 75 percent after 2029.

Notice 2026-15 provides interim safe harbors for computing the ratio, drawing on the domestic content safe harbor tables, and says Treasury and the IRS intend to issue proposed regulations. Two related provisions raise the stakes on the file. Section 6501(o) extends the assessment period for material assistance errors (Chapter 10). Section 50(a)(4) recaptures 100 percent of a section 48E credit if a specified taxpayer makes certain payments to a prohibited foreign entity within 10 years after the property is placed in service.

> **Documentation Note**
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> The material assistance calculation draws on the same bill-of-materials and supplier data as domestic content. Build one supplier data request that serves both. Collecting the data twice, from the same suppliers, months apart, is how inconsistencies get into the file.

2.4 Qualifying Property and the Component Question

The credit basis depends on which components qualify. Section 48E(b)(2) limits qualified property to tangible personal property, or other tangible property (not a building or its structural components) used as an integral part of the qualified facility, that is depreciable and either constructed by the taxpayer or originally used by the taxpayer. Property that is not integral to the generation function does not qualify.

Interconnection is a common trap. Qualified interconnection property counts toward the credit only for facilities with a maximum net output of not greater than 5 megawatts AC, under section 48(a)(8) and section 48E(b)(1)(B). For larger facilities, interconnection costs do not come in under these provisions, so the file should show where each interconnection dollar was booked.

An examiner tests classification component by component, so the documentation has to support each one. Component-level equipment lists, supplier invoices tied to components, installation

records by component, and the cost segregation analysis that allocated mixed-use components all belong in the file. A project capitalized as one lump without component detail invites disputes at the component level.

2.5 Energy Storage Eligibility

The Inflation Reduction Act made stand-alone storage eligible under section 48 without pairing it to a generation facility. Under section 48(c)(6), energy storage technology includes property, other than property primarily used to transport goods or people, that receives, stores, and delivers energy for conversion to electricity (or, for hydrogen, that stores energy) and has a nameplate capacity of not less than 5 kilowatt-hours. Thermal energy storage property is included under its own definition. Section 48 storage eligibility ends for property beginning construction after December 31, 2024. Storage placed in service after that generally moves to section 48E, which adopts the section 48(c)(6) definition.

Where storage and generation share a site, the architecture keeps the storage basis and the generation basis separate. It records the storage technology type, rated capacity, and how the system is configured and metered. Those facts drive the credit calculation and, after 2025, the separate material assistance threshold that applies to storage.

2.6 Placed-in-Service Determination

Under 26 CFR 1.46-3(d)(1)(ii), property is placed in service in the taxable year it is placed in a condition or state of readiness and availability for a specifically assigned function. For an investment credit, the placed-in-service year is the credit year. For a production credit, placed in service starts the 10-year credit period.

The placed-in-service file includes commissioning records, energization records from the interconnecting utility, any regulatory approvals required to operate, and first commercial operation evidence. A project that completes construction in December but does not energize until February may not be placed in service in the construction year. A project that begins partial operation while work continues may have different dates for different units. The architecture records those distinctions as they happen.

2.7 Basis Build-Up

The credit basis is the eligible cost of qualifying property. Non-qualifying components come out, and section 48E(d)(2) carries over the section 45(b)(3) rules for property financed with subsidized energy financing or tax-exempt private activity bonds. The project's tax basis is built from construction draws, equipment purchases, soft costs, and capitalized interest, then allocated between qualifying and non-qualifying property.

The common errors are predictable: non-qualifying components left in the qualifying basis, financing-related adjustments missed, and capitalized interest miscalculated. The architecture documents the basis build-up step by step and the allocation line by line. Where a qualified specialist performs a cost segregation study, that work product becomes a primary basis document.

2.8 Beginning of Construction as a Cliff Date

Beginning of construction now decides more than it used to. It determines whether legacy section 48 or section 45 can apply at all, whether a wind or solar facility escapes the 2027 placed-in-service cutoff, whether the material assistance rules apply, which apprenticeship percentage applies, which domestic content percentage applies under section 48E, and whether the project can lock in energy community status. One date, six consequences.

3 Beginning of Construction: Physical Work Test and Five Percent Safe Harbor

Beginning of construction is one of the most heavily guided concepts in federal energy tax credits. The IRS set out the framework in Notice 2013-29 and refined it through later notices, including Notice 2016-31 for production credit facilities and Notice 2018-59 for investment credit property. The framework offers two methods: the Physical Work Test, which asks whether physical work of a significant nature has begun, and the Five Percent Safe Harbor, which asks whether the taxpayer has paid or incurred 5 percent or more of the total cost of the facility. Both carry a continuity requirement after the start. Both have documentation demands that, if not met, undermine the position even when the work actually happened.

3.1 The Physical Work Test

The Physical Work Test is met when physical work of a significant nature begins. Preliminary activities such as planning, designing, securing financing, exploring, researching, and obtaining permits or licenses do not count. Work can be on-site or off-site. Notice 2016-31 gives on-site examples for wind facilities such as excavation for the foundation, setting anchor bolts into the ground, or pouring the concrete pads of the foundation. Off-site work counts when it is the manufacture of components under a binding written contract and the components are not held in the manufacturer's inventory.

The test focuses on the nature of the work, not the amount or cost. There is no fixed minimum quantity or percentage. Because the test is qualitative, the evidence has to be specific: construction logs, dated photographs of the work in progress, contractor invoices for the work performed, the binding written contract where off-site work is relied on, and certifications from the construction manager or general contractor about what was done and when.

The pitfalls repeat. Testimony is substituted for records. Site preparation that does not rise to foundation work gets treated as qualifying physical work. Custom equipment manufacture is assumed to qualify without confirming the inventory and binding-contract conditions. The architecture captures the activity in real time with date-stamped evidence.

3.2 The Five Percent Safe Harbor

The Five Percent Safe Harbor is met when the taxpayer has paid or incurred 5 percent or more of the total cost of the facility. Total cost is the taxpayer's estimate when the costs are incurred, but it is tested against the actual cost when the facility is placed in service. If costs overrun so that the amount paid or incurred falls below 5 percent of actual total cost, Notice 2013-29

provides that the safe harbor is not fully satisfied, although for a single project made up of multiple facilities some of those facilities may still qualify.

"Paid or incurred" follows the taxpayer's method of accounting. A cash-method taxpayer must have paid the costs. An accrual-method taxpayer must have incurred them under the all-events test and economic performance rules. The file includes supplier invoices, payment records or accrual entries, the classification of each cost as includible or not, the cost estimate that drives the denominator, and the dated calculation showing the threshold was met.

Common errors include counting costs that do not belong in the total cost of the facility, losing track of title to safe-harbored equipment, and failing to keep the estimate that drives the 5 percent calculation.

3.3 Wind and Solar After July 4, 2026

For wind and solar facilities under sections 45Y and 48E, the July 4, 2026 date in Public Law 119-21 made beginning of construction decisive. The IRS then issued Notice 2025-42 (Internal Revenue Bulletin 2025-36, September 2, 2025), which, for purposes of that deadline, made the Physical Work Test the only method for most wind and solar facilities and kept the Five Percent Safe Harbor only for solar facilities with a maximum net output of not greater than 1.5 megawatts AC.

