Optimizing Federal Funding Opportunities

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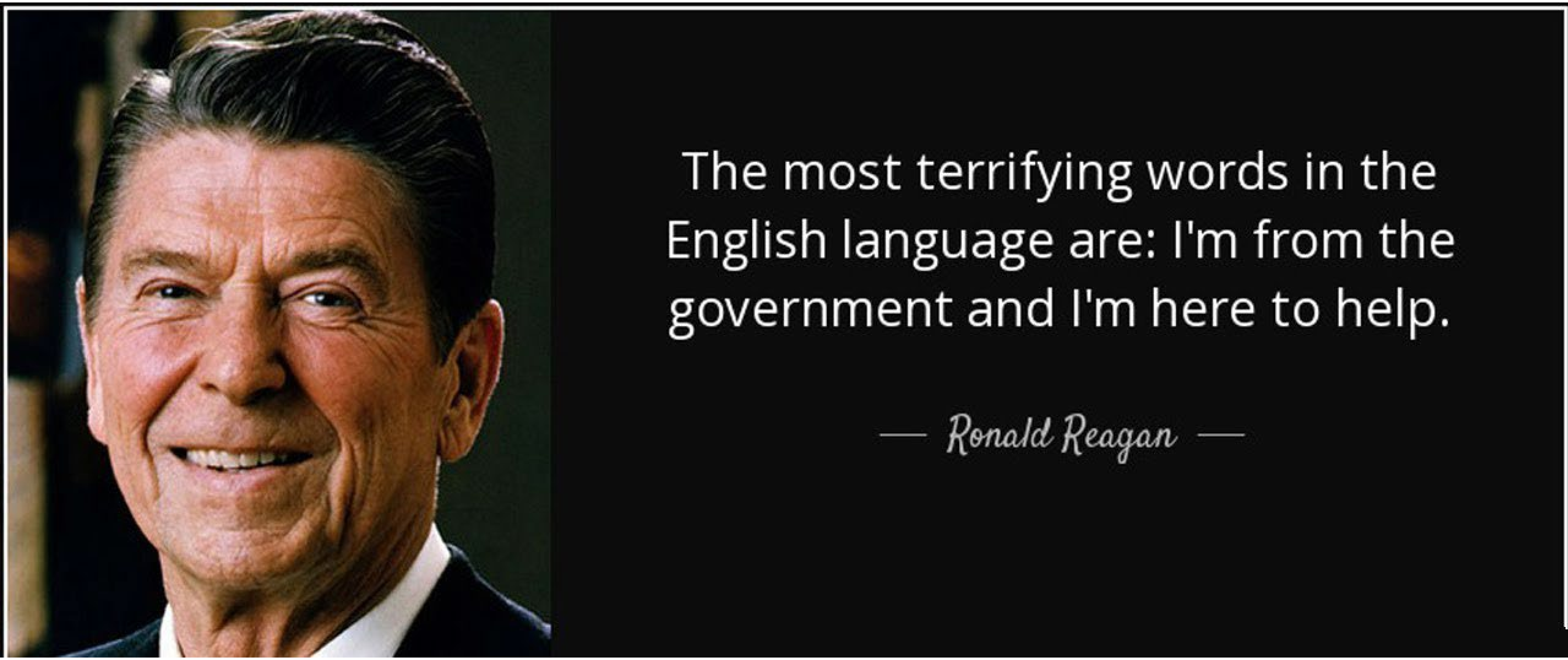

Source: *Getty Images*

Infrastructure Investment and Jobs Act of 2021

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Inflation Reduction Act of 2022

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Source: *Getty Images*

Infrastructure Investment and Jobs Act (IIJA)
or, the Bipartisan Infrastructure Law (BIL)

- Infrastructure Investment & Jobs Act (IIJA) signed into law November 2021, includes historic investments in **roads, bridges and highways** ($110 billion), **broadband** ($65 billion), **water** ($55 billion), **transit** ($39 billion), **airport** ($25 billion) & **ports** ($17 billion) infrastructure

103
NEW PROGRAMS
AVAILABLE
TO STATE AND LOCAL
GOVERNMENTS

$756B
ACROSS ALL AVAILABLE
PROGRAMS
TO STATE AND LOCAL
GOVERNMENTS

- Common themes across all legislation includes **partnerships, equity, sustainability** and **outcomes**
- Dollars have started flowing!!

Sources: *https://www.congress.gov/bill/116th-congress/senate-bill/3548/text; https://www.congress.gov/bill/117th-congress/house-bill/1319/text; https://www.congress.gov/bill/117th-congress/house-bill/3684/text; Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (2022),*

The IIJA provides more than $860 billion for cities and states

Funding by Federal Agency		Types of Funding		
Dept of Transportation	$567.1B	**Formula (non-competitive):**		**$660B**
Dept of Energy	$80.8B	Transportation	$466.3B	
Environmental Protection Agency	$67B	Energy	$59.1B	
Department of Commerce	$51.7B	Broadband	$58.2B	
Others	$97B	Water	$54.8B	
		Competitive:		**$204B**
		Transportation	$124.4B	
		Energy	$39B	
		Broadband	$6.3B	
		Water	$2.6B	

Sources: Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021), https://www.congress.gov/bill/117th-congress/housebill/3684/text/pl

Inflation Reduction Act: Overview

Largest investment in U.S. Energy Infrastructure, with varied incentives to help subsidize the cost of achieving environmental goals.

