

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.201: Rulings and determination letters.

Rev. Proc. 2024-19

SECTION 1. PURPOSE

This revenue procedure provides the process under § 48(e) of the Internal Revenue Code (Code)¹ to apply for an allocation of environmental justice solar and wind capacity limitation (Capacity Limitation) as part of the low-income communities bonus credit program (Program) for 2024 (2024 Program year). Solely with respect to the 2024 Program year, this revenue procedure supersedes Rev. Proc. 2023-27, 2023-35 I.R.B. 655, and provides important clarifying changes to the application, documentation, and lottery procedures that apply to the 2024 Program year. In addition, this revenue procedure describes how the Capacity Limitation for the 2024 Program year will be divided across the facility categories described in §§ 48(e)(2)(A)(iii) and 1.48(e)-1(b)(2),

¹ Unless otherwise specified, all “section” or “§” references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

the Category 1 sub-reservation described in § 1.48(e)-1(i)(1), and the additional selection criteria application options described in § 1.48(e)-1(h). Receipt of an allocation increases the amount of an energy investment credit determined under § 48(a) (§ 48 credit) for the taxable year in which certain solar and wind-powered electricity generation facilities are placed in service.

SECTION 2. BACKGROUND

.01 Section 13103 of Public Law 117–169, 136 Stat. 1818, 1921 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA), added new § 48(e) to the Code. Section 48(e) increases the amount of the § 48 credit with respect to eligible property that is part of a qualified solar or wind facility that is awarded an allocation of Capacity Limitation as part of the Program. The § 48 credit for a taxable year is generally calculated by multiplying the basis of each energy property placed in service during that taxable year by the energy percentage (as defined in § 48(a)(2)). Section 48(e) increases the § 48 credit by increasing the energy percentage used to calculate the amount of the § 48 credit (§ 48(e) Increase) in the case of qualified solar and wind facilities that receive an allocation of Capacity Limitation.

.02 Section 48(e)(4) directs the Secretary of the Treasury or her delegate to establish a program, within 180 days of enactment of the IRA, to allocate amounts of Capacity Limitation to qualified solar and wind facilities. Notice 2023–17, 2023–10 I.R.B. 505, established the Program and provided definitions and other guidance related to the Program. On June 1, 2023, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published in the Federal Register (88 FR 35791) a notice of proposed rulemaking (REG-110412-23, 2023-26 I.R.B. 1098)

under § 48(e) (Proposed Rules) relating to the Program. On August 15, 2023, Treasury Decision 9979 was published in the Federal Register (88 FR 55506) to adopt the Proposed Rules with modifications as final regulations codified at § 1.48(e)-1 (Final Regulations).

.03 On August 28, 2023, the Treasury Department and the IRS published Rev. Proc. 2023-27, which provided guidance necessary to implement the Program for 2023 (2023 Program year), including the information an applicant must submit to apply for a Capacity Limitation allocation, the application review process, the manner of obtaining a Capacity Limitation allocation from the IRS, and the procedures and documentation requirements for reporting that a facility was placed in service. This revenue procedure supersedes Rev. Proc. 2023-27 solely with respect to the 2024 Program year and provides guidance necessary to implement the Program for the 2024 Program year. The procedures for the 2024 Program year provided in this revenue procedure generally follow those provided in Rev. Proc. 2023-27 with certain clarifying changes to the application and documentation requirements described in more detail in sections 3 through 13 of this revenue procedure.

SECTION 3. CAPACITY LIMITATION AVAILABLE FOR ALLOCATION

.01 The amount of Capacity Limitation for the 2024 Program year available for allocation through the application process provided in this revenue procedure is limited to the annual Capacity Limitation of 1.8 gigawatts of direct current capacity plus any unallocated Capacity Limitation carried over from the 2023 Program year. If any such Capacity Limitation from the 2023 Program year is carried over to the 2024 Program year, the Treasury Department and the IRS will announce the distribution of that

Capacity Limitation.

.02 As provided in § 1.48(e)-1(g), the annual Capacity Limitation available for allocation is divided across the four facility categories described in §§ 48(e)(2)(A)(iii) and 1.48(e)-1(b)(2). For the 2024 Program year, the Treasury Department and the IRS plan to distribute the annual Capacity Limitation of 1.8 gigawatts of direct current capacity as shown in Table 1. As described in § 1.48(e)-1(g), the Treasury Department and the IRS may later reallocate Capacity Limitation across facility categories in the event any category is oversubscribed or has excess capacity.

Table 1

| Categories | Megawatts |
|---|------------------|
| Category 1: Located in a Low-Income Community | 600 megawatts |
| Category 2: Located on Indian Land | 200 megawatts |
| Category 3: Qualified Low-Income Residential Building Project | 200 megawatts |
| Category 4: Qualified Low-Income Economic Benefit Project | 800 megawatts |

SECTION 4. CATEGORY 1 SUB-RESERVATIONS

As provided in § 1.48(e)-1(i)(1), Category 1 Capacity Limitation is subdivided for each Program year, with a specific sub-reservation for eligible residential behind the meter (BTM) facilities. Accordingly, the 600 megawatts of Capacity Limitation for Category 1 facilities will be subdivided for facilities seeking a Category 1 allocation with 400 megawatts of Capacity Limitation reserved specifically for eligible residential BTM facilities described in § 1.48(e)-1(i)(2)(ii), including rooftop solar. The remaining 200 megawatts of Capacity Limitation distributed to Category 1 is available for applicants

with front of the meter (FTM) facilities described in § 1.48(e)-1(i)(2)(iii) as well as non-residential BTM facilities that meet the requirements of § 1.48(e)-1(i)(2)(i).

