

Partnering with Utilities on Critical Energy Infrastructure Projects: Setting the Context

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Moderator



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Agenda

- Overview of Key Tribal Energy Development Opportunities
- Project Development Key Considerations
- Developer and Tribal Legal Perspective
- Tribal Client Perspective

Key Tribal Clean Energy Development Opportunities

- Utility – Commercial Scale Development: Solar, Wind, Geothermal, Hydrogen
- Distributed / Community Solar, Wind, Geothermal
- Microgrids & Storage
- Energy Efficiency
- Beneficial Electrification

Overview of Bipartisan Infrastructure Law

- DOE Programs
- DOT Programs
- EPA Programs

DOE BIL – Deployment Focused

- Grid Resiliency (2 programs) - \$5 billion each
 - Funding application period open now
 - Transmission needs and planning underway – seeking tribal input
- Energy Efficiency and Conservation Block Grant - \$550 million (2% tribal set-aside)
 - Just issued formula – same as ARRA
- Building Energy Codes - \$225 million
 - Notice of intent issued
- Energy Efficient Schools - \$500 million
 - Notice of Intent issued for \$80million
- Rural and Remote - \$1 billion
 - RFI issued, comments due Nov. 28

DOE BIL – Funding Available

- Grid Resiliency – Formula Grant – Due March 31, 2023
 - Every tribe received an allocation
 - Grid-related projects, including:
 - Battery storage
 - Microgrids
 - Replacement, undergrounding, hardening of grid infrastructure
 - Complicated application:
 - Public comment period
 - Project identification
 - Funds go to "eligible entities" – utilities – to do projects

DOT – Electric, Clean Transportation

- DOT Electric Vehicle Charging Stations (NEVI) - \$5 billion to states
 - State plans submitted for \$5 billion
 - Additional \$2.5 billion for community corridors, underserved and tribal communities (will be split into two programs)
 - Rural EV Toolkit

Overview of Inflation Reduction Act

- Tribal Specific Programs
- Tax Benefits (Credits and Deductions)
- Environmental Programs

Tribal Specific Programs

- DOE Programs
 - Tribal Energy Loan Guarantee Program (TELGP)
 - Increases loan authority to \$20 billion
 - Allows up to 100% guarantee
 - Direct loans now available – but limited time
 - LMI High Efficiency Electric Home Rebate
 - \$225 million for high-efficiency home electrification rebates
- DOI Programs
 - \$220 million for climate resiliency
 - \$145 million to electrify homes
 - Provide electricity to unelectrified Tribal homes through zero-emissions energy systems;
 - Transition electrified Tribal homes to zero-emissions energy systems; and
 - Home repairs and retrofitting necessary to install the zero-emissions energy systems.
 - One time distribution through 638 contracts/compacts.

Tax Benefits – Credits and Deductions

- Direct Pay for Tribal Governments
- Investment Tax Credit
- Production Tax Credit
- EV Vehicle and Charging Station Tax Credits
- Residential Tax Credits
- Treasury conducting Tribal Consultation on Nov. 28 and 29 and taking written comments until December

Tax Benefits – Direct Pay

- Direct Pay for tribal governments.
 - Effective for projects that begin construction after Jan. 1, 2023.
- Applies to long list of clean energy technologies.
- Payment from Treasury equal to tax credit.

Tax Benefits – Investment Tax Credit

- One time tax credit, received after placed into operation.
 - Based on "cost basis" or "fair market value" of project.
- Extended to 2025; will be replaced with new "clean electricity investment tax credit" (CEITC) (technology neutral) from 2026 – 2033.
- Extended to geothermal heat pumps and standalone storage; interconnection costs if < 5 MW.
- Tax credit amount based on:
 - Prevailing wage/apprenticeship (30%) (not required for less than 1 MW)
 - Domestic content (10%) (not required for less than 1 MW)
 - Energy community (10%)

Tax Benefits – Environmental Justice Credits

- For solar and wind projects less than 5 MW, ITC only.
- Secretary will allocate "environmental justice solar and wind capacity limitations" to eligible projects for ITC/CEITC plus ups; limited to 1.8 GW capacity in each of 2023 and 2024 (for ITC) and 1.8GW each year for CEITC.
- For projects that receive the EJ credits, in addition to the ITC credits, can receive an additional:
 - 10% for projects on Indian lands
 - 20% for projects that benefit tribal housing
 - Includes interconnection costs, microgrid controller, storage
- End result: Rooftop, community solar/wind, microgrids can receive up to 80% tax credit!