- Signed into law on **August 16th, 2022**
- Provides **$369 billion over the next decade** for new & existing programs
- Goal of **reducing emissions by ~40% by 2030**
- Potential for **tax incentives** to touch multiple aspects of your community
  - Installation of **energy facilities** (e.g., solar, wind, microgrid, biogas projects)
  - Conversion of **vehicle fleets** to electric/hybrid
  - Electric Vehicle (EV) deployment to include the **charging station** network
  - Energy **efficient building** design & construction (to include geothermal)
- The U.S. Treasury has **started providing more detailed guidance** (December 2023) and the first wave of applications for the IRA incentives is expected in Spring 2024

Sources:; https://www.congress.gov/bill/117th-congress/house-bill/3684/text; Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (2022),

Complementary IIJA & IRA Programs

	IIJA (November 2021)	IRA (August 2022)
Electric Vehicles	**$7.5 billion** for charging infrastructure	**$2 billion** for domestic manufacturing grants
Schools & Ports	**$5 billion** for clean or zero-emission school buses	**$3 billion** for zero-emissions equipment at ports
Transit	**$66 billion** for passenger & freight rail	**$3 billion** Neighborhood Access and Equity Grants to improve transportation access
Electric Grid	**$65 billion** to modernize & expand the national grid	**$9.7 billion** for reliability & resilience improvements in rural areas
Homes	**$3.5 billion** to the Weatherization Assistance Program	**$8.6 billion** for energy efficiency upgrades
Environmental Remediation	**$21 billion** in environmental remediation	**$27 billion** for a national climate bank to finance green projects in underserved communities
Agricultural & Forestry	**$3.3 billion** for wildfire risk reduction	**$19.5 billion** for climate-smart agricultural practices

Sources: Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021), https://www.congress.gov/bill/117th-congress/housebill/3684/text/pl

Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (2022), https://www.congress.gov/bill/117th-congress/house-bill/5376

IRA Sectors Supported

The IRA supports a wide variety of sectors and sub-sectors with clean electricity, transmission, and clean transportation programs.

Energy

Electricity technology / infrastructure investment, oil & gas, battery production, nuclear, solar, wind transmission, alternative fuels

Industry & Manufacturing

Domestic manufacturing, clean energy equipment, facilities, critical materials, supply chain

Environmental

Air pollution, carbon removal, environmental quality, environmental justice, conservation

Building

Homebuilding, energy efficient & electrification, climate resilience, HUD-assisted properties

Agriculture

Farming, resiliency, wildfire management

Transportation

Vehicles, EV Charging stations, aviation, ports / waterways, public transit

Water

Water quality, covering canals with solar panels

Note: This exhibit reflects analysis of the appropriation figures contained in the Inflation Reduction Act, as well as those reported by the Congressional Budget Office and Joint Committee on Taxation. This analysis may differ from other analyses due to differences in methodology.
Source: Inflation Reduction Act of 2022, H.R. 5376, 117th Cong. (2021–22).

Poll question 1

My organization has stated renewable energy goals and targets that will significantly reduce our carbon intensity in the coming decade

A. Agree

B. Disagree

Tax Incentives for Tax-Exempt Entities

- **For the first time**, tax-exempt and government entitles that do not owe Federal Income taxes are able to receive a **payment equal to the full value of tax credits for building qualifying clean energy projects or making qualifying investments.**
- Elective pay allows entities to get their payment if they meet **the requirements for the elective pay and the underlying tax credit**
- Entities eligible for elective pay (applicable entities) do not normally owe federal income tax. However, by **filing a return and using elective pay**, these entities can receive a tax-free cash payment from the IRS for clean energy tax credits earned, assuming **all requirements** are met, including
- Applicable entities can use elective pay for **12 clean energy tax credits** including the major Investment and Production Tax (45 and 48) credits, as well as tax credits for electric vehicles and charging stations.

Source: Internal Revenue Service Section 6417
US Treasury, Final Regulations on Elective Pay presentation dated March 2024.

Changes to Tax Incentives

- Previously, renewable incentives were only available to tax-paying entities; **now tax-exempt entities can benefit from these incentives directly**
- In many cases, existing incentives were **increased** and/or **extended**
- New incentives have been **added**
- **Cost of achieving environmental objectives is likely lower** now than it was prior to the IRA
- Projects **constructed in 2022 could be eligible** depending when reaching commercial operations
- Potential **synergy between the IRA & the Infrastructure Investment & Jobs Act**

Sample Increased and/or Extended Incentives

- Expanded and modified the "179D" tax deduction for energy efficiency in commercial buildings
- Expanded the Production Tax Credit to include solar (previously expired in 2005)
- Extended both the Production Tax Credit & Investment Tax Credit to 2032 for carbon neutral technologies
- Increased the credit for EV charging stations from $30,000 to $100,000 & modified the definition from "per location" to "per unit"

Sample New Incentive

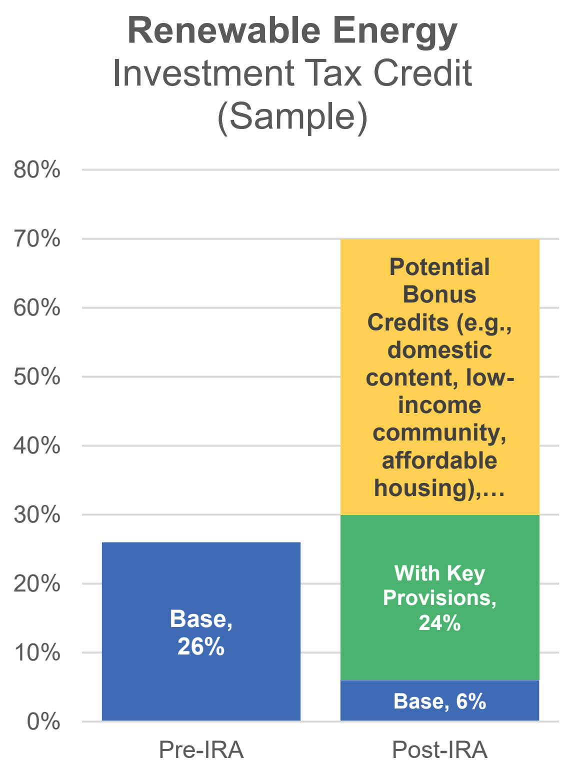
- Added the Commercial Clean Vehicle Credit: Provides up to $40,000 subsidy for large vehicle replacement (> 7 tons)

Sources: Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021), https://www.congress.gov/bill/117thcongress/housebill/3684/text/pl';
Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (2022), https://www.congress.gov/bill/117th-congress/house-bill/5376

Key Provision: Investment Tax Bonus Credits

Bonus credits can be applied to some of the IRA's base tax credits for clean energy projects that meet goals related to workforce, labor, priority communities, and domestic industries. The amount of bonus credits vary and can each range up to 10%.