On June 6, 2026, the U.S. District Court for the District of Columbia declared Notice 2025-42 arbitrary and capricious under the Administrative Procedure Act and vacated and remanded the notice (*Oregon Environmental Council v. IRS*, No. 25-4400 (CKK)). The order describes itself as final and appealable. The statutory deadline itself was not affected. Unless and until the IRS reissues guidance, the earlier beginning-of-construction notices, applied to sections 45Y and 48E by Notice 2022-61, govern, so the Physical Work Test and the Five Percent Safe Harbor are both available. The government's appeal window closed August 5, 2026, and its extension window September 4, 2026 (Fed. R. App. P. 4(a)(1)(B), 4(a)(5)); check the docket before relying on this.

For documentation purposes, the safest file for a wind or solar facility that claims to have begun construction on or before July 4, 2026 shows physical work of a significant nature by that date, whatever method counsel ultimately relies on. Check the status of any appeal or replacement guidance before the return is filed. This is exactly the kind of point where the file needs to support more than one theory.

3.4 The Continuity Requirement

Whichever method starts construction, the taxpayer must then keep going. Under the Physical Work Test, that means a continuous program of construction. Under the Five Percent Safe Harbor, it means continuous efforts to advance toward completion. The Continuity Safe Harbor deems the requirement met if the facility is placed in service by the end of a calendar year no more than four calendar years after the calendar year construction began. Notice 2021-5 extended that period for certain facilities and should be checked for older projects.

Projects that fall outside the Continuity Safe Harbor must prove actual continuous progress. That is a facts-and-circumstances showing built from construction logs, contractor invoices, photographs, and a project schedule maintained throughout.

3.5 Excusable Disruptions

Notice 2016-31 gives a non-exclusive list of disruptions that do not break continuity, including severe weather, natural disasters, delays in obtaining permits or licenses from federal, state, local, or Indian tribal governments, delays requested in writing by a government for public safety or security reasons, interconnection-related delays, delays in manufacturing custom components, labor stoppages, inability to obtain specialized equipment of limited availability, the presence of endangered species, financing delays, and supply shortages.

The taxpayer has to document the disruption, the dates affected, and when progress resumed. A disruption the taxpayer chose for its own economic reasons is a weaker argument than one imposed from outside, and the file should be honest about which is which.

3.6 Safe-Harbored Equipment and Title

Projects that use the Five Percent Safe Harbor often do it by buying equipment and taking title in the qualifying year. The equipment may sit at the manufacturer, at a third-party storage yard, or on site. Title and custody are documented through bills of sale, invoices showing transfer, and any storage agreement confirming the taxpayer's ownership. The architecture tracks title through every change in custody, and any substitution of equipment after the safe harbor date goes to counsel before it happens, not after.

3.7 The 80/20 Rule for Retrofits

A retrofitted facility can be treated as newly placed in service even though it contains used components, if the fair market value of the used components is not more than 20 percent of the facility's total value. For investment credit property, 26 CFR 1.48-14(a)(1) states the rule, and only the cost of the new components counts toward the credit. The file needs the valuation of the used components and the cost of the new ones, usually from the cost segregation or appraisal work, dated as of the placed-in-service date.

With construction started and the clock running, the bonus amounts attach to what happens on the job site. Prevailing wage is the gateway to all of them.

4 Prevailing Wage Compliance: The Five Times Multiplier

Prevailing wage, paired with apprenticeship, is the most consequential bonus category in the stack. A facility that meets both requirements gets five times the base credit. One that fails both, without a cure, gets the base. Under section 48E(a)(2), that is the difference between a 6 percent and a 30 percent investment credit. Under section 45Y(a)(2), the statutory base amount is 0.3 cents per kilowatt-hour and the alternative amount is 1.5 cents, both adjusted for inflation; for 2026, Notice 2026-47 sets them at 0.6 cents and 3.1 cents. On a utility-scale project, that multiplier is usually the largest single number in the credit model.

4.1 Who Is Exempt

Not every facility has to meet the requirements to get the multiplier. Under sections 45(b)(6)(B), 48(a)(9)(B), 45Y(a)(2)(B) and 48E(a)(2), the five times amount is available without meeting prevailing wage and apprenticeship for a facility with a maximum net output of less than 1 megawatt AC, and for a facility that began construction before the date 60 days after Treasury published the required guidance. The regulations at 26 CFR 1.45-6(b)(2) and 1.48-13(b)(2) set that date as January 29, 2023. The exemption itself has to be documented: the AC output rating, or the beginning-of-construction evidence.

4.2 The Statutory Standard

Section 45(b)(7)(A), applied to the investment credits by section 48(a)(10) and to sections 45Y and 48E by cross-reference, requires the taxpayer to ensure that laborers and mechanics employed by the taxpayer or any contractor or subcontractor are paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality, as most recently determined by the Secretary of Labor under the Davis-Bacon provisions of title 40.

The requirement covers construction and continues after the facility is placed in service. For investment credit projects, it covers alteration or repair for the 5-year period beginning on the placed-in-service date. For production credit facilities, it covers alteration or repair during the 10-year credit period, tested year by year.

The standard is not advisory. The taxpayer must be able to prove the wages were paid, and it carries the obligation for every tier of contractor.

4.3 Wage Determinations

Under 26 CFR 1.45-7(b)(2), the applicable general wage determination is the one in effect for the specified type of construction in the geographic area when the taxpayer (or its designee) executes the contract with a contractor. That determination continues in effect for the

contractor's subcontracts. If there is no contract, or its date cannot reasonably be determined, the applicable determination is the one in effect when the work starts. Determinations come from the Department of Labor's approved website and include both the basic hourly rate and bona fide fringe benefit rates.

Where no general wage determination exists for the area and type of construction, or a needed labor classification is missing, the taxpayer, contractor, or subcontractor requests a supplemental wage determination or an additional classification and wage rate from the Wage and Hour Division under 26 CFR 1.45-7(b)(3). The regulation sets timing rules for those requests, and a supplemental wage determination must be incorporated into the contract within 180 days of issuance.

The common errors are applying a determination from the wrong locality or type of construction, using the determination in effect on the wrong date, and assuming a federal Davis-Bacon contract's determination carries over to the tax credit project on the same site. The architecture records each contract's execution date, the determination that applied on that date, and every supplemental or additional classification request.

4.4 Payroll Records

The tax credit rules do not require the taxpayer to file Davis-Bacon certified payrolls with anyone. They do require proof. Under 26 CFR 1.45-12(b), the taxpayer must maintain and preserve records sufficient to demonstrate compliance, including, at a minimum, payroll records for each laborer and mechanic (including each qualified apprentice) employed by the taxpayer, any contractor, or any subcontractor. Section 1.45-12(c) says those records may include fully completed Forms WH-347 and lists other identifying, classification, hours, and rate information that supports compliance.

My recommendation is to run the program as if certified payrolls were required. Collect payroll weekly from every contractor and every subcontractor at every tier, in a standard format, and review it on receipt. The collection process is the operational core of prevailing wage compliance. Gaps in collection become gaps in the evidence.

The taxpayer's review is not passive. Check payrolls for completeness, correct classification against the work actually performed, rate compliance, and signs of inaccuracy. Document the review. Send discrepancies back to the contractor for correction, and escalate persistent problems.

4.5 Correction Payments and Penalties

The statute lets a taxpayer cure an underpayment. Under section 45(b)(7)(B), the taxpayer is deemed to meet the requirement if it pays each underpaid worker the difference plus interest at the underpayment rate (with 6 percentage points substituted for 3), and pays the IRS a penalty of $5,000 for each worker who was underpaid. If the failure is due to intentional disregard, the worker payment triples and the penalty becomes $10,000 per worker.