SECTION 5. APPLICATION

.01 In general. An applicant (described in section 6 of this revenue procedure) must apply for an allocation of Capacity Limitation through Department of Energy's (DOE) online Program portal system (Portal), available at <https://eco.energy.gov/ejbonus/s/>. The application must contain all information, documentation, and attestations specified in section 7 of this revenue procedure and any additional information required by DOE's publicly available written procedures.

.02 Selection of the appropriate category or sub-reservation. Applicants must submit applications for a particular facility category described in § 1.48(e)-1(b)(2) (that is, Category 1 Facility, Category 2 Facility, Category 3 Facility, or Category 4 Facility). If the applicant is applying in Category 1, the applicant must also select the appropriate Category 1 sub-reservation described in § 1.48(e)-1(i) (that is, eligible residential BTM or other facilities located in low-income communities). In addition, applicants must select the appropriate application option (for example, additional selection criteria, if applicable) within the facility category or Category 1 sub-reservation to which they are applying. DOE will not move applications to a different facility category or Category 1 sub-reservation.

.03 One application for the 2024 Program year. Applicants may only submit one application per facility for the 2024 Program year. If, after submitting an application for a facility, the applicant decides that it would rather have the facility considered for an allocation under a different facility category or Category 1 sub-reservation, the applicant

must withdraw the first application and submit a second application under the other facility category or Category 1 sub-reservation. If DOE identifies that an applicant has submitted more than one application for a facility (and the applicant has not withdrawn previously submitted application(s)), any application submitted after the first submitted application will be considered a duplicate application and will be treated as withdrawn.

.04 Opening and closing dates of 2024 Program year application period. The Treasury Department and the IRS will publicly announce the opening and closing dates for the 2024 Program year application period on DOE's landing page for the Program (Program Homepage), available at <https://www.energy.gov/justice/low-income-communities-bonus-credit-program>. DOE will not accept new application submissions for the 2024 Program year after 11:59 PM ET on the date the application period closes.

SECTION 6. APPLICANT

.01 In general. The owner of the solar or wind facility is the person who must apply for an allocation of Capacity Limitation. If the facility is determined to be eligible for an allocation, and there is Capacity Limitation available to allocate, the owner of the facility is the recipient of the allocation of Capacity Limitation.

.02 Disregarded entities. If a qualified solar or wind facility is owned by an entity that is disregarded as separate from its owner for federal income tax purposes, the owner of the disregarded entity is the owner of the facility and is the applicant.

.03 Partnerships and S corporations. If a qualified solar or wind facility is owned by a partnership or S corporation, then the partnership or S corporation, and not its partners or shareholders, is the owner of the facility and is the applicant. For unincorporated organizations that have made or will make an election under § 761(a) to be excluded

from the application of subchapter K of chapter 1 of the Code (subchapter k), the organization, and not its members, is the applicant.

SECTION 7. APPLICATION PROCESS

.01 Registration in general. Applicants must register in the Portal before they can begin the application process. Potential applicants should follow DOE's publicly available procedures to register in the Portal and to submit applications. To register, applicants must first create a login.gov account before accessing the Portal. After a login.gov account has been created, the user can register as the applicant in the Portal. See the Applicant User Guide, which can be found on the Program Homepage, for more information. Applications may be submitted only through the Portal.

.02 Application Submission. The applicant must submit their application, including any required information, documentation, and attestations required by section 7 of this revenue procedure, under penalties of perjury. The person completing and submitting the application must have personal knowledge of the facts related to the application and be a person who is legally authorized to (1) bind the applicant entity for federal income tax purposes, including providing, under penalties of perjury, the attestations under sections 7.06, 7.07, 7.08 and 10.02 of this revenue procedure; (2) communicate with DOE about the application prior to and after submission of the application; and (3) receive notifications, letters, and other communications from DOE and the IRS about the Program. For example, an application may be authorized by an officer of a corporation, a general partner of a state law partnership, a member-manager on behalf of a limited liability company, a trustee on behalf of a trust, or the proprietor in the case of a sole proprietorship. The person submitting the application must attest through the

Portal that they have the requisite authority to legally bind the applicant with respect to federal income tax matters.

.03 Applicant Information. The application must include the following identifying information of the applicant:

(1) The name of the applicant;

(2) The unique federal taxpayer identification number for the applicant. Unless a transfer request is reviewed and approved by the IRS or the unincorporated organization has made a § 761(a) election to be excluded from the application of subchapter K (see section 13 of this revenue procedure), the taxpayer identification number of the applicant must match the taxpayer identification number of the taxpayer that will claim the energy percentage increase under § 48(e), or, in the case of a partnership or S corporation, the partnership or S corporation that owns the facility when it is placed in service;

(3) The applicant's address;

(4) If the applicant is a subsidiary corporation of a consolidated group filing a consolidated federal income tax return, the legal name and federal taxpayer identification number of the parent corporation of the consolidated group; and

(5) Any other information required by DOE's publicly available written procedures.

.04 Facility Information.

(1) In general. The application requires the applicant to provide the information about the facility described in section 7.04(2) and 7.04(3) of this revenue procedure.

(2) Facility maximum net output and nameplate capacity.

(a) Wind facility. Applicants seeking an allocation for a wind facility must report

the expected maximum net output of the facility defined as the nameplate capacity of the facility in alternating current. Wind facilities selected for an allocation will be awarded an amount of Capacity Limitation in direct current that is equal to the facility's reported nameplate capacity in alternating current.