Bonus Credit	Eligible Projects
Prevailing Wage and Registered Apprenticeship Requirements	Projects that employ apprentices from registered apprenticeship programs for a certain number of hours and pay prevailing wages
Domestic Content	Facilities built using required amounts of domestically produced steel, iron, and manufactured products.
Low Income or Tribal Communities	Facilities in low-income communities and tribal communities, including facilities that are part of federal housing projects or benefit lower income households. You must apply and receive a capacity allocation, and then place your facility in service to claim this bonus.
Energy Communities	Projects located in communities historically dependent on fossil energy jobs and tax revenues, including areas with closed coal mines or coal fired power plants, and on brownfields.



**The amount of a direct payment may be phased out for applicable properties that do not satisfy domestic content requirements and have a maximum net output of one megawatt or more. The phaseout is a percentage of the otherwise allowable amount. The phaseout percentage is 90% for properties that begin construction in 2024. Under Sections 45Y and 48E, the phaseout percentage is 85% if construction begins in 2025 and zero if construction begins after 2025.*

Poll question 2

My organization is planning on owning renewable assets by 2030

A. True

B. False

Tax Incentives 101 for Renewable Energy Projects

Incentive	Production Tax Credit (PTC): $27.50 per MWh	OR	Investment Tax Credit (ITC): 30% of qualified costs

Can elect to take either incentive (not both). Each project is unique in terms of which incentive and form of debt provides the highest benefit.

Production Tax Credit (PTC):

- Incentive is **based on energy produced** from the renewable facility
- Received **annually** for the first 10 years of operation
- Requires **annual filing** with the U.S. Treasury and the IRS (the amount of energy produced from the facility)
- **Adjusted for inflation** each year so maintains buying power
- Can finance with **tax exempt debt, but incentive reduced by 15%**

Investment Tax Credit (ITC):

- Incentive is **based on the installed cost** of the renewable/clean energy facility
- Received **once** the facility produces energy or has achieved commercial operation
- Requires **initial filing** with the U.S. Treasury and the IRS (the qualified costs as well as engineering reports)
- Can finance with **tax exempt debt, but incentive reduced by 15%**

Sources: Inflation Reduction Act, Congressional Research Service, "Tax Provisions in the Inflation Reduction Act of 2022", August 10, 2022; https://crsreports.congress.gov/product/pdf/R/R47202; https://home.treasury.gov/system/files/136/Fact-Sheet-IRA-Equitable-Clean-Energy-Economy.pdf

Renewable Energy Incentives

Renewable Energy Facilities		
Incentive	**Production Tax Credit (PTC):** • Funds received over time • 10 years, $26/per MWh, adjusted for inflation assuming fair wage & apprenticeship requirements are met • 15% reduction if tax-exempt financing is used	**Investment Tax Credit (ITC):** • Funds received upfront (reimbursement) • 30% of eligible construction costs of a renewable energy facility assuming fair wage & apprenticeship requirements are met • 15% reduction if tax-exempt financing is used
Example Projects	Installation of solar & wind facilities	Installation of solar & wind facilities; biogas digesters for sewer utilities
Eligible Projects	Solar, wind, landfill gas, geothermal, biomass, trash, qualified hydropower, marine & hydrokinetic resources	Solar, fuel cells, waste energy recovery, combined heat & power, small wind property, energy storage, qualified biogas property, electrochromic glass, microgrid controllers, geothermal
Bonus Credits	• 10% for meeting domestic content requirements • 10% for projects located in energy communities	• 10% for meeting domestic content requirements • 10% for projects located in low-income communities • 20% for projects in qualified low-income residential building or low-income economic benefit project • 10% for projects located in energy communities
Timing Considerations	• Eligible projects are projects that start construction by December 31, 2024 (geothermal extended to 2035)*. • The technology-specific PTC ends in 2024 and is replaced by a new technology-neutral PTC (§45Y) starting in 2025. • Start phasing out in 2032 .	• Eligible projects are projects that start construction by December 31, 2024 (geothermal extended to 2035)*. • The technology-specific ITC ends in 2024 for most technologies and is replaced by the new technology-neutral clean electricity ITC (§48E), which begins in 2025. • Start phasing out in 2032
Implication	*District can finance a renewable project with tax-exempt debt & claim 85% of the Production Tax Credit.*	*District can finance a renewable project with tax–exempt debt & receive a direct payment from the IRS for up to ~25.5% of eligible construction costs.*

Sources: Congressional Research Service, "The Renewable Electricity Production Tax Credit: In Brief (R43453)," April 29, 2020; https://crsreports.congress.gov/product/pdf/R/R47202

Achieving Renewable Energy Goals: Before & After the IRA

Historically,…

- Prior to the IRA, only tax-paying entities could benefit from renewable energy tax credits
- A county would primarily enter into an agreement with a tax-paying developer with developer building & owning the project
  - The county would agree to purchase energy at an agreed-upon rate over the term (e.g., 15 – 20 years), which would generally be adjusted annually for inflation
  - The developer received several incentives, including a Production Tax Credit or an Investment Tax Credit as well as the benefit of accelerated depreciation of the asset
  - The developer would embed ***some*** of these incentives into the contracted cost of energy
  - The county's cost of energy would also reflect the Developer's investment return objectives

Now…

- A county can receive the Production Tax Credit or Investment Tax Credit directly, even when financing the project with tax-exempt debt

