NATIONAL MULTIFAMILY HOUSING COUNCIL

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# What the Multifamily Industry Needs to Know

## About *Opportunities Included in the Infrastructure Investment and Job Act & Inflation Reduction Act*

*October 18, 2022*

The passage of the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA) allocates a significant amount of funding to support climate-focused and clean energy initiatives. Many of the provisions within the bills establish new programs that support the Biden administration's clean energy and climate-related goals by reducing emissions, transitioning to renewable energy sources, retrofitting buildings and technology, supporting cleaner construction, and building out a renewable electric grid.

Several provisions also present potential opportunities for multifamily housing entities to benefit through an array of direct and indirect funding programs related to electric vehicles, efficiency, resiliency, and tax credits, including:

- Rebates provided to multifamily buildings for retrofits that lower energy costs or for the purchase of a qualified transformer to replace an energy-inefficient transformer;
- An extension and expansion of the New Energy Efficient Home Credit to support multifamily housing construction; and
- Grants to help multifamily buildings conduct energy audits, deploy electric vehicle charging units, and implement building code upgrades.

**Next Steps for Implementation:** The passage of these bills left federal agencies with a long list of programs to modify or establish—which could take months or years to complete. The annual approval of government funding for the forthcoming year is also an important factor. The programs created by the reconciliation bills must receive congressional appropriations before monies can be distributed to eligible entities. These factors will delay the release of most funds into the 2023 or 2024 construction seasons and beyond.

**Next Steps for Disbursement:** State and localities will be responsible for distributing funds awarded through many of the IIJA and IRA programs. This could create new opportunities down the road as states and localities establish their own programs and issue corresponding guidance. Program guidance is also routinely updated and eligibility can change between iterations. Additional requests for input and releases of program guidance are expected during the remainder of 2022 and well into 2023.

*The information provided herein is general in nature and is not intended to be legal advice. It is designed to assist our members in understanding this issue area, but it is not intended to address specific circumstances or business situations. For specific legal advice, consult your attorney.*

# Electric Vehicle Provisions

## Inflation Reduction Act

**30C Alternative Fuel Refueling Property Credit:** While the IRA's EV provisions are more targeted to consumers, the statute extended the section 30C *Alternative Fuel Refueling Property Credit* through 2032. The credit supports the construction of alternative fuel refueling infrastructure in low-income communities where the poverty rate is at least 20 percent, or if not located within an "urban area," where the median family income does not exceed 80 percent of statewide median family income.

More simply, the census tracts that qualify for the New Markets Tax Credit will also qualify for the 30C credit. Any census tract (as defined by the Bureau of the Census) that has *not* been designated as an "urban area" will also qualify. The Department of Commerce plans to release its updated list of "urban areas" in December 2022. The maximum credit amount is $100,000, and it is transferrable and offers a limited direct payment option. The IRA also lifted the one project-per-property limit on the credit and brought bidirectional charging within its scope, allowing for infrastructure in which electricity flows to and from the grid or home and the connected electric vehicle.

## Infrastructure Investment and Jobs Act

The IIJA included several changes to support the buildout of a national electric vehicle (EV) network. These measures supplement the deployment of EV charging infrastructure, update existing facilitates to accommodate EV systems, require states to promote the electrification of transportation, among other shifts.

While both of the following programs provide funding for EV charging units, existing guidance does not include criteria for subgrantees—making it unclear whether multifamily dwellings will be eligible. However, there is much time to communicate to regulators the importance of doing so. Guidance is also pending on the *Discretionary Grant Program for Charging and Fueling Infrastructure,* which is likely to benefit multifamily buildings in some form.

**National Electric Vehicle Infrastructure Program:** For example, it created the *National Electric Vehicle Infrastructure Program* administered by the Departments of Transportation (DOT) and Energy (DOE). Electric vehicle charging stations deployed with funding received through this program would need to be publicly accessible, and funds will be distributed to projects by states. For the purposes of this program, "*publicly accessible*" means the equipment is available to the public without restriction.

A station that is not maintained or restricts access only to customers, tenants, employees, or other consumers is not publicly accessible, but private parking facilities made available for public use would qualify. Note that while hydrogen, propane, and natural gas fueling infrastructure are not eligible under the NEVI Program, these additional fuels are eligible under the Corridor Charging Grants and the Community Charging Grants.

**Carbon Reduction Program:** Under IIJA's *Carbon Reduction Program,* also administered by DOT, property owners could receive funding for the acquisition, installation, or operation of 'publicly accessible' electric vehicle charging infrastructure. Funds will again be distributed to projects by states, as they would also be under the *Surface Transportation Block Grant Formula Program* (STBG) and *Rural Surface Transportation Grant Program.*

# Efficiency and Resiliency Provisions

## Infrastructure Investment and Jobs Act

To bolster resiliency more broadly, the IIJA also created programs such as the ***Building Codes Implementation for Efficiency and Resilience Program*** operated by DOE, which supports the implementation of updates to energy codes new and existing multifamily buildings, among other dwellings. More narrowly, multifamily residential buildings that purchase a qualified transformer to replace an energy-inefficient transformer can take advantage of the ***Energy Efficient Transformer Rebates.*** *e* to

Multifamily building owners are also among the entities that could receive grants to conduct energy audits through the ***Energy Efficiency Revolving Loan Fund Capitalization Grant Program*.** Though not specified, they may also qualify for some variations of financial assistance provided through DOE's ***Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency***—which will launch as the **"Grid Resilience and Innovation Partnerships"** program. Multifamily buildings that meet certain criteria will also be eligible for the ***Weatherization Assistance Program,*** which will be further bolstered by the IIJA.