Timing matters, and the regulations at 26 CFR 1.45-7(c) reward speed:

- **Penalty waiver.** The penalty is waived for a worker if the correction payment is made by the last day of the first month after the end of the calendar quarter in which the failure

occurred, and the worker was underpaid for not more than 10 percent of pay periods in the year, or the shortfall was not more than 5 percent of what was owed.

- **Presumption.** A taxpayer that makes the correction and penalty payments before receiving notice of an examination is presumed not to have intentionally disregarded the requirements. The IRS can rebut that presumption.
- **Deadline after determination.** After the IRS sends a final determination that the requirements were not met, the cure is available only if both payments are made within 180 days of that determination.
- **Project labor agreements.** The penalty does not apply to work done under a Qualifying Project Labor Agreement, as defined in the regulation, if correction payments are made by the date the increased credit is claimed.

The architecture tracks every identified underpayment, the correction calculation, the payment to each affected worker, and any penalty paid. Those records become part of the examination defense if the IRS later asks about the underlying failure.

> **Field Note**
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> The quarterly review cycle in the regulation is a design input, not a coincidence. A project that reviews payroll quarterly, and corrects inside the month after quarter-end, has built penalty waiver eligibility into its operating rhythm. A project that reviews payroll once, at placed-in-service, has given that option away.

4.6 Contractor Flow-Down

The obligation runs to the taxpayer, but the work is done by contractors. The taxpayer reaches them through contract language that binds every tier: pay prevailing wages under the applicable determination, deliver payroll records on a fixed cadence, permit review and inspection, and correct underpayments promptly. The regulations' own examples credit taxpayers who wrote prevailing wage requirements into the prime contract, required the same language in subcontracts, and posted notice of the requirements at the site.

A subcontract at any tier without the flow-down language is a coverage gap that tends to surface at examination. The architecture confirms the language is in every applicable contract before the contract is executed.

4.7 Apprentices on the Payroll

Prevailing wage and apprenticeship meet on the payroll. The regulations define laborers and mechanics to include apprentices, so apprentices are covered by the wage requirement. Under 26 CFR 1.45-7(b)(7), an apprentice working consistent with the apprenticeship rules may be paid less than the journeyworker prevailing rate, but that allowance is subject to the registered program's apprentice-to-journeyworker ratio. The apprenticeship labor hour requirement in Chapter 5 is also measured consistent with those ratios. The same records serve both requirements, so the architecture tracks enrollment, the registered program, on-site ratios, and hours in one place.

4.8 What an Examiner Asks For

Expect requests for the wage determinations applied, payroll records for selected periods, the contractor and subcontractor list, the contracts showing flow-down, and documentation of any correction and penalty payments. An examiner can sample specific weeks and specific workers to confirm the wages paid match the wages required.

A project that built the architecture during construction answers those requests from the file. A project that did not answers them in pieces, and each gap becomes a question, then a finding, then possibly a disallowance of the multiplier.

Prevailing wage shows the workers were paid correctly. Apprenticeship shows a share of the work was done by qualified apprentices. The two operate together, but they are documented and tested separately.

5 Apprenticeship Hours and Ratios: Registered Programs and Good Faith Effort

Section 45(b)(8), applied to the other credits by cross-reference, requires that qualified apprentices perform at least the applicable percentage of total labor hours of construction, alteration, or repair work on the facility, including work by contractors and subcontractors. The applicable percentage depends on when construction began: 10 percent before January 1, 2023, 12.5 percent during 2023, and 15 percent after December 31, 2023.

5.1 Three Requirements, Not One

The apprenticeship rules contain three separate tests, and the facility must meet all of them:

1. **Labor hours.** Qualified apprentices perform at least the applicable percentage of total labor hours.
2. **Ratio.** The labor hours requirement is subject to any applicable apprentice-to-journeyworker ratio of the Department of Labor or the state apprenticeship agency. Hours worked outside the ratio do not count.
3. **Participation.** Each taxpayer, contractor, or subcontractor that employs 4 or more individuals to perform construction, alteration, or repair work on the facility must employ 1 or more qualified apprentices to perform that work.

A project that meets the hour percentage but misses participation on a single contractor has not met the requirement. The architecture tracks all three continuously.

5.2 What Counts as a Qualified Apprentice

A qualified apprentice is an individual employed by the taxpayer or by any contractor or subcontractor who is participating in a registered apprenticeship program as defined in section 3131(e)(3)(B). In practice, that means a program registered with the Department of Labor's Office of Apprenticeship or a recognized state apprenticeship agency.

For each individual counted as an apprentice, the architecture captures the program and its registration information, the sponsor, the occupation, the enrollment date, and current standing. Someone listed on a payroll as an apprentice without proof of registered program participation does not count, whatever training that person is actually receiving.

5.3 Tracking Labor Hours

Under section 45(b)(8)(E), labor hours are the total hours devoted to construction, alteration, or repair work by any individual employed by the taxpayer or any contractor or subcontractor,

excluding foremen, superintendents, owners, and persons employed in a bona fide executive, administrative, or professional capacity. The denominator is total qualifying hours. The numerator is hours worked by qualified apprentices within the applicable ratio.

The arithmetic is simple. The volume is not. A utility-scale project can run many contractors and many more subcontractors. The architecture aggregates hours weekly or biweekly and keeps running totals by contractor so shortfalls show up while there is still time to add apprentices. A project that totals hours for the first time at placed-in-service finds its shortfall too late to fix with labor.

5.4 The Participation Requirement

Participation is measured contractor by contractor, not at the project level. A project can clear the overall hour percentage and still fail because one subcontractor had five workers and no apprentice. The file needs headcount by contractor and apprentice participation by contractor. The taxpayer can push data collection to contractors, but it cannot push the responsibility. It has to aggregate the information itself and check participation as the work proceeds.

5.5 Good Faith Effort Exception

Under section 45(b)(8)(D)(ii), a taxpayer is deemed to meet the apprenticeship requirements if it requested qualified apprentices from a registered apprenticeship program and the request was denied (for reasons other than the requester's refusal to comply with the program's standards) or the program did not respond within 5 business days.

The regulation at 26 CFR 1.45-8(f) makes this concrete. The request must be in writing and go to at least one registered program that operates in the facility's geographic area, trains apprentices in the needed occupations, and customarily places apprentices with employers. A denied or unanswered request covers the period it describes, up to 365 days. Longer needs require renewed requests.

This exception is narrow and document-heavy. It is not available because the labor market was tight or because engaging with programs was inconvenient. The file needs the written request to each program, the program's response or the documented absence of one, the timeline between request and labor need, and any follow-up.

5.6 Local Workforce Coordination

Projects that build relationships with local apprenticeship programs early in planning usually end up in a stronger position than projects that call programs when labor is needed. Early engagement produces placements. If placements fall short, the same records support a Good Faith Effort position.

Project labor agreements with apprenticeship provisions, community benefit commitments, and partnerships with state workforce agencies and training institutions can all support compliance, and each can support the documentation if it is set up with the file in mind.

5.7 The Apprenticeship Penalty Cure

Under section 45(b)(8)(D)(i)(II) and 26 CFR 1.45-8(f)(2), a taxpayer that misses the labor hours or participation requirement is deemed to meet it by paying the IRS a penalty of $50 for each labor hour for which the requirement was not met. If the failure is due to intentional disregard, the penalty is $500 per hour. The regulation sets out how the shortfall hours are computed for each test. It also provides that a taxpayer that claims the increased credit, fails the requirements, and does not pay the penalty is simply not eligible for the increased amount.