	Pre-IRA: Solar Developer Builds & Owns	**Under IRA: County Builds & Owns**
Tax Credits	Solar Developer receives 30% of eligible costs	County receives 25.5% of eligible costs*
Financing	Solar Developer secures at private cost of capital typically with a "Tax-equity" partner	County secures at lower cost of capital
Construction Risk	Solar Developer responsible	County responsible (or contractor)
Decisions at End of Useful Life	Solar Developer controls	County controls
Additional Considerations	- Pricing of contracts not very transparent - Unknown efficiency of depreciation benefit	- County's lease versus own strategy - Reporting & filing requirements

** Assumes the County elects Investment Tax Credit, meets Fair Wage & Apprenticeship requirements & finances the balance of the project with tax-exempt debt. Determining most efficient incentive requires project specific analysis.*

Poll question 3

My organization is planning fleet electrification in the coming few years

A. True

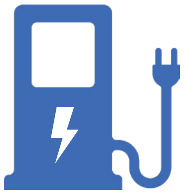
B. False

Qualified Commercial Clean Vehicle Tax Credit

	Qualified Commercial Clean Vehicle
Example Projects	Electrification of police fleet, school buses, ambulances, & garbage trucks
Eligible Projects	• Plug-in electric vehicles, fuel cell vehicles • Varying weight & battery capacity requirements • For use on public streets, roads & highways
Incentive	Tax credit (i.e., direct payment to the District) is the lessor of: • 15% of vehicles cost (30% for vehicles not gasoline or diesel powered) • Incremental cost of clean versus “non-clean” (e.g., gasoline, diesel) vehicle Max amounts linked to vehicle size: • <7 tons: $7,500/vehicle • >7 tons: $40,000/vehicle (e.g., school buses, heavy-duty municipal vehicles)
Timing Considerations	Vehicles must be acquired after December 31, 2022 & before the end of 2032
Implication	*Can replace vehicle fleets with cleaner options and receive a direct-pay subsidy to reduce the cost – although hybrid options could be limited.*

Sources: Inflation Reduction Act, Congressional Research Service, "Tax Provisions in the Inflation Reduction Act of 2022", August 10, 2022; https://crsreports.congress.gov/product/pdf/R/R47202

Alternative Fuel Refueling Property Tax Credit (i.e., "Charging Station" Credit)



Alternative Fuel Refueling Property Tax Credit	
Example Projects	Installation of Electric Vehicle (EV) charging stations and supporting infrastructure
Eligible Projects	Property for the storage or dispensing of clean-burning fuel (CNG, LNG, electricity, hydrogen) or electricity into the vehicle fuel tank or battery; includes bidirectional charging equipment
Incentive	Tax credit (i.e., direct payment to the County), with max of: • 30% of costs, assuming fair wage & apprenticeship requirements are met (6% of costs if not) OR • $100,000 per unit
Timing Considerations	• Starting in 2023, only eligible if placed within low income or rural areas • Incentive expires after December 31, 2032
Implication	*Could potentially receive tax credits for expansion of local EV charging networks.*

Sources: Congressional Research Service, "Tax Provisions in the Inflation Reduction Act of 2022", August 10, 2022; https://bipartisanpolicy.org/blog/a-status-update-on-ev-charging-infrastructure-investments-in-the-iija/

§179D Energy Efficient Commercial Building Tax Deduction

- Tax deduction expanded under IRA for new and retrofit commercial buildings achieving specified cost/energy savings
- **Not available via elective pay, it's a tax deduction**
- However, certain tax-exempt entities may allocate the deduction to the designer of the building or retrofit

Energy Cost Savings**	Deduction if Not meeting Prevailing Wage Criteria	Deduction if meeting Prevailing Wage Criteria
25% minimum	$0.50 per sqft	$2.50 per sqft
Every +1%	+$.02 per sqft	+$.10 per sqft
50% maximum	$1.00 per sqft	$5.00 per sqft

**Baseline for calculating savings depends on one of two pathways new construction/retrofit

- Eligible installations include:
  - Interior lighting
  - HVAC
  - Hot water systems
  - Building envelope
- For more information, see IRS 179 website: *https://www.irs.gov/credits-deductions/energy-efficient-commercial-buildings-deduction*

Sources: https://www.irs.gov/credits-deductions/energy-efficient-commercial-buildings-deduction
IRS pdf: https://www.irs.gov/pub/fatca/int_practice_units/irc-179d-energy-efficient.pdf
Department of Energy, Navigating Federal Incentives for Clean Energy

Key Updates from the IRA

- The tax deduction increases on sliding scale with % improvement in energy efficiency.
- The deduction increases fivefold if project meets prevailing wage and registered apprenticeship requirements.
- Tax-exempt entities, including tribal entities, eligible to allocate their deduction (previously applied to public buildings solely).
- An alternative retrofit pathway created to show improvement in energy efficiency.

Pathways to Demonstrate Building's Energy Efficiency Improvement

Traditional	Alternative (NEW!)
Model Based. Building's energy performance is simulated and compared against ASHRAE 90.1 Standard.	*Measurement Based.* Building's measured energy performance post-retrofit is compared against its pre-retrofit data.

Sources: https://www.irs.gov/credits-deductions/energy-efficient-commercial-buildings-deduction
IRS pdf: https://www.irs.gov/pub/fatca/int_practice_units/irc-179d-energy-efficient.pdf
Department of Energy, Navigating Federal Incentives for Clean Energy

Snapshot of IRA Incentives Available to Citizens and Businesses

Program	Description
The Homeowner Managing Energy Savings (HOMES) Rebate Program	• $4.3 billion for state energy offices to establish rebate programs for residential retrofits.
High-Efficiency Electric Home Rebate Program	• $4.5 billion to state energy offices to establish rebate programs for residential electrification. • Participating households may be eligible to receive up to $14,000 in rebates.
Energy Efficient Home Improvement Credit	• Tax credit up to $3,200 annually to lower the cost of energy efficient upgrades by up to 30%. • Includes the purchase of heat pumps, insulation, efficient doors & windows, electrical panel upgrades & energy audits.
Residential Clean Energy Credit	• Tax credit of 30% to lower the installation cost of residential clean energy. • Includes rooftop solar, wind, geothermal & battery storage.
Clean Vehicle Tax Credits	• Vehicles include battery electric, plug-in hybrid or fuel cell EVs • Existing $7,500 tax credit for *new* EVs can now be transferred at the point of sale. • New credit for *used* EVs of up to $4,000. Credit may not exceed 30% of sale price. • Domestic sourcing requirements for vehicle manufacturers go into effect in 2023.
New Energy Efficient Home Credit	• Modifies & increases the tax credit available for homebuilders for energy efficient homes. • Base credit increases five times if prevailing wage provisions are met.

