



Tennessee Solar for All Stakeholder Meeting

September 20, 2024

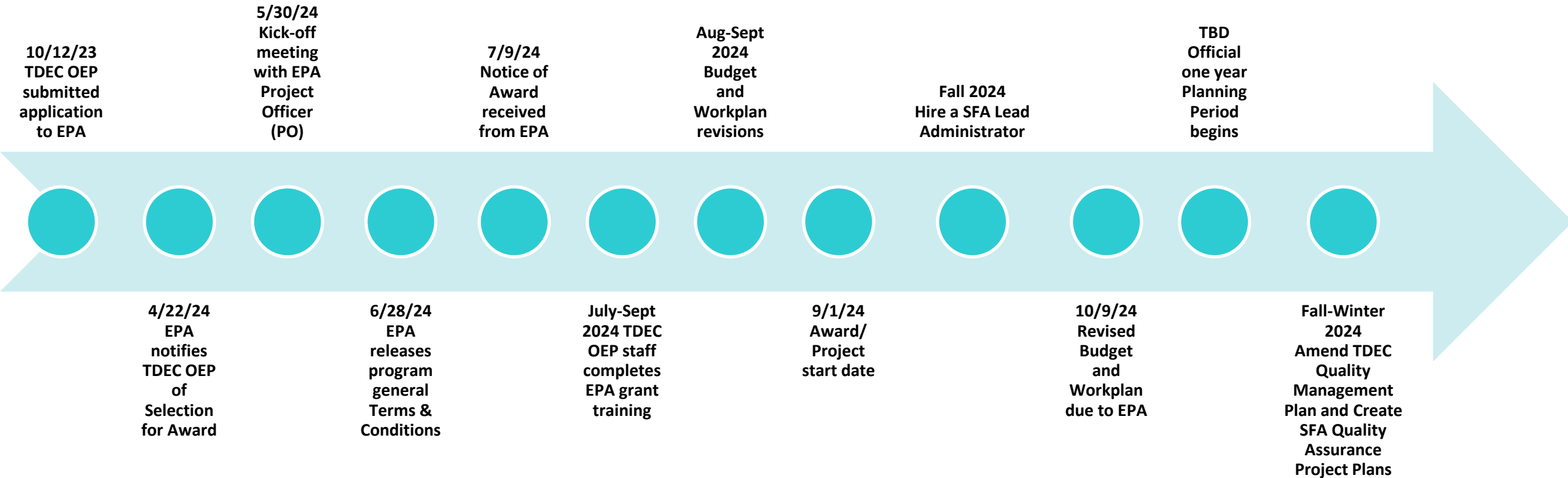
Agenda

- Update on Hiring for Lead Administrator
- Update on Planning Year Timeline from EPA
- Update on Quality Management Plan and Quality Assurance Project Plans
- Presentation on Elective Pay

Updates

- Hiring for Lead Administrator
- Planning Year Timeline from EPA
 - The workplan update is due to EPA on **October 10**
 - EPA will then review and approve the workplan
 - The official planning period begins **after EPA approves the workplan and the award amendment is processed**
- Quality Management Plan (QMP) and Quality Assurance Project Plans (QAPPs)
 - Following the approval of the workplan, TDEC will have **90 days** to develop and submit both a QMP and a QAPP
 - The QMP must first be submitted/approved by EPA before the QAPP can be submitted and then reviewed/approved by EPA

Timeline and Next Steps



Questions

Solar for All questions can be directed to:

Audrey Jackson, Communications Officer
TDEC Office of Energy Programs
Audrey.Jackson@tn.gov



Introduction to Elective Pay for Solar Projects Informational Webinar

September 20, 2024

The following information is provided for informational purposes only and is not tax advice, as this presentation has not been developed by tax professionals. For specific questions related to your project, please inquire with a qualified tax professional and/or the IRS.

Today's Agenda

- Elective Pay Background
- Applicable Entities
- Applicable Tax Credits for Elective Pay
- Applicable Credits for Solar Projects
- Bonus Credits/Adders/Incentives
- Summary of Remaining Applicable Credits (Non-Solar Projects)
- Key Considerations
- Elective Pay Process Overview
- Potential Next Steps
- Resources
- Appendix: Key Definitions

Elective Pay Background

- **Elective Pay** allows *Applicable Entities*, who are otherwise unable to claim tax credits because they do not owe federal income tax, to benefit from specific clean energy tax credits.
 - Also referred to as “Direct Pay”.
 - The applying entity would receive the full value of the tax credit because the IRS treats the amount of the credit as a payment of tax, resulting in an overpayment which then gets refunded to the entity.
- While not covered in this presentation, **transferability** was also enacted alongside Elective Pay. **Transferability** allows a taxpayer who generates certain clean energy tax credits to elect to transfer (i.e., sell) all or a portion of a tax credit to an unrelated third-party in exchange for cash.