(b) Solar facility. Applicants seeking an allocation for a solar facility must report the expected maximum net output of the facility as measured in alternating current and the nameplate capacity of the facility in direct current. Solar facilities selected for an allocation will be awarded an amount of Capacity Limitation in direct current that is equal to the facility's reported nameplate capacity in direct current.

(3) Facility location. Applicants are required to report the location of the facility, including street address (if applicable) and coordinates (latitude and longitude).

.05 Documentation.

(1) In general. Applicants must submit the documentation specified in sections 7.05(2) and 7.05(3) of this revenue procedure with an application for an allocation of Capacity Limitation. An application is not complete and may be rejected if any required documentation is not included.

(2) Facility documentation. As specified in Table 2, the following documents are required for each facility for which an application is submitted:

Table 2

| Document Requirement | FTM ² | BTM ³ ≤ 1 MW AC | BTM > 1 MW AC |
|--|------------------|-------------------------------|------------------|
| <p>One of the following documents, in its entirety, inclusive of any amendments, appendices, consumer disclosures, and schedules thereto, executed by each party⁴ on or before the date of application submission:</p> <p>1) If the applicant will <u>not</u> execute a lease or a power purchase agreement (PPA) with respect to the facility, an executed contract for the installation of the facility owned by the applicant (for example, an engineering, procurement, and construction contract). For purposes of meeting this requirement, if the applicant will self-install the facility, the applicant must submit a contract to purchase the solar generation or wind generation equipment;</p> <p>2) If the applicant will execute a lease with respect to the facility, an executed contract to lease the facility between the applicant (as the lessor) and</p> | No | Yes | Yes |

² As defined in § 1.48(e)-1(i)(2)(iii), for the purposes of the Program, a qualified solar or wind facility is front of the meter (FTM) if it is directly connected to a grid and its primary purpose is to provide electricity to one or more offsite locations via such grid or utility meters with which it does not have an electrical connection; alternatively, FTM is defined as a facility that is not BTM. For the purposes of Category 4, a qualified solar or wind facility is also FTM if 50 percent or more of its electricity generation on an annual basis is physically exported to the broader electricity grid.

³ As defined in § 1.48(e)-1(i)(2)(i), a qualified wind or solar facility is behind the meter (BTM) if (1) it is connected with an electrical connection between the facility and the panelboard or sub-panelboard of the site where the facility is located, (2) it is to be connected on the customer side of a utility service meter before it connects to a distribution or transmission system (that is, before it connects to the electricity grid), and its primary purpose is to provide electricity to the utility customer of the site where the facility is located. This also includes systems not connected to a grid and that may not have a utility service meter, and whose primary purpose is to serve the electricity demand of the owner of the site where the system is located.

⁴ If the applicant is not a party named in the contract, the applicant must provide with the applicable contract a statement explaining why the applicant is not named in the contract and the relationship between the appropriate entity named in the contract and the applicant—the latter of which must be the owner of the facility to be eligible to apply for an allocation of Capacity Limitation.

| | | | |
|--|------------|-----------|------------|
| <p>the lessee; or</p> <p>3) If the applicant will execute a PPA with respect to the facility, an executed power purchase agreement for the generation by the facility between the applicant and the offtaker of the electricity generated.</p> | | | |
| <p>A copy of the final, executed interconnection agreement, if applicable (see below).</p> <p>If the facility is located in a market where the interconnection agreement cannot be countersigned by the interconnecting utility prior to completion of construction or interconnection of the facility, the applicant must provide: 1) a copy of the interconnection agreement or offer signed by the applicant (or its agent), 2) a copy of the final completed interconnection screen/study, and 3) either a conditional approval letter from the interconnecting utility or an affidavit⁵ stating that, based on the interconnecting utility's guidance, the facility's interconnection agreement cannot be countersigned by the interconnecting utility and executed until after construction of the facility. If an interconnection agreement is not applicable to the facility (for example, due to utility ownership), the interconnection agreement requirement is satisfied by a final written decision from a Public Utility Commission, cooperative board, or other governing body with sufficient authority that financially authorizes the facility.</p> | <p>Yes</p> | <p>No</p> | <p>Yes</p> |

⁵ If an affidavit is provided, it must be signed by an individual with authority to bind the applicant.

(3) Facility category specific document. The application must include the following documents for the applicable facility category:

Table 3

| | Category 1 | Category 2 | Category 3 | Category 4 |
|---|------------|------------|------------|------------|
| Document Requirement | 1 | 2 | 3 | 4 |
| Documentation demonstrating property will be installed on an eligible residential building. | No | No | Yes | No |
| Draft Benefits Sharing Statement. | No | No | Yes | No |

.06 Attestations.

(1) In general. Each applicant must make the required attestations as specified in sections 7.06(2) and 7.06(3) of this revenue procedure. The attestations in sections 7.06(2) and 7.06(3) are included as part of the application in the Portal. An applicant will be unable to submit their application if any required attestations are not completed.