Source: Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (2022), https://www.congress.gov/bill/117th-congress/house-bill/5376/text

Timing Considerations

- Consider accelerating projects because over time, certain incentives stop and / or become more restrictive
- The prevailing wage and apprenticeship provisions will become operative for facilities when construction begins on or after January 30, 2023

January 1, 2023
EV charging station tax credit only applies to low income & rural areas

December 31, 2024
Alternative Fuel Excise tax credit expires

December 31, 2024
Deadline for beginning construction on projects for Renewable Energy Facilities tax credit

January 1, 2025
New provisions apply for Renewable Energy facilities; zero GHG emissions required; domestic content requirements

December 31, 2031
Energy Efficient Commercial Building Deduction expires

December 31, 2032
EV Charging Station tax credit expires

December 31, 2033
Deadline for vehicles placed in service for Qualified Commercial Clean Vehicle tax credit

Sources: Inflation Reduction Act, Congressional Research Service, "Tax Provisions in the Inflation Reduction Act of 2022", August 10, 2022; https://crsreports.congress.gov/product/pdf/R/R47202; https://home.treasury.gov/system/files/136/Fact-Sheet-IRA-Equitable-Clean-Energy-Economy.pdf

What Can Clients be Thinking About Now?

PFM generally recommends establishing a "Due Diligence Team" to review these opportunities as well as evolving guidance from US Treasury.
Composition includes:
Finance
Legal
Procurement
Facilities
Bond Counsel
Tax Counsel
Financial Advisor
Consulting Engineer
Auditor

- **Identify & evaluate IRA incentives** that may support own environmental objectives.
  - For solar (or wind, microgrid or biogas) projects:
    - Compare Power Purchase Agreements to direct ownership
    - Compare the Investment Tax Credit vs. Production Tax Credit
    - Compare the financial impact of using tax-exempt debt & lower incentive vs. taxable debt & higher incentive
  - For projects under construction, determine eligibility & track eligible costs for reimbursement (accountant attestation)
  - Identify the location of "energy communities" in the area, if any
- Consider **accelerating** certain programs or projects in light of the step-down in incentives or more stringent requirements
- Consider **adding** programs or projects in light of incentives available
- Consider **cross-cutting programs** across departments to try to capture as many of these incentives as possible
  - Identify opportunities to combine credits & increase credits
  - Identify any overlap in IRA & IIJA incentives
- **Awareness campaign** for incentives available to residents & businesses
- Review of grant funding and national green bank opportunities in the IRA (not covered in this presentation)

Poll question 4

I have a fairly good understanding of the process needed to apply for these incentives.

A. True

B. False

Elective Pay Process

Overview: IRS Finalizes Elective Pay Process

- On March 5th, 2024 the IRS released final guidance on elective pay mechanics

Process to Receive Direct Pay

- **Complete Pre-Filing Registration**: Requires information on filer, project, and appliable project; This process will generate a registration number (www.irs.gov/eptregister)
  - Registration / registration number will need to be updated for every tax year that filer pursues Tax Credit.
- **File Annual Tax Return and Tax Credit IRS Forms (Examples Include):**
  - Form 990-T: Exempt Organization Tax Return (https://www.irs.gov/pub/irs-pdf/f990t.pdf)
  - Form 3468: Investment Credit (https://www.irs.gov/pub/irs-pdf/f3468.pdf)
  - Form 3800: General Business Credit (https://www.irs.gov/pub/irs-pdf/f3800.pdf)

Direct Pay Requirements

- **Prevailing Wage / Apprenticeship Requirements**: For facilities beginning construction on or after 12/29/2023 to receive the full subsidy, prevailing wage and apprenticeship requirements must be met, or made a good faith affirmation
- **Domestic Content**: While tax credit and credit transfer projects are eligible for a 10% bonus if they meet domestic content requirement beginning in 2024, elective pay projects failing to meet the Domestic content requirements see the subsidy reduced

Source: Internal Revenue Service Section 6417

1. Applicable Entities include tax-exempt organizations, state and local governments, tribal organizations, TVA and electric cooperatives

Elective Pay Mechanics & Process

Pre-Filing Registration

Register each unique project for which tax credit will be claimed via IRS website

Get unique registration number

IRS Filings

File tax return (Form 990-T) & Form 3800 with registration numbers and supporting documentation by tax deadline

Due 4.5 months after end of taxable year (+6-month extension if requested)

