

Advocacy's Comments on IRS's IRA Prevailing Wage and Apprenticeship Initial Guidance

On November 30, 2022, the Internal Revenue Service (IRS) published a notice of initial guidance (Notice 2022-61) regarding prevailing wage and apprenticeship (PW&A) requirements applicable to certain energy tax incentives found in the Internal Revenue Code, as amended by the Inflation Reduction Act of 2022 (IRA). Notice 2022-61 establishes that prevailing wage rates will be determined using information published by the Department of Labor (DOL) and that the required apprentices must be participating in a registered apprenticeship program, among other provisions.

On January 13, 2023, the Office of Advocacy (Advocacy) issued a comment letter to the Department of the Treasury and IRS, encouraging the withdrawal of Notice 2022-61. Advocacy further recommended that IRS issue a notice of proposed rulemaking related to the IRA's PW&A requirements.

Advocacy made the following comments on Notice 2022-61:

- Notice 2022-61 will disproportionately affect small businesses working on clean energy projects.
- Notice 2022-61 is incomplete and does not answer stakeholder questions IRS received after requesting public comment on the IRA's PW&A provisions in October 2022.
- Notice 2022-61 is a legislative rulemaking. Therefore, it should have followed the notice and comment procedures required by the Administrative Procedure Act.

A complete copy of [Advocacy's letter to IRS](#) is available. For more information, please contact Meagan Singer, Assistant Chief Counsel at meagan.singer@sba.gov or (202) 921-4843.