(2) For all facilities. As specified below in Table 4, the following attestations are required for each facility for which an application is submitted:

Table 4

| Attestation Requirement | FTM | BTM | BTM |
|---|-----|------------|-----------|
| | | <= 1 MW AC | > 1 MW AC |
| I attest that the qualifying facility has site control of the real property on which the facility will be installed and placed in service through ownership of the real property, an executed lease for the real property, or a site access agreement or similar agreement between the real property owner and the applicant. | Yes | No | No |

| | | | |
|---|-----|-----|-----|
| For a facility on lands under 25 U.S.C. 3501(2)(A)-(C) (Indian Land), I attest that I have obtained the applicable approval of the Tribal government or Alaska Native Corporation landowner. For a facility not on Indian Land, complete this attestation to attest that the facility is not on Indian Land. | Yes | Yes | Yes |
| I attest that the qualifying facility has obtained all applicable federal, state, tribal, and local non-ministerial permits for the facility, or that the facility is not required to obtain such permits. ⁶ | Yes | Yes | Yes |
| I attest that when performing the activities that support this application, I was, or will be, in compliance with all relevant federal, state, and local laws, including consumer protection provisions, and safety obligations, and that the applicant did not and will not engage in any unfair or deceptive acts or practices. | Yes | Yes | Yes |
| I attest that the qualified facility is sized, or that customer/offtaker subscriptions will be sized, to meet the customer's energy needs, considering historical customer load and/or reasonable future load projections, and is in accordance with applicable state and local requirements. | Yes | Yes | Yes |
| I attest that the proposed location of the facility has been determined suitable for installation. | Yes | Yes | Yes |
| I attest that I reasonably believe the qualifying facility meets the statutory definition of a single "qualified | Yes | Yes | Yes |

⁶ Non-ministerial permits are permits in which one or more officials or agencies consider various factors and exercise some discretion in deciding whether to issue or deny permits. This does not include ministerial permits based upon a determination that the request complies with established standards such as electrical or building permits. Non-ministerial permits typically come with conditions and usually require public notice or hearings. Examples of non-ministerial permits include local planning board authorization, conditional use permits, variances, and special orders.

| | | | |
|--|-----|-----|-----|
| solar and wind facility” (§ 48(e)(2)(A)) and, if applicable, multiple solar or wind energy properties or facilities that are operated as part of a single project (consistent with the single-project factors provided in section 7.01(2)(a) of Notice 2018–59, 2018–28 I.R.B. 196 or section 4.04(2) of Notice 2013–29, 2013–20 I.R.B. 1085) are aggregated and treated as a single facility. | | | |
| I attest that the qualifying facility has not been placed in service at the time of this submission and will not be placed in service prior to being awarded an allocation of Capacity Limitation. | Yes | Yes | Yes |

(3) Facility and category specific attestations. The application must include the following attestations for the applicable facility category:

Table 5

| Attestation Requirement | Category 1 | Category 2 | Category 3 | Category 4 |
|---|---------------|---------------|---------------|---------------|
| Facility location is eligible. ⁷ | Yes | Yes | No | No |
| I attest that any end-use customer(s)/offtaker(s) of the qualifying facility have and/or will receive consumer disclosures informing them of their legal rights and protections prior to executing a contract to subscribe or purchase power from the facility or lease a facility. | Yes | Yes | Yes | Yes |

⁷ For Category 1, the applicant must attest that the facility will be located in a low-income community, as defined in the Final Regulations for the Program, specifically § 1.48(e)-1. A map that captures applicable census tracts will be available in DOE’s publicly available written procedures to assist applicants. For Category 2, the applicant must attest that the facility will be located on Indian Land as defined in § 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2)).

| | | | | |
|---|----|----|----|-----|
| I attest that at least 50% of the qualifying facility's total kW output will be assigned to qualified low-income households (defined under § 48(e)(2)(C)(i) or (ii)) at a minimum 20% bill credit discount rate, defined as the difference between the financial benefit provided to a Qualifying Household (including utility bill credits, reductions in a Qualifying Household's electricity rate, or other monetary benefits accrued by the Qualifying Household on their utility bill) and the cost of participating in the program (including subscription payments for renewable energy and any other fees or charges), expressed as a percentage of the financial benefit provided to the low-income household. | No | No | No | Yes |
|---|----|----|----|-----|

.07 Ownership Criteria documentation and attestation. In addition to the information, documentation, and attestations required above, any applicant purporting to meet the Additional Selection Criteria for Ownership Criteria, as described under § 1.48(e)-1(h)(2), must submit with their application the documentation specified below to demonstrate that they meet the Ownership Criteria.

(1) Tribal Enterprise. An applicant claiming to be a Tribal Enterprise must provide proof of inclusion of its Indian Tribal government (Tribal government) owner on the current list of Tribal entities recognized and eligible for funding and services by the Bureau of Indian Affairs (BIA).

(2) Alaska Native Corporation. An applicant claiming to be an Alaska Native Corporation (ANC) must provide a copy of the relevant portions of the ANC's articles of

incorporation and bylaws (and any relevant amendments), including the first page with the title of the document and, if applicable, the signature pages.

(3) Renewable Energy Cooperative. An applicant that claims to be a Renewable Energy Cooperative, as described under § 1.48(e)-1(h)(2)(v), must provide a copy of its articles of incorporation and bylaws. The applicant must highlight the relevant language in these documents that demonstrates the entity meets either the consumer/purchasing cooperative requirements under § 1.48(e)-1(h)(2)(v)(A) or is a worker cooperative controlled by its worker-members with each member having an equal voting right as described under § 1.48(e)-1(h)(2)(v)(B).

(4) Qualified Renewable Energy Company. Applicants claiming to be a qualified renewable energy company (QREC), as described in § 1.48(e)-1(h)(2)(vi), must provide documentation to support each of the below requirements in a single package upload.