Receive Funds

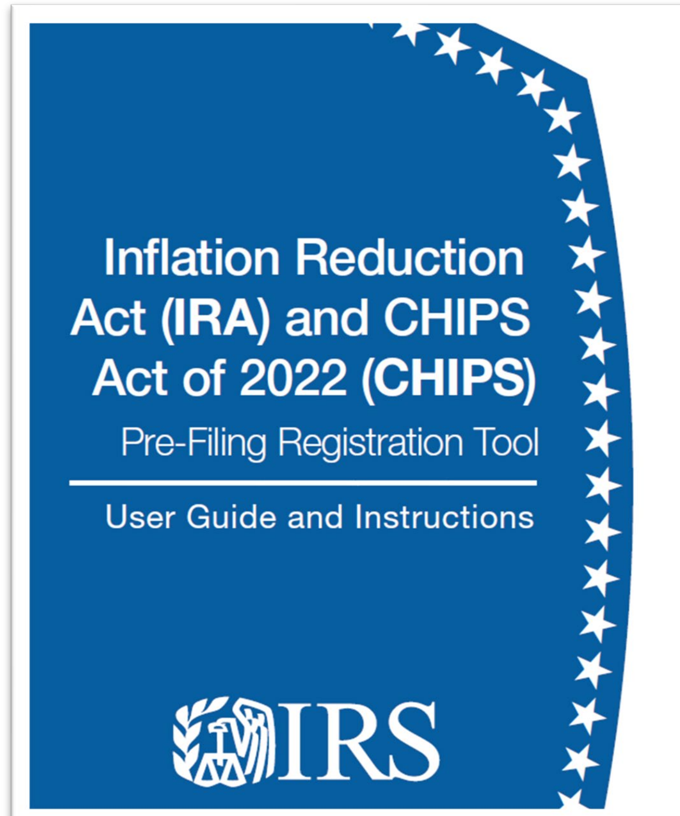
IRS makes payment after review of tax filing

Likely more than 1 year after project is placed into service/money is spent

https://www.irs.gov/pub/irs-pdf/p5884.pdf

Pre-Filing Registration Details

- **Pre-Filing registration is mandatory for applicable entities**
- **The Inflation Reduction Act and CHIPs Act of 2022 Pre-Filing Registration Tool User Guide** and Instructions provides detailed information for applicable entities
- Complete and submit the pre-filing registration request **no earlier than the beginning of the tax year** in which the applicable entities will earn the credit it wishes to monetize.
  - **This is the earliest date for pre-filing registration.** The IRS will provide you with a registration number for each applicable credit property.
- The IRS intends to review and process registration submissions through the IRA/CHIPS Pre-Filing Registration tool in the order it receives them
- If the registrant chooses to make additional pre-filing registration submissions for different facilities/ properties, the **registrant must wait until the most recent pre-filing registration submission is processed by the IRS and returned.**
- After you submit a registration package, **you can monitor its status in the “Your Registration” site.**



Recording Keeping Requirements and Cost Tracking

Inflation Reduction Act of 2022 Project Questionnaire

Category	Response	Notes
General Information		
Project name	ABC Solar Field	
Project location (address)	101 Market Street, Anywhere USA	
Project owner(s)	ABC Utility	
Project Type	New construction, solar on the building	
Estimated total project costs	$1,145,000	Everything a with solar pr materials, c consultant ti time
Estimated Qualified Costs[1]	$[to come]	
Project financed with tax-exempt debt? If yes, how much?	☐ Yes ☒ No	
Tax year	FY 2023	
Maximum Net Output		
Maximum net output of project	62 kW	
Meets One Megawatt Exception	☒ Yes ☐ No	
Construction Schedule		
Date when "physical work of a significant nature began" (Physical Work Test)	[January 2022 (est)]	
Date when 5% or more of the total cost of the project was paid or incurred (5% Safe Harbor)	[January 2022 (est)]	
Date construction commenced (earlier of Physical Work Test or 5% Safe Harbor)	[January 2022 (est)]	
Estimated date for commercial operation (placed in service)	November 9, 2022	
Estimated Continuity Safe Harbor deadline	December 31, 2026	

Prevailing Wage Requirements		
Meets Prevailing Wage Requirement	☒ Yes ☐ No	
Prevailing Wage Exception: Able to make correction payment	☐ Yes ☐ No ☒ Not Applicable	
Prevailing Wage Exception: Able to make penalty payment	☐ Yes ☐ No ☒ Not Applicable	
Apprenticeship Requirements		
Meets Labor Hours Requirement	☐ Yes ☐ No	N/A, <1MW exception
Meets Apprentice to Journeyworker Ratio Requirement	☐ Yes ☐ No	N/A, <1MW exception
Meets Participation Requirement	☐ Yes ☐ No	N/A, <1MW exception
Apprenticeship Exception: Satisfies Good Faith Effort Exception	☐ Yes ☐ No ☒ Not Applicable	
Apprenticeship Exception: Able to make penalty payment	☐ Yes ☐ No ☒ Not Applicable	
Domestic Content Adder		
Meets requirements for steel and iron	☐ Yes ☒ No	
Meets requirements for manufactured products	☐ Yes ☒ No	
Domestic Content Exception: Satisfies Increased Cost Exception	☐ Yes ☒ No ☐ Not Applicable	
Domestic Content Exception: Satisfies Non-Availability Exception	☐ Yes ☒ No ☐ Not Applicable	
Energy Community Adder		

Elective Payments Process to Claiming Energy Credits

Identify and Pursue Projects

Build Internal Team

- Work with financial officers, in house counsel, procurement, engineering etc…

Determine Tax Year

- Generally accounting year for tax-exempt entities
- For ITC, the year after placed in service, and for PTCs, beginning the year after eligible production occur

Placed in Service

- The applicable credit property must be placed in service before a registration number will be issued

Complete Pre-Filing Registration

- Project placed in service prior to pre-filing registration
- Provide information on applicable credits and project
- Receive registration number for each property (required for direct pay)

Satisfy Eligibility Requirements

- Elective pay only available for tax years beginning 2023; Practically this means projects owned by an Applicable Entity (tax-exempt entity) and entering operations in 2023 or later
- Documentation of tax credits and bonuses - Wage & Apprenticeship, Domestic Content

File Annual Tax Return

- Provide information on applicable credits, project, and Wage & Apprenticeship / Domestic Content documentation
- Submit relevant return forms - generally form 990-T, form 3800, and form for the particular credit

Receive Payment

- Payment is made after tax return has been processed and within 45-days of the due date for the return

Source: Internal Revenue Service Section 6417, IRS Elective pay and transferability frequently asked questions

Bringing It Together

- What credits are being used?
- Are there eligibility restrictions or bonus credits that have specific criteria?
- What type of funding am I using, and does it impact project cost basis?
- Two-step process with IRS
  - Pre-filing registration portal
  - Elective pay filing
  - Receipt of funding occurs after construction complete
- Planning for direct pay should begin early in project.