The architecture supports the cure by keeping labor hour totals current. A shortfall identified during construction can be fixed with apprentices. One identified before filing can be cured with a penalty sized from good data. One identified by an examiner is cured, if at all, from whatever records exist.

Prevailing wage and apprenticeship together unlock the five times multiplier. The stack continues with domestic content, energy community, and, for small facilities, the low-income communities increase.

6 Domestic Content: Methodology, Suppliers, Safe Harbor Election

The domestic content bonus rewards a facility built with U.S. steel, iron, and manufactured products. For the investment credits, section 48(a)(12) and section 48E(a)(3)(B) add 10 percentage points for a project that meets prevailing wage and apprenticeship (2 points if it does not). For the production credits, section 45(b)(9) and section 45Y(g)(11) increase the credit by 10 percent. It is one of the most documentation-intensive adders because it requires origin and cost information across the facility's bill of materials.

6.1 The Steel and Iron Requirement

Steel or iron that is a component of the facility must be produced in the United States, applied consistent with 49 CFR 661.5. Notice 2023-38 explains that the requirement is met if all manufacturing processes for the steel or iron items take place in the United States, except metallurgical processes involving refinement of steel additives.

The requirement applies to components that are construction materials made primarily of steel or iron and structural in function. It does not apply to steel or iron inside manufactured products. The notice lists items such as nuts, bolts, screws, washers, cabinets, covers, clamps, and fittings as not subject to the steel or iron requirement when they are not structural in function. The test is all or nothing for the structural steel and iron it covers.

The evidence is supplier certification tied to the specific material delivered: where each manufacturing process took place, signed by someone at the manufacturer with knowledge, and collected at the time of supply. A certification requested at year-end, after the mill has moved on to other orders, is weaker evidence.

6.2 The Manufactured Products Requirement

Manufactured products that are components of the facility are deemed produced in the United States if at least the adjusted percentage of their total cost is attributable to manufactured products (including components) mined, produced, or manufactured in the United States. For sections 45 and 48, the adjusted percentage is 40 percent, or 20 percent for offshore wind. For section 48E, Public Law 119-21 raised the percentage by beginning-of-construction date:

Construction begins	Adjusted percentage	Offshore wind
Before June 16, 2025	40%	20%
June 16, 2025 to December 31, 2025	45%	27.5%
Calendar year 2026	50%	35%

Construction begins	Adjusted percentage	Offshore wind
After December 31, 2026	55%	55%

The calculation works in layers. Identify each manufactured product. Identify the manufactured product components of each and assign a cost. Classify each as U.S. or non-U.S. by where it was manufactured. Compute the domestic share and compare it to the threshold. The difficulty is in the component-level cost and origin data, which can run to hundreds or thousands of line items from different suppliers in different countries. The architecture holds the bill of materials, the supplier for each component, its cost, and its manufacturing location certification.

6.3 The Elective Safe Harbor

Notice 2024-41 created an elective safe harbor, updated by Notice 2025-08, that assigns cost percentages to listed manufactured product components for certain project types, including solar photovoltaic, land-based wind, and battery energy storage. A taxpayer that elects it uses the notice's classifications and assigned cost percentages instead of its own direct cost data.

The safe harbor removes the need to obtain supplier cost data. It does not remove the need to prove where each listed component was made. The taxpayer still needs evidence that each component it treats as U.S.-made actually is, and that the components in the tables match what was installed.

6.4 The Certification Statement

The domestic content bonus requires a certification to the IRS. Under Notice 2023-38, the taxpayer submits a Domestic Content Certification Statement attached to Form 8835, Form 3468, or other applicable form for the first taxable year it reports the bonus for a project. For production credits, a copy goes with each later year's return. The statement identifies the project, its type, its coordinates, its placed-in-service date, and the bonus amount, and it must be signed under penalties of perjury by a person with legal authority to bind the taxpayer.

That signature is the moment the file either supports the claim or does not. The architecture should hand the signer a package that ties every number on the statement to supplier evidence.

6.5 Supplier Certifications

The architecture rests on supplier certifications for structural steel and iron and for every manufactured product component treated as U.S.-made. Where a product contains sub-supplier components being counted as domestic, the certification chain has to reach those sub-suppliers.

A good certification identifies the supplier, the signer and the signer's role, the date, the specific lot or batch, the manufacturing location for each relevant step, and references to underlying chain-of-custody documents. The taxpayer verifies that the certifications cover the units actually installed.

In my view, quality is the whole game here. Generic certifications not tied to specific shipments are weaker than shipment-specific ones. Certifications from someone without knowledge of the

manufacturing process are weaker than those from an officer or quality manager who has it. Certifications obtained at the time of supply are stronger than those gathered after the fact. Get them in the form that will hold up, the first time.

6.6 Mixed Sourcing

Many manufactured products mix U.S. and non-U.S. components. Under the direct cost method, the calculation aggregates component costs, so it has to be supported at the component level. A project that only has product-level data cannot defend a component-level calculation. The architecture captures supplier, cost, and manufacturing location for each component counted as domestic, and rolls up from component to product to project.

6.7 Elective Payment and the Domestic Content Phase-Out

There is no general waiver of the domestic content bonus. For taxpayers using elective payment under section 6417, though, domestic content also affects the base. Under section 45(b)(10), applied to section 48 by section 48(a)(13), and section 45Y(g)(12), applied to section 48E by section 48E(d)(5), the elective payment is reduced for a facility that does not meet the domestic content requirement:

- Construction beginning before January 1, 2024: 100 percent of the credit
- Construction beginning in 2024: 90 percent
- Construction beginning in 2025: 85 percent
- Construction beginning after December 31, 2025: 0 percent (sections 45Y and 48E)

Facilities under 1 megawatt AC are not reduced. The statute also directs Treasury to provide exceptions where U.S. content would increase overall construction costs by more than 25 percent, or where the relevant products are not produced in the United States in sufficient and reasonably available quantities or satisfactory quality.

For an applicable entity starting construction now, that means no domestic content, no elective payment, unless an exception applies. The domestic content file has become a condition of getting paid at all.

6.8 What an Examiner Asks For

Expect an examination of domestic content to focus on supplier certifications, the cost methodology, and whether what was certified is what was installed. The examiner can sample manufactured products, request the certifications behind them, trace the calculation through the bill of materials, and compare certifications against installation records. Thin documentation on this adder is expensive to fix after the fact, because the evidence lives with suppliers who have no obligation to help years later.

Domestic content is a supply chain discipline. Energy community is a location discipline, and it depends on where and when the project is sited.

7 Energy Community: Statistical Area, Brownfield, Coal Closure

The energy community bonus applies when a facility is located in, or placed in service within, an energy community. For the investment credits, section 48(a)(14) and section 48E(a)(3)(A) add 10 percentage points for a project meeting prevailing wage and apprenticeship (2 points otherwise). For the production credits, section 45(b)(11) and section 45Y(g)(7) increase the credit by 10 percent. The qualification is location-based, but the documentation takes more than a map.

7.1 The Three Categories

Section 45(b)(11)(B) defines an energy community through three categories that apply to wind, solar, and storage projects. A fourth covers advanced nuclear facilities only and is not addressed here.