(a) Statement of business purpose attestation. The applicant must submit the following attestation: *“I declare that the business purpose of this organization is to serve low-income communities and provide pathways for the adoption of clean energy by low-income households, as required under § 1.48(e)-1(h)(2)(vi).”* This attestation must be signed by the applicant and uploaded as an Additional Selection Criteria Ownership Criteria document in the Portal.

(b) At least 51 percent ownership requirement. The applicant must provide documentation which demonstrates that the applicant entity meets the at least 51 percent ownership requirements under § 1.48(e)-1(h)(2)(vi)(A)-(F).

(i) For applicants whose equity interests are at least 51 percent owned and controlled by one or more individuals, the applicant must provide a list of all individuals

with an equity interest in the entity and specify for each individual the percentage of their ownership interest in the applicant entity.

(ii) For applicants whose equity interests are at least 51 percent owned and controlled by a Community Development Corporation (CDC), the applicant must submit (1) a copy of the award letter, or other communication, from the Department of Housing and Urban Development (HUD) demonstrating that the CDC which owns and controls the applicant has received financial assistance under HUD's Urban and Rural Special Impact Programs (42 U.S.C. 9806); and (2) documentation showing the CDC owns and controls the applicant entity.

(iii) For applicants whose equity interests are at least 51 percent owned and controlled by an agricultural or horticultural cooperative, documentation demonstrating that the applicant entity is at least 51 percent owned and controlled by an agricultural or horticultural cooperative,

(iv) For applicants whose equity interests are at least 51 percent owned and controlled by a Tribal government, the applicant entity must provide (1) documentation that its Tribal government owner is on the current list of Tribal entities recognized and eligible for funding and services by the BIA; and (2) documentation showing the Tribal government owns and controls the applicant entity.

(v) For applicants whose equity interests are at least 51 percent owned and controlled by an ANC, the applicant must provide (1) a copy of the ANC's Articles of Incorporation and bylaws (including any amendments); and (2) documentation showing the ANC owns and controls the applicant entity.

(vi) For applicants whose equity interests are at least 51 percent owned and

controlled by a Native Hawaiian organization (NHO), the applicant must provide

(1) documentation which demonstrates the legal status of the NHO; and

(2) documentation showing the NHO owns and controls the applicant entity.

(c) Employment and gross receipts. The applicant entity must provide documentation that demonstrates it meets the employment and gross receipts requirements under § 1.48(e)-1(h)(2)(vi)(G). To demonstrate this, the applicant entity must provide the following documentation:

(i) A list of all current employees of the applicant, indicating the number of full-time and full-time equivalent employees, as provided in § 1.48(e)-1(h)(2)(vi)(G).

(ii) A copy of a federal tax filing for the previous tax year listing the applicant entity's gross receipts.

(iii) Either a statement providing that the applicant does not have any affiliates or, if the applicant has affiliates, a summary list of each affiliate entity of the applicant and a list of all current employees of affiliates, indicating the number of full-time and full-time equivalent employees, as provided in § 1.48(e)-1(h)(2)(vi)(G), and a list of affiliate entity gross receipts from the previous taxable year, broken down by each affiliate entity.

(d) Installation, operation, or services requirement. The applicant entity must provide documentation to demonstrate the applicant meets the requirements of § 1.48(e)-1(h)(2)(vi)(H) or (I).

(i) To demonstrate that the applicant meets the requirements of § 1.48(e)-1(h)(2)(vi)(H), the applicant must provide (1) documentation indicating the QREC has been in existence and operating for at least two years; and (2) an executed (by each

party) contract, in its entirety (including any amendments, appendices, consumer disclosures, and schedules, and dated at least two years prior to the date of application to this Program), to install and/or operate a qualified facility as defined in § 48(e)(2)(A).

(ii) To demonstrate that the applicant meets the requirements of § 1.48(e)-1(h)(2)(vi)(I), the applicant must provide a list of all qualified solar or wind facilities, as defined in § 48(e)(2)(A), to which the applicant has provided services in eligible low-income communities, the geographic coordinates of each facility, and the nameplate capacity of each facility. For any selection of the facilities in the list which cumulatively amount to at least 100 kW in nameplate capacity, the applicant must provide executed contracts (in their entirety, inclusive of any amendments, appendices, consumer disclosures, and schedules) to install and/or operate the facility.

(5) Qualified tax-exempt entity. An applicant claiming to be a qualified tax-exempt entity described in § 1.48(e)-1(h)(2)(vii) must provide documentation supporting its claim as described below.

(a) An applicant claiming to be described in § 501(c)(3), § 501(c)(12), or § 501(d) must provide the following:

(i) If its exempt status is currently recognized by the IRS, proof of listing in IRS Pub. 78, *Cumulative List of Organizations Described in § 170(c)* (see the “Tax Exempt Organization Search” page on the IRS website), or in the Exempt Organizations Business Master File Extract (also available on the IRS website), such as a screenshot within the last 30 days, or, if issued within the last 12 months, a copy of its IRS determination letter or a letter from the IRS affirming its exempt status. See Pub. 4573, *Group Exemptions*, for information on group exemptions and returns.

(ii) If its exempt status has never been recognized by the IRS, a copy of its annual information return or notice under § 6033 filed within the last two years (if it has so filed). Section 501(c)(3) and 501(c)(12) organizations file a Form 990-series return or notice such as Form 990, *Return of Organization Exempt from Tax*. Section 501(d) organizations file Form 1065, *U.S. Return of Partnership Income*.