Tax Benefits – Other Clean Energy Technologies

- Alternative fuel refueling property, EV charging station(\$100,000 max)
- Clean hydrogen
- Carbon oxide sequestration
- Advanced manufacturing

Tax Benefits – Commercial Energy Efficiency

- Amended 179D to allow tribes to allocate deduction to "designer".
- Tax deduction (not a credit) of up to \$5 per sq. ft.
 - Sliding scale based on efficiency gains
 - Prevailing wage requirement
- Minimum 25% efficiency improvement.

Tax Benefits – Residential Energy Efficiency

- Two Types of Tax Credits
 - Energy Efficiency
 - Clean Energy Generation (i.e., solar and wind)
- Energy Efficiency Tax Credits
 - Up to 30% of costs - \$1200/year max (\$2000 if doing heat pumps)
 - Per technology limits
- Clean Energy Generation (solar, wind, geothermal heat pumps, storage)
 - Increased back to 30% tax credit until 2032, then phase out.
 - Added storage.

Residential Electrification Rebates

- High Efficiency Electrification Rebate Program for Tribes (\$225 million)
 - Tribes must apply to Secretary, provide a plan.
 - Single and multi-family homes eligible.
 - Up to \$14,000 per project; amounts based on type of technology.
 - \$8,000 for heat pump installation for space heating
 - \$1,750 for a heat pump water heater
 - \$840 for an electric stove, electric clothes dryer
 - \$4,000 for an upgraded breaker box, \$2,500 for upgraded electrical wiring
 - \$1,600 for insulation, ventilation and sealing
 - Limited based on income.
 - 50% if income between 80 – 150% of AMI
 - 100% if income less than 80% of AMI

Environmental Programs

- Greenhouse Gas Reduction Fund - \$27 billion
 - Amends the Clean Air Act to give EPA authority to make grants to states, tribes, non-profits and invest in non-profit, state and local financing institutions to deploy low-zero emission technologies; available until Sept. 30, 2024.
 - \$7 billion in competitive grants (states, tribes) for financial and technical assistance.
 - \$12 billion to lending institutions to leverage private investment.
 - \$8 billion in competitive grants to non-profits.

Environmental Programs cont.

- Climate Pollution Reduction Grants - \$9 billion
 - Achieve or facilitate GHG emission reduction.
 - Planning and implementation grants.
- Environmental and Climate Justice Block Grant - \$3 billion
 - Community led – Partnerships with tribes and non-profits.
 - Climate resiliency, low-zero emission/resiliency technologies, education
- **EPA conducting Tribal Consultation from Oct. 31 to Dec. 27 and accepting written comments until Dec. 27**

USDA Programs – New Funding

- Rural Utility Services
 - loans for electricity and transmission to rural electric cooperatives, G&T coops and tribes
 - \$1 billion for renewable energy
 - 50% loan forgiveness
- Rural Energy for America Program (REAP)
 - \$2.2 billion for loans and grants to ag businesses, including tribal enterprises
 - 50% cost share on grants (decreased from 75%)
- **USDA taking comments on programs until Nov. 28**

List of Resources

- DOE/IRS Guidance for Eligible EV

<https://afdc.energy.gov/laws/electric-vehicles-for-tax-credit>

- Harvard Energy Law – EJ Matrix

<http://eelp.law.harvard.edu/wp-content/uploads/EELP-IRA-EJ-Provisions-Table.pdf>

- Residential Tax Credits/Rebates Matrix

<https://www.rewiringamerica.org/app/ira-calculator>

- SEIA Summary of IRA

<https://www.seia.org/sites/default/files/2022-08/Inflation%20Reduction%20Act%20Summary%20PDF%20FINAL.pdf>