

9TH Annual

Vorys Economic Development Incentives Conference

Co-Presented by Vista Site Selection

VORYS

VISTA SITE SELECTION

Speaker Info

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Key Inflation Reduction Act, Infrastructure Investment and Jobs Act, and CHIPS Act Incentives and Strings

Introductions and Background

▶ Melissa LaBuda

- What does PFM Financial Advisors LLC do?
- Please share with us your role and experience with both utilities and complex and strategic financing.

▶ Mark Patton

- What is One Columbus / Columbus Partnership's Role?
- Please share with us your experience with the Smart Columbus initiative.

Overview

- ▶ The legislative drivers of the incentives
- ▶ Examples of the \$2 trillion available
- ▶ Impacts of federal non-monetary requirements
- ▶ Issues and opportunities – key strings to consider

What we want you to learn from this discussion:

- ▶ How the IIJA (BIL), CHIPS Act and IRA can support various economic development opportunities
- ▶ Prevailing wage, apprenticeship and other strings that come with these funding opportunities
- ▶ Creating compliance processes with the strings, both those known and those still being finalized

What are the relevant/key legislative drivers of the incentives?

- ▶ Bipartisan Infrastructure Law
- ▶ CHIPS and Science Act
- ▶ Inflation Reduction Act

Bipartisan Infrastructure Law

- ▶ Over 35,000 projects already funded in all 50 states – see Maps of Progress (<https://www.whitehouse.gov/build/maps-of-progress/>)
- ▶ \$415B announced already and there is a funding calendar for 2024 available at <https://www.whitehouse.gov/build/resources/nofos-to-know/>
- ▶ There are state by state fact sheets summarizing awards made to each state (and outlining funded programs) updated as of 1-10-24 <https://www.whitehouse.gov/build/resources/state-fact-sheets/>
- ▶ Wide range of opportunities to support projects or economic development, such as federal-state partnerships for intercity rail, battery material processing grants program, DWSRF and CWSRF and ARISE

CHIPS and Science Act

- ▶ \$52.7B for American semiconductor research, development, manufacturing and workforce development
- ▶ 25% investment tax credit for capital expenses for manufacturing semiconductors and related equipment (and materials)
- ▶ Amended NOFO from NIST (National Institute of Standards and Technology), U.S. Dept. of Commerce released on June 23, 2023
- ▶ In addition to chip manufacturers, the amended NOFO provides for materials and manufacturing equipment facilities
- ▶ For those with CapEx over \$300M, pre-applications accepted beginning 9-1-23
- ▶ Additional funding round for those less than \$300M followed
- ▶ Notable goals include (1) strengthen supply chain resilience, (2) advancing U.S. technology leadership and (3) supporting vibrant fab clusters

CHIPS for America

- ▶ What has the U.S. Department of Commerce announced and what announcements are expected
- ▶ \$5B for semiconductor R&D announced 2-9-24
- ▶ What do we know about the National Semiconductor Technology Center?
- ▶ \$1.5B for GlobalFoundries announced 2-19-24
- ▶ What is the timing for the awards for new Fabs?
- ▶ What is expected?

Inflation Reduction Act

- ▶ Investing \$369B in energy security and climate change programs
- ▶ Approximately 10 year program
- ▶ Groundbreaking in allowing direct pay for non-taxable entities and transferability for those that are not tax exempt
- ▶ No longer requiring complex tax equity structures for most IRA credits
- ▶ Primary focus is on Investment Tax Credits and Production Tax Credits, with examples including:

Eligible for ITC or PTC	Eligible for ITC	Eligible for PTC
multiple solar and wind technologies, municipal solid waste, geothermal (electric), and tidal	energy storage technologies, microgrid controllers, fuel cells, geothermal (heat pump and direct use), combined heat & power, microturbines, and interconnection costs	biomass, landfill gas, hydroelectric, marine and hydrokinetic

Inflation Reduction Act

- ▶ Base credits with wage/apprenticeship and bonus credits or adders are available:

Category	Amount* for Projects less than 1MW _{AC} (Cumulative)	Amount* for Projects greater than 1MW _{AC} (Cumulative)
Base Tax Credit	ITC: 30% PTC: 2.75¢/kWh	ITC: 6% PTC: 0.5¢/kWh
Wage & Apprenticeship Requirements (Requires a percentage of total labor hours performed by qualified apprentices)	ITC: N/A PTC: N/A	ITC: +24% PTC: +2.25¢/kWh

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Domestic Content Minimums (% attributable to U.S. Manufactured Products)	ITC: +10% PTC: +0.3¢/kWh	ITC: +10% PTC: +0.3¢/kWh
Siting in Energy Community ex. Brownfield site, area related to mining operations)	ITC: +10% PTC: +0.3¢/kWh	ITC: +10% PTC: +0.3¢/kWh
Siting in Low-Income Community or on Indian Land (<5 MW _{AC})	ITC: +10% PTC: N/A	ITC: +10% PTC: N/A
Qualified Low-Income Residential Building Project or Economic Benefit Project	ITC: +20% PTC: N/A	ITC: +20% PTC: N/A