(iii) If an applicant's exempt status has never been recognized by the IRS and it has not filed an annual information return or notice within the last two years, the applicant must provide other documentation demonstrating that it is described in § 501(c)(3), § 501(c)(12), or § 501(d) (such as its governing documents) and demonstrating that it is currently excepted from, or otherwise in compliance with, its exemption application requirements and information return filing requirements, unless it is a church or a convention or association of churches described in § 170(b)(1)(A)(i), in which case it may submit the following attestation, uploaded by the applicant in the Portal, signed by a person authorized to bind the entity: "*Solely for purposes of the § 48(e) credit, I certify that Entity is a church or a convention or association of churches described in § 170(b)(1)(A)(i). I further certify that I am an officer of the Entity and that I am duly authorized to sign this statement on behalf of the Entity.*"

(iv) An applicant described in § 501(c)(12) must also demonstrate that it is a corporation that operates on a cooperative basis and explain, in a statement uploaded by the applicant in the Portal, the extent to which it is engaged in furnishing electric energy to persons in rural areas.

(b) An applicant claiming to be a State, the District of Columbia, a Tribal

government (as defined in § 30D(g)(9)⁸), a political subdivision of any of the foregoing,⁹ or an agency or instrumentality of any of the foregoing,¹⁰ must provide the following:

(i) A private letter ruling issued by the IRS ruling on its status, if any, or

(ii) An attestation signed under penalties of perjury, by a person authorized to bind the applicant, certifying that, to the best of the person's knowledge and belief, that the entity is a State, the District of Columbia, a Tribal government, a political subdivision of any of the foregoing, or an agency or instrumentality of any of the foregoing, and acknowledging that this representation is not for the purpose of examination or inspection within the meaning of IRC § 7605(b). The attestation must be uploaded as part of the application in the Portal by the applicant. In addition to the acknowledgment described above, the attestation must include the following statement: "*Solely for purposes of the § 48(e) credit, the applicant qualifies as a [insert the entity type as described above in this section].*"

(iii) In the case of an applicant claiming to be a Tribal government, a subdivision of a Tribal government, or an agency or instrumentality of any of the foregoing, proof that the Tribe is on the current list of Tribal entities recognized and eligible for funding and services published by the BIA, available on the BIA website.

(6) Qualifying entity in a partnership. If an applicant does not itself meet the Ownership Criteria described in § 1.48(e)-1(h)(2), but the applicant is an entity treated

⁸ For a general discussion of Tribal governments and their subdivisions, see Section 5.12 of Rev. Proc. 2024-1, 2024-1 IRB 1, and § 7871.

⁹ For a general discussion of political subdivisions of States, see Rev. Rul. 77-164, 1977-1 C.B. 20, Rev. Rul. 78-276, 1978-2 C.B. 256, and Rev. Rul. 83-131, 1983-2 C.B. 184.

¹⁰ For a general discussion of agencies and instrumentalities of governments, see Rev. Rul. 57-128, 1957-1 C.B. 311, *Rose v. Long Island Railroad Pension Plan*, 828 F.2d 910, 918 (2d Cir. 1987), *cert. denied*, 485 U.S. 936 (1988), and *Bernini v. Federal Reserve Bank of St. Louis, Eighth District*, 420 F. Supp. 2d 1021 (E.D. Mo. 2005).

as a partnership for federal income tax purposes, and an entity described in § 1.48(e)-1(h)(2) and section 7.07 of this revenue procedure (that is, an entity that meets the Ownership Criteria) owns at least a one percent interest (either directly or indirectly) in each material item of partnership income, gain, loss, deduction, and credit and is a managing member or general partner (or similar title) under State law of the partnership (or directly owns 100 percent of the equity interests in the managing member or general partner) at all times during the existence of the partnership, the qualified solar or wind facility owned by the applicant will be deemed to meet the Ownership Criteria. In addition to providing the documentation described in section 7.07 of this revenue procedure with respect to the relevant partner meeting the requirements of § 1.48(e)-1(h)(2) (that is, the partner which the applicant is claiming meets the Ownership Criteria), the applicant must also submit documentation to demonstrate that the requirements described in § 1.48(e)-1(h)(2)(ii)(B) are satisfied if the applicant is claiming to meet the Ownership Criteria based on this provision.

.08 Geographic Criteria attestation. If the applicant claims that it meets the Additional Selection Criteria for Geographic Criteria described in § 1.48(e)-1(h)(3) with respect to Categories 1, 3, or 4, it must provide an attestation that the qualifying facility will be located in a Persistent Poverty County (PPC) or in a census tract that is designated as disadvantaged in the Climate and Economic Justice Screening Tool (CEJST) as defined in § 1.48(e)-1(h)(3).¹¹

SECTION 8. REVIEW AND SELECTION PROCESS

.01 In general. DOE will review applications for the Program and provide a

¹¹ Maps that capture applicable census tracts are available in DOE's publicly available written procedures to assist applicants.

recommendation to the IRS regarding whether to award an applicant an amount of Capacity Limitation with respect to a facility. Based on DOE's recommendation, the IRS will award the applicant a Capacity Limitation allocation or reject the application.

.02 Order of application review and recommendation for allocation.

(1) First 30 days. When the application period opens for the 2024 Program year, there will be a 30-day period during which applications will initially be accepted for each facility category. All applications submitted within the first 30-days will be treated as submitted on the same date and at the same time. DOE will publicly announce on the Program Homepage the opening and closing dates of the 30-day period. All applications submitted by 11:59 PM ET on the closing date will be considered submitted during the initial 30-day period. Refer to section 8.02(3) of this revenue procedure for information regarding the lottery for applications submitted during the first 30 days in oversubscribed facility categories or Category 1 sub-reservations.