Chula Vista, CA, Unveils Electric Vehicle Fleet and Charging Stations[1]

Lakeville Area Schools, MN[1]

[1]Client lists in this presentation are provided for informational purposes only and do not constitute an endorsement or testimonial by clients listed of services provided by PFM's financial advisory business, PFM's Financial advisory business consists of PFM Financial Advisors LLC currently and also included former affiliate Public Financial Management, Inc. through December 6, 2021. Partial client lists were selected based on client type and/or other non-performance-based criteria to show a list of PFM's representative clients. A full list is available upon request

Thank you

Appendix

Direct Payment Tax Credits Available to Tax-Exempt Entities

- Under the IRA, state, local and Tribal governments as well as non-profit organizations and other tax-exempt entities, may elect to receive the following credits as direct payments:
  - Production Tax Credit (Section 45, Section 45Y)
  - Investment Tax Credit (Section 48, Section 48E)
  - Credit for Qualified Commercial Clean Vehicles (Section 45w, tax-exempt entities only)
  - Alternative Fuel Refueling Property Credit (Section 30C)
  - Alternative Fuel Excise Tax Credit (Section 40A)
  - Additional credits not covered in this presentation
    - Credit for Carbon Oxide Sequestration (Section 45Q)
    - Zero-Emission Nuclear Power Production Credit (Section 45U)
    - Credit for Production of Clean Hydrogen (Section 45V)
    - Advanced Manufacturing Production Credit (Section 45x)
    - Clean Fuel Production Credit (Section 45z)
    - Advanced Energy Project Credit (Section 48C)

Source: https://home.treasury.gov/system/files/136/Fact-Sheet-IRA-Equitable-Clean-Energy-Economy.pdf

Elective Pay Application Overview

- Section 6417 of the Tax Code allows tax-exempt entities to receive cash payments from federal government for clean energy and climate investments established under the IRA through a direct payment of tax credit
- The process to apply is multi-step process
- **First, register with the IRS on a new registration portal**
- If the information provided through the portal is sufficient and verifiable, the IRS will issue a **special registration number**
- Must obtain a separate registration number for each project. In general, each registration number corresponds to one clean energy property in one tax year.
- After obtaining a pre-filing registration number, an applicable entity must:
  - Make the elective pay election on an original tax return Form 990-T
  - Complete relevant source credit forms and:
    - IRS Form 3800 and
    - IRS Form 3468 for ITC http://www.irs.gov/pub/irs-pdf/i3468.pdf
    - IRS Form 8936-A for Clean Commercial Vehicles https://www.irs.gov/forms-pubs/aboutform- 8936-a
    - IRS Form 8911 for Alternative Fuel Vehicle Refueling Property Credit https://www.irs.gov/forms-pubs/about-form-8911
  - Provide certain supporting information and calculations
  - **Must annually renew registration number and attest**
  - Provide updates for changes or new information

Source: https://www.whitehouse.gov/cleanenergy/directpay/

Prevailing Wage & Apprenticeship Requirements

- On November 30th, the U.S. Treasury published initial prevailing wage & apprenticeship guidance
- With the 60-day effective period included in the Act, the requirements will be operative for facilities when construction begins on or after January 30, 2023
- Prevailing wage requirements are governed by the Davis-Bacon Act
- For most incentives, following the prevailing wage & apprenticeship requirements increases the amount of the incentive

Tax Incentive	Prevailing Wage Requirements	Apprenticeship Requirements
Production Tax Credit (Section 45, Section 45Y)	Yes (10 years post COD)*	Yes
Investment Tax Credit (Section 48, Section 48E)	Yes (5 years post COD)*	Yes
Credit for Qualified Commercial Clean Vehicles (Section 45w)	No	No
Alternative Fuel Refueling Property Credit (Section 30C)	Yes	Yes
Alternative Fuel Excise Tax Credit (Section 40A)	No	No
Energy Efficient Commercial Buildings Deduction (Section 179D)	Yes	Yes
Credit for Carbon Oxide Sequestration (Section 45Q)	Yes	Yes
Zero-Emission Nuclear Power Production Credit (Section 45U)	Yes	No
Credit for Production of Clean Hydrogen (Section 45V)	Yes	Yes
Advanced Manufacturing Production Credit (Section 45x)	No	No
Clean Fuel Production Credit (Section 45z)	Yes	Yes
Advanced Energy Project Credit (Section 48C)	Yes	Yes

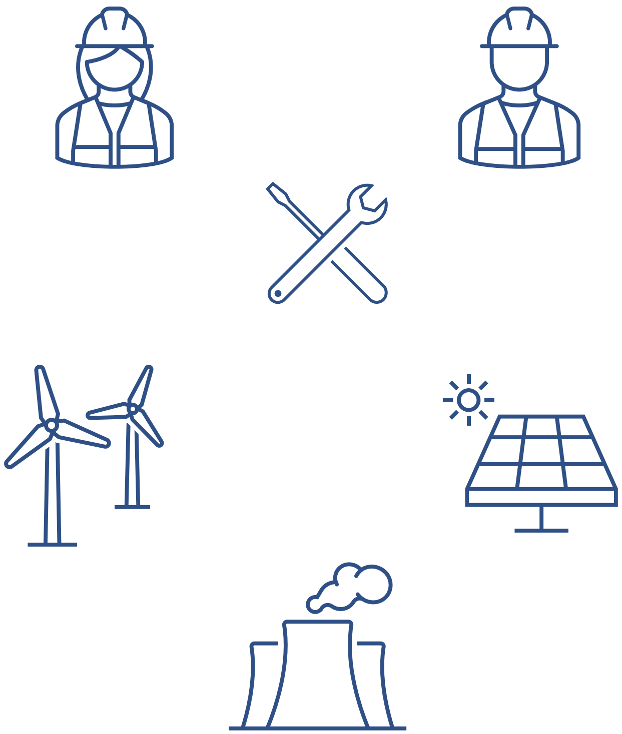
* Time starts date facility is placed in service. “COD” is Commercial Operational Date.”

