



# Inflation Reduction Act

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# Disclaimer

- This presentation discusses general prevailing wage obligations and is not intended to provide legal advice.
- Attendees should refer any specific matters which require legal advice to their legal counsel.



## Deborah Wilder

Deborah Wilder is the president of Contractor Compliance and Monitoring Inc. and a practicing attorney for 40+ years. Her expertise in prevailing wage makes her one of the most highly regarded experts in the field. She has represented Public Agencies as well as developers and contractors in the field of prevailing wage in more than 20 states and before local, state and federal jurisdictions.

As the author of three books and the presenter on scores of webinars and workshops, Deborah is thrilled to work with LCPtracker in presenting the California track for contractors and agencies in the LCPtracker Academy.

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# ■ Inflation Reduction Act

- Passed by Congress in 2022
- Significant Climate Legislation
- Triggers Prevailing Wage on projects which use:
  - Investment Tax Credits (ITC)
  - Production Tax Credits (PTC)

Must meet PW and Apprenticeship rules over 1.M WAC



# What Type of Projects Qualify?

1

- Eligible for both IFC and PTC
- Multiple solar and wind technologies, municipal solid waste, geothermal (electric), and tidal

2

- Eligible for IFC
- energy storage technologies, microgrid controllers, fuel cells, geothermal (heat pump and direct use), combined heat & power, microturbines, and interconnection costs

3

- Eligible for PTC
- biomass, landfill gas, hydroelectric, marine and hydrokinetic



# Inflation Reduction Act

After January 1, 2025

Clean Electricity Production Tax Credits

Clean Electricity Investment Tax Credit

New Tax Credits which replace ITC and PTC



# Prevailing Wages and Apprenticeship Applies to:

- Construction of a Facility
- Alteration or repair of facility within 10 years of date facility originally placed into service

IRS has primary jurisdiction over enforcement



# ■ “Start of Construction”

- Excludes preconstruction work such as surveying, permitting and even clearing the site
- Includes:
  - Start of physical work of a significant nature (continuing work)
  - Paying or incurring more than 5% of total cost of facility





# Apprenticeship



Anyone who employs 4 or more individuals **MUST** employ at least one Apprentice

- Apprenticeship Requirements
  - 10% for projects which began construction before January 1, 2023
  - 12.5% for projects which began construction during calendar year 2023
  - 15% for projects which begin construction on or after January 1, 2024

# Apprenticeship Good Faith Effort Exception

- \*Contractor requested apprentices from a bona fide DOL approved apprenticeship program and agreed to comply with its standards.**
- Requested and were denied apprentices by program**
- Requested apprentices and none or an insufficient number dispatched within 5 business days**



# Fines for Apprenticeship Obligations Not Met

- Not Meeting Apprenticeship Goal

- \$50 per apprenticeship hours not met

- Intentional Disregard of Apprenticeship Provisions

- Fine increased to \$500 per apprenticeship hours not met

Fine paid to Secretary of the Treasury



# Enforcement

- Governed by IRS
- Not a DB or DBRA project
- IRS will pull from DB rates, standards and fines

# Challenges

- New to private developers with no prior exposure to Prevailing Wage and Apprenticeship
- New Apprenticeship requirement which has not be mandated on prior Davis Bacon Projects
- IRS not familiar with PW and apprenticeship Enforcement
- IRS has not defined what “sufficient records” mean
  - LCPtracker system will be enough

More regulations to follow

# Resources

- Summary: <https://www.epa.gov/green-power-markets/inflation-reduction-act>
- Inflation Reduction Act Guidebook: <https://www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/>
- Prevailing Wage and Inflation Reduction Act FAQ: <https://www.dol.gov/agencies/whd/IRA>
- Apprenticeship and the Inflation Reduction Act. FAQ: <https://www.apprenticeship.gov/inflation-reduction-act-apprenticeship-resources>



# Credentials

- 20 years as president of CCMI; 40+ years as a practicing attorney
- Author of *What Every Contractor Should Know About Prevailing Wages* © 3<sup>rd</sup> Edition 2021
- Author of *AGC of America's Davis Bacon Compliance Manual* 5<sup>th</sup> Edition © October 2019
- Author of *Davis Bacon Handbook for Public Agencies* © 2<sup>nd</sup> Edition © 2016

Nationally recognized speaker on the subject of state and federal prevailing wage compliance: Workshops, Webinars, and presentations before World of Concrete, APWA-American Public Works Association, CLE Workshops for Continuing Legal Education, Webinars with AGC, ABC, Builders Exchanges, ACWA, CSDA and more.