(2) Applications submitted after the 30-day period. Following the 30-day period, DOE will continue to accept applications until the close of the 2024 Program application period. Provided there is remaining Capacity Limitation in a facility category or Category 1 sub-reservation, DOE will review applications submitted in those facility categories or Category 1 sub-reservation after the 30-day period. Within each facility category or Category 1 sub-reservation, DOE will make recommendations for an allocation of Capacity Limitation with respect to applications submitted after the close of the 30-day period in the order in which applications are received in a particular facility category or Category 1 sub-reservation. The IRS will award Capacity Limitation allocations in the order that it receives recommendations from DOE.

(3) Lottery for applications submitted during the 30-day period. For oversubscribed facility categories and Category 1 sub-reservations, DOE will conduct a lottery at the end of the 30-day period described in section 8.02(1) of this revenue procedure for applications submitted during that period. The lottery is conducted prior to application review. Lottery scores will be used to determine which qualified facilities are eligible for a recommendation for an allocation of Capacity Limitation if a facility category or Category 1 sub-reservation is oversubscribed. Refer to section 8.03(2) of this revenue procedure for information regarding how applications meeting Additional Selection Criteria are prioritized over other applications. Regardless of an application's lottery score, a facility will not receive a recommendation for an allocation of Capacity Limitation if the facility and the application with respect to that facility do not meet the requirements of the Final Regulations and this revenue procedure.

(4) Close of program year. After the IRS awards all the Capacity Limitation within each facility category or Category 1 sub-reservation, or the 2024 Program year is closed, DOE will cease review of any remaining applications. At the end of the 2024 Program year, no further action will be taken on applications submitted but not awarded an allocation. DOE will publicly announce on the Program Homepage when the 2024 Program year closes.

.03 Processing Additional Selection Criteria applications.

(1) In general. Fifty percent of the Capacity Limitation in each facility category will be reserved for qualified solar or wind facilities meeting the Ownership Criteria described in § 1.48(e)-1(h)(2) and the Geographic Criteria described in § 1.48(e)-1(h)(3). This reservation will remain beyond the initial 30-day period described in

section 8.02(2) of this revenue procedure. However, as described in § 1.48(e)-1(h)(1), the Treasury Department and the IRS may later decide to reallocate reserved capacity across facility categories and Category 1 sub-reservations in the event one facility category or Category 1 sub-reservation is oversubscribed and another has excess capacity. Allocations for facilities meeting one or more of the Additional Selection Criteria will be made from the 50-percent reserve for such facilities before additional amounts reserved for a facility category are allocated to facilities meeting these criteria. If the 50-percent reserve is depleted, however, applications meeting the Additional Selection Criteria submitted during the initial 30-day period are prioritized with respect to all available Capacity Limitation in each facility category or Category 1 sub-reservation as provided in section 8.03(2) of this revenue procedure.

(2) Review of Additional Selection Criteria applications. If a facility category or Category 1 sub-reservation is oversubscribed at the end of the 30-day period, applications purporting to meet one or more Additional Selection Criteria are included in the lottery (described in section 8.02(3) of this revenue procedure) with non-Additional Selection Criteria applications for that oversubscribed Category or Category 1 sub-reservation. However, applications purporting to meet one or more Additional Selection Criteria as a group will be prioritized for an allocation over non-Additional Selection Criteria applications within the same facility category or Category 1 sub-reservation. DOE will use lottery scores to determine which qualified facilities are eligible for a recommendation for an allocation of Capacity Limitation if a facility category or Category 1 sub-reservation is oversubscribed. If the eligible applications for Capacity Limitation for facilities that meet at least one of the two Additional Selection Criteria

exceed the Capacity Limitation for a facility category or Category 1 sub-reservation, applications purporting to meet both of the Additional Selection Criteria receive a higher score so that they are prioritized over other applications within each facility category or Category 1 sub-reservation. If upon DOE review it is determined that an application does not meet one or both Additional Selection Criteria purported in the application, then the application's score may be reduced resulting in a change to the application's priority status.

.04 Cure period for application defects.

(1) In general. If the assigned DOE reviewer identifies a defect with a submitted application, such as missing or incorrect information or documentation, DOE will contact the applicant via the Portal. The reviewer will request that the applicant submit additional information or documentation to correct or complete the application via the Portal.

(2) Timing for applicant response. An applicant that is contacted by a DOE reviewer to submit additional information or documentation or provide corrected information will have 12 business days (12-business day cure period) to respond and provide such requested information or documentation.

(3) Consequences for failure to respond or provide information. If an applicant fails to respond and provide the requested information or documentation within the 12 business-day cure period, DOE will cease review and mark the application as withdrawn. The applicant may create and submit a new application for review, at a later date, if the facility remains eligible and the Program is still accepting applications.

SECTION 9. NOTIFICATION OF ALLOCATION DECISION FROM IRS

.01 In general. The IRS will send final decision letters through the Portal to inform applicants of the outcome of the application process. For any applicant that receives an award of Capacity Limitation, the letter will state the amount of the allocated Capacity Limitation.

.02 Allocation amount. The Capacity Limitation allocated to a facility will be determined based on the nameplate capacity of the facility as stated in the application. The Capacity Limitation allocation will be provided in direct current. For wind facilities, alternating current will be treated as equivalent to direct current for purposes of determining the amount of a Capacity Limitation allocation. The facility that receives the final allocation of Capacity Limitation in each facility category or Category 1 sub-reservation may receive an allocation less than its nameplate capacity.