Section 179D Deductions and Competitive Tax Credits

- ▶ Section 179D – Energy Efficient Commercial Buildings Deduction
- ▶ Base deduction of \$0.50/sq. ft., increasing by \$0.02/sq. ft. for every percentage of energy use cost reduction over 25% up to \$1
- ▶ Maximum deduction of \$5/sq. ft. available for any energy-efficient commercial building property, energy-efficient building retrofit property, or property installed pursuant to a qualified retrofit plan that also meets prevailing wage and apprenticeship requirements
- ▶ Increased level of deduction applicable for property placed in service after December 31, 2022
- ▶ Section 48C - Advanced Energy Project Credit
- ▶ First tranche concept papers were due 7-31-23 for first \$4B, but still will be another estimated \$6B available for future round(s)
- ▶ Eligible technologies/facilities include:
 - ▶ Renewable energy technologies, carbon capture and sequestration, energy storage systems and components (fuel cells, batteries), renewable fuel-refining or blending technologies, electric and hybrid vehicles and components, industrial recycling facilities, energy conservation technologies, grid modernization technologies
 - ▶ Processing, refining, or recycling of critical materials
 - ▶ Projects that re-equip a manufacturing facility with equipment designed to reduce greenhouse gas (GHG) emissions by at least 20% (requires installation of low/zero carbon process heat systems, carbon capture systems, industrial energy efficiency processes).

Key Strings: Federal Prevailing Wage, Apprenticeship and Community Benefits Plan Requirements

- ▶ Planning opportunities – helping companies plan for their investments
- ▶ Anticipating and answering questions including:
 - ▶ What are the practical impacts of prevailing wage requirements in the proposed project area?
 - ▶ How do federal and state prevailing wages interact?
 - ▶ How can (you help) companies satisfy the IRC Section 45(b)(8) apprenticeship requirements for this jurisdiction with the applicable state apprenticeship agency?
 - ▶ How can you support other community benefit plan requirements (are there form agreements, are project labor agreements common in the area)

Key Strings: Federal Prevailing Wage, Apprenticeship and Community Benefits Plan Requirements

- ▶ DOE requires community benefit agreements for its BIL and IRA awards
- ▶ Community Benefits Plans are based on a set of four core policy priorities: investing in America's workforce; engaging communities and labor; advancing diversity, equity, inclusion, and accessibility; and implementing Justice 40
- ▶ These key principles, when incorporated comprehensively into project proposals and executed upon, will help ensure broadly shared prosperity in the clean energy transition
- ▶ Plans must be specific, actionable, and measurable
- ▶ In most cases, plans are scored at 20% of the technical merit review of proposals

Key Strings: Federal Prevailing Wage, Apprenticeship and Community Benefits Plan Requirements

- ▶ Measure twice – what are the ins and outs of tracking prevailing wage and apprenticeships?
- ▶ Why shouldn't we just delegate compliance to our contractor?
- ▶ Are there safe harbors?
- ▶ Who (and how) will compliance be reviewed?

Keeping Records: Federal Prevailing Wage Requirements

A taxpayer can meet its obligation to pay the prevailing wage by:

- ▶ 1. Paying each laborer and mechanic the applicable prevailing wage entirely as cash wages; or
- ▶ 2. Paying a combination of cash wages and employer-provided bona fide fringe benefits

Consider attending the Department of Labor 2024 Prevailing Wage Seminars

<https://www.eventbrite.com/e/department-of-labor-2024-prevailing-wage-seminars-tickets-774562195377>

Keeping Records under the IRA Labor Provisions

Section 6001 provides that every person liable for any tax imposed by the Internal Revenue Code, or for the collection thereof, must keep sufficient records. Such records include:

- ▶ Permanent books of account or records
- ▶ Sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax

Source: <https://www.dol.gov/sites/dolgov/files/WHD/IRA-presentation.pdf>

One Step Ahead – Anticipating and Answering Questions

- ▶ What are the practical impacts of prevailing wage requirements in your area?
- ▶ Is PW higher than other construction wage costs?
- ▶ Can a project be competitive in the selected area with PW?
- ▶ How can (you help) companies satisfy the IRC Section 45(b)(8) apprenticeship requirements for this jurisdiction with the applicable state apprenticeship agency?
- ▶ Are the programs running and helpful?
- ▶ What is the waiver process?
- ▶ Can you, your local government, port or EDO utilize the available funding to make a site more attractive?

Apprenticeship Requirement Guidance

- ▶ Need applicable percentage of total hours on 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, and 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 10.0%
 - Construction between January 1, 2023 & January 1, 2024 12.5%
 - Construction after January 1, 2024 15.0%
- ▶ **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
- ▶ **If construction occurring on a daily basis, the headcount on site must include the appropriate number of apprentices**
- ▶ Good Faith exemption: deemed to have satisfied the apprenticeship requirements if the taxpayer has requested qualified apprentices from a registered apprenticeship program, &:
 - (i) Request has been denied, (ii) Registered apprenticeship program fails to respond 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 for Intentional Disregard Provision: \$50/hour penalty increased to \$500/hour**

Domestic Content Bonus, Buy America and Buy American – what do we know and what don't we know?

- ▶ 2 CFR 184 and Build America Buy American Act (BABAA) of the IIJA
- ▶ All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- ▶ All manufactured products purchased with FEMA financial assistance must be produced in the United States. For a manufactured product to be considered produced in the United States, the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
- ▶ All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States
- ▶ Waiver opportunities

Domestic Content Bonus, Buy America and Buy American – what do we know and what don't we know?

- ▶ For the IRA, there are certain incentives (as opposed to the IIJA) that require less than the 55% under certain Buy America guidance, and instead require an adjusted percentage (40% for construction beginning before 2025, then 45%, 50% and 55% (for 2027 and later), and qualified wind facilities have their own rates).
- ▶ Additional guidance is expected on how the domestic content requirements under the IRA will be demonstrated/proven by the applicant and ultimately administered by the Service.

QUESTIONS?



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