Sources: https://www.dol.gov/agencies/whd/IRA

5X Credit Multiplier – Prevailing Wage and Apprenticeship Requirements Facilities Under 1MW

- **Prevailing Wage Requirement Not Required for Facilities under 1MW**.
  - Still get 5x multiplier without meeting the prevailing wage/labor requirements if the maximum net output of the facility is less than 1 megawatt of electrical (as measured in alternating current) or thermal energy.

- **Apprenticeship Requirement Not Required for Facilities under 1MW**
  - Not required for facilities under 1MW. Still get 5x multiplier without meeting the apprenticeship/labor requirements if the maximum net output of the facility is less than 1 megawatt of electrical (as measured in alternating current) or thermal energy.



Source: https://www.irs.gov/credits-deductions/frequently-asked-questions-about-the-prevailing-wage-and-apprenticeship-under-the-inflation-reduction-act

Prevailing Wage Requirements

- Prevailing wages are determined in accordance with the Davis-Bacon Act
- Laborers & mechanics employed by the entity or contractor/subcontractor on site
  - Does not apply to admin, clerical or executive
- For construction & alteration/repair; is generally based on the county of construction
- Wage should be the prevailing wage in that locality as determined by the Secretary of Labor
  - www.sam.gov
  - Solar and wind are characterized as “heavy construction”
  - Some data appears to be very limited in terms of the type of workers in selected communities
  - Must use all labor classifications of those working onsite
  - If the location or type of labor is not listed
    - Request a wage determination from DoL
    - Info required: Type of facility, location, proposed worker classification, proposed rates, planned job description and duties & rational on why this is the prevailing wage
    - DoL will provide a determination of labor classification & wage rates
- Must preserve records (accounting) for work performed in accordance with general recordkeeping requirements:
  - Identifying the applicable wage determination
  - Laborers & mechanics who performed construction work on the facility
  - Classifications of work they performed
  - Hours worked in each classification
  - Wage rates paid for the work
- Apprentices can have lower than prevailing journeyman wage of the same classification
- Wages include bona fide fringe benefits
- Some mandates about vacation days & employer contribution for vacation pay credits

Source: www.irs.gov/pub/irs-pdf/p5855.pdf .

Apprenticeship Requirements

- Need an applicable percentage of the total hours on the worksite be completed by apprentices in a registered program (as established/managed in the National Apprenticeship Act, DoL or a state's apprenticeship agency)
  - https://www.apprenticeship.gov/about-us/apprenticeship-system
- Some key requirements to be met:
  - Apprenticeship Labor Hour Requirement
  - Apprenticeship Ratio Requirements
  - Apprentice Participation Requirement
  - General Recordkeeping in sufficient detail to calculate these 3 requirements
- Sliding scale of hours required depending on when construction begins:
  - Construction before January 1, 2023 10%
  - Construction between January 1, 2023 & January 1, 2024 12.5%
  - Construction after January 1, 2024 15%
- Applies to the applicant as well as contractors & sub-contractors with 4 or more employees associated with the construction/alteration or repair of the facility
  - Contractor with 4 employees requires 1 apprentice
- Appears that if there is construction occurring on a daily basis, the headcount on site must include the appropriate number of apprentices

Source: www.irs.gov/pub/irs-pdf/p5855.pdf .

Apprenticeship Requirements (continued)

- There are exceptions:
  - Good Faith exemption: deemed to have satisfied the apprenticeship requirements if the taxpayer has requested qualified apprentices from a registered apprenticeship program, &:
    - Request has been denied provided that the denial is not the result of a refusal by the taxpayer (or contractors/subcontractors) to establish a qualified apprenticeship program (basically)
    - The registered apprenticeship program fails to respond to such request within 5 business days after receipt of request
    - Need to maintain documentation on the communication with the Apprenticeship Program
      - Taxpayer might be able to “pay up” for the shortfall x $50 an hour & qualify
- Fines
  - Intentional Disregard Provision: $50/hour penalty increased to $500/hour

Source: www.irs.gov/pub/irs-pdf/p5855.pdf .

Beginning of Construction Definition

- U.S. Treasury guidance released November 30th defines the beginning of construction for the prevailing wage & apprenticeship requirements
  - 2 tests
    - Physical Work Test [1]
      - physical work of a significant nature begins,
      - maintenance of a continuous program of construction (continuity requirement)
      - focuses on work and not cost
      - Has to be contracted if contracted
      - On or off-site counts
      - Does not include planning & design, finance activities, research, preliminary permitting, exploring or surveys and feasibility studies
    - 5% Safe Harbor [2]
      - Incur 5% or more of the total cost of the facility with a continuous effort to move the project to completion (continuity requirement)
      - Includes all applicable costs
      - If work is contracted (binding written contract), costs incurred by the contractor are deemed incurred by the taxpayer
  - Continuity Requirement [3]
    - Must be met under both tests
      - There is a continuity safe harbor based on the duration of the construction period to get the project to COD
        - 4 years for PTC and ITC
        - 6 years for carbon capture
        - 10 years for offshore wind and projects built on federal land

Sources: (1) www.irs.gov/pub/irs-drop/n-21-41.pdf, Notice 2013-29, Section 4. Notice 2018-59, Section 4,
(2) www.irs.gov/pub/irs-drop/n-18-59.pdf, Notice 2013-29, Section 5. Notice 2018-59, Section 5.
(3) www.irs.gov/pub/irs-drop/n-18-59.pdf, Notice 2018-59, Section 7.01(2)(a).

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