SECTION 10. PLACED IN SERVICE

.01 In general. To satisfy the requirements of § 1.48(e)-1(k), for any facility that receives an allocation of Capacity Limitation, the owner of the facility must report to DOE through the Portal the date the facility was placed in service.

.02 Documentation and attestation requirements. To satisfy the requirements of § 1.48(e)-1(k), the owner must provide the following through the Portal:

(1) A Permission to Operate (PTO) letter (or commissioning report for off-grid facilities) confirming that the facility has been placed in service and the location of the facility being placed in service;

(2) A Final, Professional Engineer (PE) stamped (if required by applicable state or local law) as-built design plan, PTO letter with nameplate capacity listed, or other documentation from an unrelated party verifying as-built nameplate capacity;

(3) For Category 3 Facilities, a Benefits Sharing Statement as defined in § 1.48(e)-1(e)(6) demonstrating that the financial benefits requirements will be met based on the expected annual energy produced by the as-built facility at placed in service;

(4) For Category 4 Facilities, a final list of low-income households served with name, address, subscription share, and the income verification method used. Alternatively, if financial benefits are delivered through a utility or government body where the utility or government body cannot provide a final list of low-income households served with all relevant details, documentation issued from the participating utility or government body (for example, a Public Utility Commission, state energy office, or Tribal government) or the program administrator acting on behalf of the utility or government body that confirms that the facility is participating in a low-income program that ensures that at least fifty percent of the facility's total output is assigned to qualifying low-income households under § 48(e)(2)(C)(i) or (ii) (Qualifying Household). If documentation is submitted from the participating utility, government body, or program administrator, the documentation must also include additional information, such as a copy of the relevant statute or regulatory order, that confirms that the low-income program in which the facility is participating requires the facility to serve multiple Qualifying Households; and

(5) For Category 4 Facilities, a spreadsheet demonstrating the expected financial benefit to low-income subscribers to demonstrate the 20 percent bill credit discount rate.

(6) An attestation confirming that a disqualification event under § 1.48(e)-1(m)(1) through (5) has not occurred.

(7) An attestation stating that the person submitting the information and

documentation at placed in service is authorized to legally bind the owner, and that, under penalties of perjury, they have examined the submission, including any accompanying documents, and that, to the best of their knowledge and belief, all of the facts contained therein are true, correct, and complete.

SECTION 11. EFFECT OF ALLOCATION OR OTHER NOTIFICATION

A Capacity Limitation allocation or a notification that a facility has met the eligibility requirements under the Program at the time the facility is placed in service is not a final determination that property is eligible for an increased credit under § 48(e). The IRS may, upon examination, determine that property does not qualify for the increased credit.

SECTION 12. CLAIMING THE ENERGY PERCENTAGE INCREASE

.01 In general. After the facility is placed in service, and the owner submits the additional documentation and attestations described in § 1.48(e)-1(k) and section 10 of this revenue procedure, the owner is notified that it (or the applicable partners or shareholders in the case of a partnership or an S corporation) may claim the energy percentage increase on Form 3468, *Investment Credit* (or successor form) or Form 3800, *General Business Credit* (or successor form), if eligible, make an elective payment election under § 6417, or, if eligible, make a transfer election under § 6418.

.02 Reduction in Increased Energy Percentage. In cases where the facility size is larger than the allocated capacity when placed in service (but still below 5 MW AC), the 10 percentage or 20 percentage point increase will be reduced by a reduction factor which is calculated by the amount of Capacity Limitation allocated (kW) divided by the total nameplate capacity installed (kW) at the time the owner of the facility claims the

energy percentage increase under § 48(e). See § 48(e)(1)(B).

SECTION 13. SUCCESSOR IN INTEREST

.01 In general. Except as otherwise provided in this section 13, a Capacity Limitation allocation award applies only to the taxpayer who applied for and received an allocation award for the facility the taxpayer owns. If a taxpayer wants to request a transfer of an allocation, it should refer to DOE's publicly available written procedures to initiate a transfer request in the Portal. Transfer requests will be reviewed and approved by the IRS. The IRS intends to provide future guidance regarding unincorporated organizations that elect to be excluded from the application of subchapter K.

.02 Additional Selection Criteria. Applicants who received an allocation based on the Additional Selection Criteria should refer to § 1.48(e)-1(m)(5) regarding potential disqualification if the original applicant does not retain the requisite interest described in § 1.48(e)-1(m)(5) in an entity treated as a partnership for federal income tax purposes that owns the facility.

SECTION 14. EFFECT ON OTHER DOCUMENTS

Solely with respect to the 2024 Program year, this revenue procedure supersedes Rev. Proc. 2023-27.

SECTION 15. APPLICABILITY DATES

This revenue procedure applies to the 2024 Program year.

SECTION 16. PAPERWORK REDUCTION ACT

This revenue procedure is not creating a new collection of information as described by the Paperwork Reduction Act (44 U.S.C. 3507(d)). The collections of information contained within this revenue procedure, and their associated burdens, have been

submitted to the Office of Management and Budget as part of TD 9979 and was approved under OMB Control Number 1545-2308.

SECTION 17. DRAFTING INFORMATION

The principal author of this revenue procedure is the Office of Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this revenue procedure, call the energy security guidance contact number at (202) 317-5254 (not a toll-free call).