1. **Brownfield.** A brownfield site as defined in the relevant subparagraphs of section 101(39) of CERCLA: real property whose expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant, subject to the statute's exclusions.
2. **Statistical area.** A metropolitan or non-metropolitan statistical area that has, or at any time after December 31, 2009 had, 0.17 percent or greater direct employment, or 25 percent or greater local tax revenues, related to the extraction, processing, transport, or storage of coal, oil, or natural gas, and that has an unemployment rate at or above the national average for the previous year.
3. **Coal closure.** A census tract in which a coal mine closed after December 31, 1999, or a coal-fired electric generating unit was retired after December 31, 2009, or a census tract directly adjoining one.

7.2 Determination Timing

Notice 2023-29 sets the timing. For section 48 and section 48E, energy community status is determined as of the placed-in-service date. For section 45 and section 45Y, it is determined separately for each year of the 10-year credit period, and a facility counts as located in an energy community for a year if it is in one during any part of that year.

There is a beginning-of-construction rule that simplifies this. If construction begins on or after January 1, 2023 in a location that is an energy community on the beginning-of-construction date, the location continues to be treated as an energy community through the placed-in-service date (investment credits) or the whole credit period (production credits). A project relying on that rule needs the same beginning-of-construction file described in Chapter 3, plus the qualification facts as of that date.

Notice 2023-29 also sets location tests. A project with nameplate capacity is treated as located in an energy community if 50 percent or more of its nameplate capacity is in the energy community. A project without nameplate capacity uses a footprint test.

7.3 Documenting the Brownfield Category

Section 5 of Notice 2023-29 gives a brownfield safe harbor. The IRS will accept that a site meets the definition if it is not excluded by the statute and at least one of the following is true: the site was previously assessed through federal, state, territory, or tribal brownfield resources as meeting the definition; an ASTM E1903 Phase II Environmental Site Assessment confirms the presence of a hazardous substance, pollutant, or contaminant; or, for projects with nameplate capacity of not greater than 5 MW AC, an ASTM E1527 Phase I Environmental Site Assessment has been completed.

The file holds the assessment reports, their dates, and any program enrollment that confirms brownfield status, all tied to the date that matters for the project's credit.

7.4 Documenting the Statistical Area Category

Statistical area qualification depends on employment and unemployment data that Treasury and the IRS publish in periodic lists. Notice 2023-29 sets the method: fossil fuel employment measured by specified NAICS industry codes, area boundaries from published delineations, and the national unemployment comparison for the prior year. Projects in listed areas rely on the list in effect for the relevant date. Because unemployment can change year to year, a statistical area that qualifies one year may not qualify the next, which is why the beginning-of-construction rule matters so much here.

The architecture keeps the project location, the identified area, the list relied on and its date, and maps confirming the project sits inside the area's boundaries.

7.5 Documenting the Coal Closure Category

Coal closure qualification depends on a closed mine or retired coal unit in the project's census tract or a directly adjoining tract. Treasury and the IRS have published lists of qualifying tracts. Projects in listed tracts rely on the list. Projects with boundary questions document the closure itself from primary sources, such as federal energy data on retired generating units or mine closure records.

The architecture captures the project's census tract, the closure relied on, the documentation of closure timing and location, and the adjoining-tract relationship if the project relies on it.

7.6 Multiple Categories

Some sites qualify under more than one category. Document all of them. Pick the strongest as the primary basis and keep the others as backup. If an examiner questions one, the file supports another.

7.7 Coordination With Other Adders

Energy community qualification stands on its own, separate from prevailing wage, apprenticeship, and domestic content, except that the size of the increase depends on whether prevailing wage and apprenticeship are met. Projects usually pursue several adders together. Treat them as parallel streams feeding one file, and make sure the dates, coordinates, and capacity figures match across all of them. Inconsistent coordinates between the energy community file and the domestic content statement is an avoidable question.

7.8 What an Examiner Asks For

Expect questions about the basis for qualification, the evidence supporting it, and whether it held on the relevant determination date. The examiner can compare the published lists, the project's location records, and any beginning-of-construction reliance. Clean documentation of qualification under one or more categories closes those questions quickly. Marginal qualification with gaps does not.

Energy community is one location-based bonus. The low-income communities increase is another, with one large difference: it has to be applied for.

8 Low-Income Communities Increase: Sections 48(e) and 48E(h)

The Inflation Reduction Act created a capacity-limited bonus for small facilities that serve low-income communities: section 48(e) for the legacy investment credit in 2023 and 2024, and section 48E(h) from 2025 forward. Unlike every other adder, it requires an allocation before the facility is placed in service.

8.1 Eligibility and the Four Categories

Under section 48E(h), an applicable facility must have a maximum net output of less than 5 megawatts AC, must not be a combustion or gasification facility, and must fall into one of four categories. (Section 48(e) applied similar rules to solar and wind facilities.)

1. **Category 1, low-income community.** Located in a low-income community as defined in section 45D(e), the New Markets Tax Credit definition. Increase: 10 percentage points.
2. **Category 2, Indian land.** Located on Indian land as defined in section 2601(2) of the Energy Policy Act of 1992. Increase: 10 percentage points.
3. **Category 3, qualified low-income residential building project.** Installed on a residential rental building that participates in a covered housing program, a USDA housing assistance program under title V of the Housing Act of 1949, a program of a tribally designated housing entity, or another affordable housing program the Secretary provides, with the financial benefits of the electricity allocated equitably among the building's occupants. Increase: 20 percentage points.
4. **Category 4, qualified low-income economic benefit project.** At least 50 percent of the financial benefits of the electricity go to households with income of less than 200 percent of the poverty line or less than 80 percent of area median gross income. Increase: 20 percentage points.

Electricity acquired at a below-market rate counts as a financial benefit for categories 3 and 4.

8.2 The Allocation Program

Section 48E(h)(4) caps allocations at 1.8 gigawatts of direct current capacity per calendar year, with unused capacity carried forward. The IRS publishes program guidance and the Department of Energy runs the application portal. For the 2026 program year, the IRS program page shows applications opening February 2, 2026 and closing August 7, 2026. The increase applies only up to the allocated capacity, and it is lost for property placed in service more than 4 years after the date of the allocation.

The application requires project-specific information: site, ownership, capacity, financial structure, and the basis for the requested category. The architecture keeps the application,

everything submitted with it, the allocation letter, and all later correspondence about the allocation.

For a wind or solar facility, the allocation does not change the statutory placed-in-service cutoff described in Chapter 2. A small solar project holding an allocation still has to satisfy the July 4, 2026 construction rule or be placed in service by December 31, 2027.

8.3 Documentation by Category

Category 1. Geographic coordinates, the census tract, the tract's section 45D status from the published data in effect for the relevant date, and any change in tract designation.

Category 2. The location, the Indian land status, and supporting tribal documentation. Ownership and benefit arrangements with the tribe belong in the same file.

Category 3. Proof of the building's participation in a covered housing program and its current status, the method for allocating financial benefits among occupants, and evidence the allocation is actually implemented.

Category 4. The household qualification method, the income verification approach, the benefit calculation, and contemporaneous evidence of benefits delivered. Community solar projects often deliver benefits through subscription discounts or bill credits, so subscriber identification and the discount applied are core records.

