

Energy Infrastructure Funding Opportunities under the Infrastructure Law and Inflation Reduction Act

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The Infrastructure Investment and Jobs Act (IIJA),¹ signed into law in November 2021, and the Inflation Reduction Act (IRA), signed into law in August 2022, are both recent landmark climate-related legislation aimed at accelerating the transition of the US to a clean energy economy. Both laws created various opportunities for states, Tribes, public utilities, project developers, and municipalities, among others, to participate in the clean energy economy through grants, loans, tax credits, and other incentives.

The IIJA provides unprecedented levels of investment in infrastructure across such industries as transportation, broadband, and clean energy. Since enactment, the White House has announced over \$454 billion in funding as of May 2024.² This included, among other programs, \$3 billion for the Battery Materials Processing Grant³, over \$2.5 billion for Carbon Capture Demonstration Projects,⁴ and \$5 billion in Energy Infrastructure Reinvestment Financing.⁵ Many funding opportunities are still available, including the Advanced Technology Vehicle Manufacturing Loan Program⁶, as well as the Carbon Dioxide Transportation Infrastructure program.⁷

In addition to providing additional funding for various programs under the IIJA, the IRA also revised the tax code to enhance existing tax credit provisions and created new tax credits for various renewable energy projects, investing approximately \$370 billion in clean energy. Among the highlights include a new Investment Tax Credit that provides a credit of up to 30% (or more if certain bonus requirements are met),⁸ a credit for carbon capture and sequestration,⁹ and a clean hydrogen tax credit.¹⁰ The IRA also creates opportunities for participation from traditionally tax-exempt entities such as Tribes through new direct pay and transferability provisions.¹¹ Since enactment, the Treasury has been issuing guidance and new regulations to implement the IRA, including, most recently, guidance on the Clean Fuel Production Tax Credit¹² as well as proposed regulations regarding the new Production Tax Credit and Investment Tax Credit.¹³

The White House and the granting and lending agencies have been proactive in making as much of the funds available as possible for eligible projects. Some speculate that the availability of funding may be impacted by the election this year, suggesting that interested parties should move expeditiously to take part in these opportunities.

This article is available in the Jenner & Block Japan Newsletter. / この記事はJenner & Blockニュースレターに掲載されています。

Footnotes

[1] Public Law 117-58.

[2] FACT SHEET: Biden-Harris Administration Kicks Off Infrastructure Week by Highlighting Historic Results Spurred by President Biden's Investing in America Agenda | The White House.

[3] Battery Materials Processing Grants | Department of Energy.

[4] Carbon Capture Demonstration Projects Program | Department of Energy.

[5] Energy Infrastructure Reinvestment Financing | Department of Energy

[6] Advanced Technology Vehicles Manufacturing Loan Program | Department of Energy.

[7] Clean Energy Infrastructure Program and Funding Announcements | Department of Energy.

[8] 26 U.S. Code § 48E.

[9] 26 U.S. Code § 45Q.

[10] 26 U.S. Code § 45V.

[11] Elective pay and transferability | Internal Revenue Service (irs.gov).

[12] Notice 2024-49, Section 45Z Clean Fuel Production Credit; Registration (irs.gov).

[13] 2024-11719.pdf (federalregister.gov).

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