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Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-50)
Room 5203
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

RE: Clean Energy Group Response to Department of the Treasury and the Internal Revenue Service Request for Comments on Elective Payment of Applicable Tax Credits, Notice 2022-50

Clean Energy Group (CEG) appreciates the opportunity to provide this response to the U.S. Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) regarding Notice 2022-50 request for comments on elective payment of applicable credits (the "direct pay" option). These comments reflect the position of CEG, a national nonprofit focused on accelerating an equitable and inclusive transition to a resilient, sustainable clean energy future. These comments do not necessarily reflect the positions of CEG's partner organizations or funders.

A special opportunity exists within this provision to address multiple Justice40 goals if certain guidelines are not written too narrowly. The elective payment/direct pay option applied to the Clean Electricity Investment Credit (48E, Alternate Rate for less than one megawatt and related applicable adders) could be utilized by both non-profits and government entities *that build or purchase-and-rehabilitate housing that is then turned over to qualified low-income residents* to add solar and/or battery storage to this housing. CEG recommends that the Treasury Department and the Internal Revenue Service draft guidance that does not prohibit this scenario. One example of a non-profit that operates in this space is Habitat for Humanity, and there are many others. Nationwide, local governments can participate in the U.S. Housing and Urban Development's (HUD) Dollar Homes Initiative, which is defined on the HUD website as follows:

> "HUD's Dollar Homes initiative helps **local governments** to foster housing opportunities for low to moderate income families and address specific community needs by offering them the opportunity to purchase qualified HUD-owned homes for $1 each.
>
> Dollar Homes are single-family homes that are acquired by the Federal Housing Administration (which is part of HUD) as a result of foreclosure actions. Single-family properties are made available through the program whenever FHA is unable to sell the homes for six months.
>
> By selling vacant homes with a current market value of $25,000 or less, for $1 after six months on the market, HUD makes it possible for communities to fix up the homes and put them to good use

> at a considerable savings. The newly occupied homes can then act as catalysts for neighborhood revitalization, attracting new residents and businesses to an area.
>
> Local governments can partner with local nonprofit homeownership organizations or tap into existing local programs to resell the homes to low-to-moderate income residents of the community."[1]

Conceivably, a low-income housing non-profit or a local government participating in the HUD Dollar Homes initiative could utilize the direct pay provision to install solar panels and/or battery storage on these residences while they are owned by the low-income housing non-profit or local government *before* they are transferred to low-income residents. Currently, these organizations generally cannot install solar and battery storage affordably without working with a third-party for-profit entity (which erodes the benefit).

It is a notable deficiency in the Inflation Reduction Act that the elective payment/direct pay option for solar and battery storage is not available to individual citizens. To benefit from the solar and storage portions of the Investment Tax Credit, a *citizen* must have a tax burden. Most low-income citizens do not have a significant tax appetite and therefore are left out. Tax incentives are largely going to wealthier households that already have lower energy burdens, and greater means to install clean energy technologies, than low-income households. This is not a just and equitable approach.

Allowing this use of the direct pay option, without requiring the non-profit/local government to retain ownership of the residence longer than is necessary to complete construction and related project paperwork, could eventually increase the amount of solar and battery storage on low-income housing, which has tremendous additional societal benefits (decreasing energy burden, building wealth, and increasing resilience in the event of a major power outage which then improves health outcomes for those who are medically dependent on electricity for equipment or medicine storage). CEG strongly encourages the Treasury Department and the IRS to draft guidance that does not prohibit this scenario and that provides clarity for this use case. Doing so could have a significant long-term impact on the energy burden and resilience of low-income households across the country.

Please do not hesitate to contact me if you wish to discuss this further.

Respectfully,

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[1] https://www.hud.gov/program_offices/housing/sfh/reo/goodn/dhmabout