8.4 Recapture Exposure

Section 48E(h)(5) requires Treasury to provide for recapture of the increase if property stops qualifying for it during the recapture period, using rules similar to section 50(a). A building that leaves its housing program or a community solar project whose subscribers no longer meet the income test can trigger recapture. The statute allows Treasury to waive recapture if eligibility is restored within 12 months after the taxpayer becomes aware of the problem, but only once per facility. The architecture documents continuing eligibility every year of the recapture period.

8.5 Coordination With Other Adders

The low-income communities increase stacks with the multiplier and the other adders when the facility meets those requirements too. Keep the low-income file consistent with every other stream: same capacity figures, same coordinates, same placed-in-service date.

8.6 Examination Focus

Expect review of the allocation, eligibility from allocation through placed-in-service, and continuing qualification through the recapture period. Document each phase as it happens.

The chapters so far describe what a project claims. How it turns the claim into cash depends on elective payment for applicable entities or transfer for everyone else.

9 Elective Payment (Section 6417) and Transfer (Section 6418): Election Mechanics and Diligence

The Inflation Reduction Act changed how energy credits are monetized. Section 6417 lets applicable entities treat the credit as a payment of tax and receive a refund of any excess. Section 6418 lets other taxpayers sell all or part of a credit to an unrelated buyer for cash. Both remove the old limit that a credit was only worth something to an owner with federal tax liability. Both created new documentation disciplines around eligibility, the elections, and the files behind cross-party deals.

9.1 Pre-Filing Registration

Neither election can be made without first registering. Under 26 CFR 1.6417-5 and 1.6418-4, an applicable entity or eligible taxpayer must complete pre-filing registration with the IRS, through the IRS Energy Credits Online tool, as a condition of and before making the election, and must report the registration number on the return. Registration is facility-specific. Build the registration timeline into the project schedule well ahead of the return due date.

9.2 Elective Payment Eligibility

Under section 6417(d)(1)(A), applicable entities are organizations exempt from income tax, states and political subdivisions, the Tennessee Valley Authority, Indian tribal governments, Alaska Native Corporations, and rural electric cooperatives. Certain other taxpayers can elect for a limited period for the credits under sections 45Q, 45V and 45X.

Elective payment opened the credits to municipal utilities, cooperatives, tribal energy projects, and similar entities with no federal income tax liability. The election is made on a return filed by the due date (including extensions), and once made it is irrevocable. For a production credit facility, the section 45 election applies separately to each facility for the year it is placed in service and the years that follow in the credit period.

9.3 Excessive Payments

Under section 6417(d)(6), if the IRS determines that an elective payment was excessive, the entity's tax is increased by the excess plus 20 percent of the excess. The 20 percent addition does not apply if the entity shows the excess resulted from reasonable cause. The defense to that 20 percent is the documentation architecture.

9.4 Domestic Content and Elective Payment

Chapter 6 covers the elective payment phase-out. Many applicable entities never tracked domestic content because credits were not available to them, so for these entities the domestic content file starts at procurement, not at the return.

9.5 Transfer Under Section 6418

An eligible taxpayer, meaning any taxpayer that is not an applicable entity under section 6417, may elect to transfer all or a specified portion of an eligible credit to an unrelated transferee. The consideration must be paid in cash. It is not income to the seller and not deductible by the buyer. The buyer cannot transfer the credit again. The election is due with the seller's return, including extensions, and is irrevocable. For production credits, the election is made separately for each facility and each year of the credit period.

Public Law 119-21 added a restriction in section 6418(g)(5): for credits under sections 45Q, 45U, 45X, 45Y, 45Z and 48E, the seller may not transfer to a specified foreign entity. Seller diligence now includes confirming the buyer is not a specified foreign entity, and buyer diligence still covers the seller's status under the credit's own foreign entity rules.

9.6 The Transfer Agreement

The seller and buyer sign a transfer agreement covering the credit, the amount, payment terms, the seller's representations about the credit's validity, and indemnification for examination and recapture risk. The seller makes the election on its return and the buyer claims the credit on its own.

These agreements have become familiar commercial documents, but indemnity scope, recapture risk allocation, and diligence representations still vary. In my view, a seller with a strong file negotiates from a better position because the buyer's diligence resolves cleanly. A seller with a weak file negotiates worse terms, or does not close.

9.7 Buyer Diligence

The buyer's diligence mirrors an IRS examination. Diligence counsel will ask for base credit documentation, the documentation for each adder claimed, supporting certifications and reports, the seller's registration, and, for facilities beginning construction after 2025, the prohibited foreign entity analysis. The buyer focuses on the items an examiner would test, because under section 6418(g)(2) the buyer is the one exposed if the credit turns out to be overstated.

A seller with an architecture built during construction can hand over the file. A seller assembling it after the fact spends weeks answering requests, and the delay shows up in timing, price, or both.

9.8 Excessive Credit Transfer

Section 6418(g)(2) addresses a credit transferred in an amount greater than the credit otherwise allowable. The tax of the transferee, not the seller, is increased by the excessive amount plus 20 percent of it, with the 20 percent addition excused on a showing of reasonable cause. That is why buyers require indemnities and why the architecture's accuracy on the credit amount is a

commercial term as much as a tax matter. Under 26 CFR 1.6418-5, a recapture event under section 50(a) is not an excessive credit transfer; it is handled separately.

9.9 Recapture

For investment credit property, section 50(a) recaptures a declining share of the credit if the property is disposed of or stops qualifying within five years after it is placed in service: 100 percent in the first full year, then 80, 60, 40 and 20 percent. For a transferred investment credit, section 6418(g)(3) and 26 CFR 1.6418-5(d) require the seller to notify the buyer of a recapture event, and the transferee is generally responsible for the recapture tax. Section 50(a)(4) adds the 10-year prohibited foreign entity payment recapture for section 48E property described in Chapter 2.

Transfer agreements typically push recapture economics back to the seller through indemnities and security. The seller's architecture supports those indemnities by showing continued compliance throughout the recapture period. Buyers monitor the project during that period and may call on the indemnity if a recapture event occurs.

9.10 Tax Credit Insurance

Insurance products cover identified risks in transfer and elective payment transactions up to policy limits. Underwriters ask for the same documentation a buyer does. A strong file supports better terms.

9.11 Examination of Elected Credits

Elective payment and transfer do not change what the credit requires. An examination still tests the underlying credit, the electing party's eligibility, and the election mechanics. The architecture supports an elected credit with the same evidence it uses for any other.

10 The Audit-Ready File: What an IRS Examination Looks At

The taxpayer that built the documentation architecture has already built the file an examiner will request. The taxpayer that did not is reading the examiner's document request and discovering what the architecture should have contained. This chapter walks through the file to expect, the request patterns, and how to support an examination from a position of strength.

10.1 The File to Expect

An energy credit examination follows the structure of the credit. Base credit documentation. Beginning-of-construction documentation. Placed-in-service documentation. Documentation for each bonus amount claimed. Documentation of each election and registration.

None of this should be a surprise. The statute, the regulations, and the IRS notices name the requirements, and the regulations name the records. Read them during construction and you know what to capture. Read them during examination and you are late.

10.2 The Initial Document Request

Expect the first request to cover the return, the project's organizational and financial documents, the credit calculation workpapers, the support for the credit amount, and the documentation of each material election. That request establishes the examiner's understanding of the project and points to the areas for deeper testing.

Organize the response to match the request. Label each item and cross-reference supporting documents. If the architecture is organized by evidence stream, the response almost organizes itself. Disorganized or incomplete responses draw more requests and longer examinations.