## Inflation Reduction Act

**HOPE for HOMES:** The new ***Home Energy Performance-Based, Whole-House Rebates***, also occasionally referred to as the HOPE for HOMES provisions, will provide multifamily building owners with rebates to support retrofits that lower energy costs. Under the forthcoming program, multifamily buildings may receive up to $200,000 or 50 percent of the project cost per multifamily building with a modeled energy savings of at least 20 percent. This figure rises to $400,000 or 50 percent of the project cost for buildings with savings greater than 35 percent. Further, multifamily buildings with more than 50 percent low- and moderate-income (LMI) occupancy may claim up to 80 percent of the project cost for the same amount of energy savings.

**Included Grant Programs:** In addition, property owners with holdings that encompass forest land may be interested in a new ***competitive grant program*** created to help such entities implement carbon sequestration and storage practices. Similarly, buildings in areas where households or communities do not have reliable access to domestic water supplies could potentially see benefits from funds provided by the ***Bureau of Reclamation grants*** to counter this shortcoming.

**Rural Programs:** Multifamily buildings may also qualify for funds to support the generation, storage, and use of renewable energy in rural communities through the ***Rural Energy for America Program***.

**Energy Efficient Commercial Buildings Deduction:** Like IIJA, the IRA also made modifications to a number of existing programs and credits, including the *Energy Efficient Commercial Buildings Deduction.* This program sets the commercial building construction deduction (section 179D) cap at $2.50-$5.00 per square foot, up from the previous $1.80 per square foot ceiling. Among other modifications, the minimum efficiency requirement dropped to 25 percent (from 50 percent) to allow for broader eligibility.

# Other Notable Tax Credits

**New Energy Efficient Home Credit (section 45L):** The revamped *New Energy Efficient Home Credit* (section 45L) was extended for ten years. The available credit amount for both single-family and multifamily housing construction was increased, with the amount of the credit varying by energy consumption. Credit amounts range from $500 to $5,000, with several factors playing into the determination.

**Section 48 Investment Tax Credit:** The IRA also extended current energy incentives, including the *section 48 investment tax credit*, which generally provides a 6 percent tax incentive for the cost of qualifying energy property, for projects that commence construction prior to 2025 (geothermal energy projects must begin construction before 2035). A 30 percent credit is available if the project meets certain prevailing-wage and apprenticeship requirements.

Energy property qualifying for the credit includes (among other property types):

- solar that generates electricity to heat or cool;
- geothermal;
- qualified fuel cell or qualified microturbine;
- combined heat and power; and
- qualified small wind energy.

In addition, the following new properties are now eligible for the credit:

- energy storage technology;
- qualified biogas; and
- microgrid controllers.

The legislation also sets forth Higher credit amounts – which can result in additional bonus credits of up to 10 percent – for projects that meet certain domestic-content requirements or are located in certain areas. Solar and wind projects in low-income communities, low-income residential buildings, or low-income economic benefit entities can also qualify for additional bonus credits of 10 or 20 percent. Notably, the solar- and wind-project credit can be claimed:

- in addition to the basic section 48 credit and the domestic-content and energy-communities bonus credits; or
- with the stacked credits representing as much as 70 percent.

**New Technology-Neutral Credits:** Beginning in 2025, the current energy tax incentives will convert to new technology-neutral credits. This includes the *Clean Electricity Production Credit that* replaces the section 45 production tax credit and the *Clean Electricity Investment Credit* that replaces the section 48 investment tax credit.

These credits will be available to spur the production of zero-carbon electricity and the construction of facilities producing zero-carbon electricity. Both credits will begin to phase down in late 2032, or when the electric power sector emits 75 percent less carbon than it does in 2022. Like the current section 48 credit discussed above, these new technology-neutral credits can include bonus-credit amounts if the project meets domestic-content requirements, is located in certain areas, or benefits certain communities.

For projects financed with tax-exempt bonds, which begin construction after the date of enactment, the amount of the production credit is reduced by the lesser of:

- 15 percent or
- the fraction of proceeds of the tax-exempt debt used to finance the facility over the aggregate amount of additions to the capital account of the facility.

For the energy investment tax credits subject to tax-exempt financing, the energy property's basis on which credit is determined is subject to the same reduction.

**Additional IRA Tax Inclusion Details:** The IRA has something for almost every kind of taxpayer, from taxable entities, which generally cannot use the above-described tax credits in years with no taxable income, to tax-exempt organizations and state, local and tribal governments that historically have not been able to access federal tax incentives. Taxable entities now have the option to transfer qualifying energy tax incentives to unrelated entities that can utilize the benefit.

The Treasury Department will issue guidance that may include a registration regime and other requirements for transferring credits. REITs can sell the full value of the tax credit and are not bound by "retained income" rules. Certain tax-exempt entities also have the option to monetized energy tax benefits through direct payment of tax credits.