10.3 Follow-Up Requests

Follow-ups tend to focus by category. Prevailing wage: payroll records for selected periods, wage determinations, the contractor list, and flow-down contracts. Apprenticeship: labor hour aggregation, ratio compliance, participation by contractor, and registered program documentation. Domestic content: the bill of materials, supplier certifications, and the calculation or safe harbor support. Energy community: location records and the qualification basis.

Each request carries a response date. Extensions are negotiated with the examiner, not assumed. Missed deadlines push an examination toward unfavorable conclusions.

10.4 Site Visits and Interviews

Some examinations include site visits and interviews with key personnel, contractors, or vendors. The architecture names an owner for each stream: prevailing wage and apprenticeship

to the construction compliance lead, domestic content and material assistance to the procurement lead, energy community to the development lead. Prepare those people in advance with the documents they will be asked about. Interviewees who know the file answer consistently. Interviewees who do not know it generate follow-up questions.

10.5 Quantifying Disputes

Disputes usually come down to quantification. The position is fully supported, partly supported, or not supported. Granular evidence lets the parties separate the supported part from the rest.

Take a domestic content calculation where supplier certifications support most of the manufactured product cost and documentation is thin on the remainder. With component-level records, the discussion can focus on the thin portion and whether the project still clears the threshold without it. Without them, the whole bonus is in play.

10.6 Appeals and Litigation

Cases that do not resolve with the examiner can go to IRS Appeals and, after that, to litigation in the Tax Court or the Court of Federal Claims. The same evidence supports the case in every forum. A taxpayer that built the file during construction keeps its options open. One that did not has narrowed them, because reconstructed evidence carries less weight wherever contemporaneous records are the standard.

10.7 Cooperative Posture

My view is that taxpayers who respond on time, provide what is asked, and engage on the merits generally fare better than those who start adversarial. Cooperation is not capitulation. It is substantive engagement, and the architecture is what makes substantive engagement possible.

10.8 Statute of Limitations

Under section 6501(a), tax generally must be assessed within 3 years after the return is filed. Section 6501(e) extends that to 6 years for a substantial omission of gross income, generally more than 25 percent of the gross income stated on the return. For deficiencies attributable to an error in the prohibited foreign entity material assistance determination, section 6501(o) allows 6 years. Recapture periods run separately and can extend well past the original assessment period. Keep the file at least as long as the longest period that applies, and longer if counsel advises.

11 Coordination With Tax Counsel and the CPA

IRA credit work is multi-professional. Energy Compliance builds the documentation architecture and supports the operational compliance disciplines during construction. Tax counsel takes the credit position, advises on elections, and structures monetization. The CPA prepares the return. Each role is distinct. The roles meet in the documentation file. Coordination around that file is what produces a return that survives examination and a project that keeps the stack it earned.

11.1 The Role Divisions

Energy Compliance supports the documentation architecture and operational compliance during construction and through the recapture period. The work includes setting up the evidence streams at project start, capturing evidence as it is created, verifying contractor and supplier compliance with the architecture's requirements, and producing the evidence file in a form that supports the credit position when the return is filed.

Tax counsel evaluates eligibility, advises on the credit position and elections, addresses structural and contractual issues, issues opinions where appropriate, and may handle examination defense.

The CPA prepares the return that claims the credit, including the credit calculation, its integration into the broader tax position, reporting of elections and registrations, and return-related compliance. The CPA may support examination defense alongside counsel.

11.2 The Architecture as the Common Reference

All three roles draw on the same file. Energy Compliance maintains it. Tax counsel reviews it to support the position. The CPA reviews it to prepare the return. Each applies a different professional lens to the same evidence.

The file is worth more when the roles coordinate around it from the start. Energy Compliance can capture evidence in a form counsel can use. Counsel can set documentation priorities based on the position the project expects to take. The CPA can flag reporting requirements the architecture needs to support, such as registration numbers and the domestic content certification statement.

11.3 Coordinated Reviews at Key Milestones

Hold coordinated reviews at the milestones that matter. At beginning of construction, confirm the method, the regime, the dates that drive wind and solar termination and material assistance, and that the foundational evidence is captured. At placed-in-service, confirm the placed-in-

service evidence is complete, each bonus position is substantiated, and the parties agree on elections.

Coordinated reviews catch what one role misses. Counsel may question a contractor's apprenticeship records that Energy Compliance had treated as routine. The CPA may identify a reporting requirement the file has not captured. Energy Compliance may find a gap counsel assumed was closed. The review turns a collection of files into a defensible position.

11.4 Pre-Return Diligence

Before filing, the parties run a pre-return diligence pass. Finalize the credit calculation. Verify the documentation against it. Close open gaps through more collection, correction payments, penalty payments, or a position adjustment. Finalize elections and confirm registrations. Then prepare the return on the supported position.

This is the moment the architecture is tested against the position. Gaps found here are usually still curable. Gaps found by an examiner after filing usually are not, or cost more to cure.

11.5 Engagement Letter Clarity

Each engagement should say who does what. Energy Compliance operates under an engagement letter that defines the documentation architecture scope and recapture period support. Tax counsel's letter covers the credit position and examination defense. The CPA's covers return preparation. The three are coordinated but separate.

Clear letters prevent role confusion. The architecture should not depend on tax counsel doing operational compliance work. The position should not depend on Energy Compliance giving legal advice. The CPA should not be expected to verify the underlying compliance. Each role works within its scope.

11.6 Communication Cadence

Set a cadence that fits the project: quarterly status meetings during construction, which also line up with the prevailing wage penalty waiver window in Chapter 4; coordination calls around compliance milestones; and pre-return planning sessions in the months before filing. Projects without a cadence often find at the pre-return stage that the parties had different understandings of the position, and the scramble that follows is expensive and not always resolved by the filing date.

11.7 Closing the Engagement

The documentation engagement continues through the recapture period. Annual reviews confirm the project remains in a qualifying configuration and that operational changes have not affected the credit. At the end, the file is archived as a complete record, with a closing memo summarizing what was claimed, what was documented, what position the file supports, and any open examination matters or continuing exposure.

11.8 A Practitioner Note

My view is that this multi-professional model is what decides whether a project keeps the full credit stack. When it runs poorly, the documentation gaps surface at examination, and the project is left making correction payments and penalty payments, giving up credits, or settling for less than it was entitled to. The model, the architecture and the coordination around it can all be built. What it takes is an institutional decision to treat IRA credit work as a discipline rather than a tax accounting exercise.

Energy Compliance, Inc. exists in part because the project sponsor does not always make that decision itself. The firm carries the architecture function for projects that need it and coordinates with tax counsel and the CPA as the documentation support function. The firm does not take tax positions and does not prepare returns. It builds the file the position rests on.

11.9 Closing Note

Bonus credit stacking is not a tax position. It is a documentation architecture, built during construction or not built at all. Tax counsel takes the position. The CPA files the return. The architecture supports both, and it is what the examiner reads when the case opens. Projects with strong files resolve examinations efficiently and keep the credits they claimed. Projects with weak files lose credits they earned in substance because the file did not show it.

The arithmetic is plain enough to say directly. On an investment credit project that meets every requirement, the stack can take the credit from 6 percent to 50 percent of qualified basis before any low-income increase. The file is how the project keeps the difference.

Glossary of Terms

Term	Meaning in this paper
Applicable entity	An entity eligible for elective payment under section 6417(d)(1)(A): tax-exempt organizations, states and political subdivisions, the Tennessee Valley Authority, Indian tribal governments, Alaska Native Corporations, and rural electric cooperatives.
Beginning of construction	The date construction of a facility is treated as starting, established under the Physical Work Test or, where available, the Five Percent Safe Harbor. It determines which credit rules apply.
Continuity Safe Harbor	IRS guidance treating the continuity requirement as met if a facility is placed in service by the end of a calendar year no more than four calendar years after the calendar year construction began.
Domestic Content Certification Statement	The statement, signed under penalties of perjury and attached to the credit form, certifying that a project meets the domestic content requirement (Notice 2023-38).
Elective payment	The section 6417 election under which an applicable entity treats a credit as a payment of tax.
Energy community	A brownfield site, a qualifying metropolitan or non-metropolitan statistical area, or a qualifying coal closure census tract, as defined in section 45(b)(11)(B).
Excessive credit transfer	The amount by which a transferred credit claimed by a buyer exceeds the credit otherwise allowable. The buyer's tax increases by that amount plus 20 percent, absent reasonable cause (section 6418(g)(2)).
Five Percent Safe Harbor	A method of establishing beginning of construction by paying or incurring 5 percent or more of the total cost of a facility.
Good Faith Effort Exception	The rule deeming the apprenticeship requirements met where a written request for apprentices to a registered apprenticeship program was denied or not answered within 5 business days.
Labor hours	Total hours of construction, alteration, or repair work by individuals employed by the taxpayer or any contractor or subcontractor, excluding foremen, superintendents, owners, and exempt executive, administrative, and professional employees.
Material assistance cost ratio	The section 7701(a)(52) measure of how much of a facility's cost is attributable to non-prohibited foreign entity sources, compared against an annual threshold percentage.
Physical Work Test	A method of establishing beginning of construction by starting physical work of a significant nature, on-site or off-site under a binding written contract.

Term	Meaning in this paper
Placed in service	The point at which property is in a condition or state of readiness and availability for a specifically assigned function (26 CFR 1.46-3(d)(1)(ii)).
Pre-filing registration	The required IRS registration, through Energy Credits Online, before making an elective payment or transfer election.
Prevailing wage requirements	The requirement that laborers and mechanics be paid not less than the prevailing rates determined by the Secretary of Labor for construction, alteration, or repair of a similar character in the locality.
Prohibited foreign entity	A specified foreign entity or foreign-influenced entity as defined in section 7701(a)(51), for purposes of the taxpayer and material assistance restrictions added in 2025.
Qualified apprentice	An individual employed by the taxpayer or any contractor or subcontractor who participates in a registered apprenticeship program as defined in section 3131(e)(3)(B).
Recapture period	For investment credit property, the five years after placed in service during which disposition or loss of qualification recaptures part of the credit under section 50(a).
Wage determination	The Department of Labor schedule of prevailing basic hourly rates and fringe benefits by labor classification for a geographic area and type of construction.

How Energy Compliance Can Help

Every chapter in this paper ends in the same place: a file that has to exist before anyone asks for it. That is the work Energy Compliance does.

IRA bonus credit documentation. We build and run the documentation architecture described here alongside your tax counsel and CPA: prevailing wage, apprenticeship, domestic content, energy community, low-income communities allocation, prohibited foreign entity material assistance, and elective payment and transfer documentation. The engagement starts at beginning of construction, or as early as you bring us in, and runs through the recapture period.

Pre-return and buyer diligence readiness. Before a return is filed or a transfer closes, we test the file against the position and the buyer's diligence list, close what can be closed, and document what cannot.

Post-award administration and audit defense. Many credit-eligible projects also carry federal grant money. Where they do, we provide post-award compliance administration under 2 CFR 200, including the Compliance Obligation Matrix, reporting cadence, sub-recipient monitoring and single-audit readiness, and audit defense, including single audit preparation, OIG response, finding remediation, and corrective action plan drafting and execution.

WattOps Compliance. WattOps Compliance is EC's NERC compliance evidence platform, at wattopscompliance.com. The same discipline that keeps a credit file audit-ready keeps NERC evidence audit-ready once the facility is registered and operating. EC will run one standard at one facility through WattOps at no cost (CIP standards excluded).

RenewOps. RenewOps is EC's renewable operations monitoring and analytics platform, with a Data Center module. For wind, solar, and storage facilities that claimed these credits, operating data is part of how you show the facility stayed in service and in a qualifying configuration through the recapture period.

If this reference surfaced gaps in your project's file that you cannot close in the time remaining, the next step is a working conversation. Bring the project schedule and the list of adders you intend to claim. We will tell you what the file needs and where it stands.

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About the Author

Rob Smith is the Founder and Principal of Energy Compliance, Inc., with more than thirty years in the industry on every side of the system. He began in control-room operations as a Reliability Coordinator, Transmission Operator, and Power System Operator across RTO/ISO and utility control centers. On the regulator side, he was a senior compliance auditor and subject matter expert for NERC Reliability Standards. He audited grid facilities, evaluated mitigation adequacy, participated in risk-based oversight of utility mitigation activities, and supported the development of violation notifications and settlements in FERC-directed enforcement actions. He conducted a regulatory audit in the Sultanate of Oman against the Sultanate's Sector Law and Grid Code.

He founded Energy Compliance, Inc. to deliver senior regulator-side compliance authority without the layered staffing and billable-hour overhead of larger firms.

Education:

- MBA, Energy Management, University of Mary
- MSL, Compliance Law, Fordham Law University
- BAS, Energy Management, Bismarck State College
- BAS, Mechanical Engineering, Metallurgy minor, University of Florida
- BAS, Criminology, St. Petersburg College (State Law Enforcement Certification)
- AAS, Power Plant Technology, Bismarck State College
- AAS, Electrical Transmission System Technology, Bismarck State College

Certifications: NERC Lead Auditor training; previously NERC-certified at the Reliability Coordinator level; 1st Class A Boiler Engineer License, Minnesota.

About Energy Compliance, Inc.

Energy Compliance, Inc. is a senior-led professional services firm serving registered entities and federally funded energy projects. The firm advises on NERC Reliability Standards, RTO and ISO market frameworks, Public Utility Commission of Texas matters, post-award compliance administration under 2 CFR 200, Inflation Reduction Act bonus credit documentation, federal grant application engineering, and engineering firm partnership structures for owner-side compliance delivery.

Every engagement is overseen by a senior practitioner. The firm does not bring five people to a meeting that needs one. The work that should be automated is automated. The work that requires senior judgment gets senior judgment.

The firm's grant and credit practice covers four lines of work:

- **Post-award administration.** Compliance Obligation Matrix, reporting cadence, sub-recipient monitoring, and single-audit readiness under 2 CFR 200.
- **Audit defense.** Single audit preparation, OIG response, finding remediation, and corrective action plan drafting and execution.
- **IRA bonus credit documentation.** Prevailing wage, apprenticeship, domestic content, energy community, and elective payment and transfer documentation discipline.
- **Grant readiness and application engineering.** Pre-application diagnostics, application strategy, narrative engineering, and federal cross-cutting compliance design.

The Grant Funding Series is one of several professional reference series the firm publishes. The references are written for the people doing the work. The substance in the reference is the substance in the engagement. The difference is whether the firm carries the workload with you or you carry it yourself.

The firm is based in Bloomington, Minnesota and serves clients nationwide.

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