Applicable (Eligible) Entities

- *Applicable Entities* means entities that are eligible to benefit from the Elective Pay provision – this includes tax-exempt and governmental entities that would otherwise be unable to claim these credits because they do not owe federal income tax.
- Applicable Entities include:
 - Agencies and instrumentalities of state, local, tribal, and U.S. territorial governments
 - Alaska Native Corporations
 - Indian tribal governments and their subdivisions
 - Rural electric cooperatives
 - Tax-exempt organizations, states, and political subdivisions
 - The Tennessee Valley Authority (TVA)
 - U.S. territories and their political subdivisions

Applicable (Eligible) Tax Credits for Elective Pay

- **Investment Tax Credit for Energy Property (§ 48)**
- **Clean Electricity Investment Tax Credit (§ 48E)**
- **Production Tax Credit for Electricity from Renewables (§ 45)**
- **Clean Electricity Production Tax Credit (§ 45Y)**
- Commercial Clean Vehicle Credit (§ 45W)
- Zero-emission Nuclear Power Production Credit (§ 45U)
- Advanced Manufacturing Production Credit (§ 45X)
- Clean Hydrogen Production Credit (§ 45V)
- Clean Fuel Production Credit (§ 45Z)
- Carbon Oxide Sequestration Credit (§ 45Q)
- Credit for Alternative Fuel Vehicle Refueling / Recharging Property (§ 30C)
- Qualifying Advanced Energy Project Credit (§ 48C)



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Applicable Credits for Solar Projects

Pair #1: Production Tax Credits (PTC)

- Pre-2025: Production Tax Credit for Electricity from Renewables (§ 45)
 - **Purpose:** For production of electricity from eligible renewable sources, including wind, biomass, geothermal, solar, small irrigation, landfill and trash, hydropower, marine, and hydrokinetic energy.
 - **Tax Credit Amount [2022]:** 0.55 cents/kilowatt (kW); (1/2 rate for electricity produced from open loop biomass, landfill gas, and trash); 2.75 cents/kW if Prevailing Wage and Apprenticeship rules are met.
- 2025 and Beyond: Clean Electricity Production Tax Credit (§ 45Y)
 - **Purpose:** Technology-neutral tax credit for production of clean electricity. Replaces § 45 (above) for facilities that begin construction and are placed in service after 2024.
 - **Tax Credit Amount:** Starts in 2025, consistent with credit amounts under § 45.

Pair #2: Investment Tax Credits (ITC)

- Pre-2025: Investment Tax Credit for Energy Property (§ 48)
 - **Purpose:** For investment in renewable energy projects including fuel cell, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat and power properties.
 - **Tax Credit Amount:** 6% of qualified investment (basis*); 30% if Prevailing Wage and Apprenticeship requirements are met.
- 2025 and Beyond: Clean Electricity Investment Tax Credit (§ 48E)
 - **Purpose:** Technology-neutral tax credit for production of clean electricity. Replaces § 48 (above) for facilities that begin construction and are placed in service after 2024.
 - **Tax Credit Amount:** 6% of qualified investment (basis); 30% if Prevailing Wage and Apprenticeship requirements are met.

** Basis is the amount of investment in eligible property that can be used to claim the credit.*

Eligible property means the qualifying project or site, per guidance for the specific tax credit being pursued.

Definition of “Technology-Neutral”

- § 45Y and § 48E (2025 and beyond Production and Investment tax credits) allow for any clean energy generator to qualify so long as it does not emit GHG emissions in the production of energy.
- § 45Y and § 48E would allow for new/evolving technologies to qualify for the tax credit.
- This is a change from § 45 and § 48 (pre-2025 Production and Investment tax credits), which had a prescribed list of credit-eligible technologies.

The (Maybe Not Quite) Million Dollar Questions

1. Which entity is most likely to own the Solar for All-funded infrastructure for your project idea?
2. Are you interested in tax credits for any future Solar for All infrastructure that your entity or another entity may own in the future?
3. Are you most interested in the Production Tax Credit (§ 45Y) or the Investment Tax Credit (§ 48E)?

Different credits will result in different IRS payment amounts, and both pairs of credits (Production vs. Investment) are not eligible for all bonus credits.

You can only choose one credit per solar project!*

*Taxpayers cannot claim an Investment Tax Credit in one year and a Production Tax Credit in another year for the same project. However, a taxpayer could claim different credits for co-located systems, like solar and storage.

Investment Tax Credit vs. Production Tax Credit

Factors to consider when choosing between the Investment or Production Tax Credits for your solar project include:

- **Project size:** Investment Tax Credit favors smaller-scale projects, while the Production Tax Credit favors larger-scale projects.
- **Generating capacity:** Production Tax Credit favors projects that have a higher generating capacity.
- **Project cost:** Investment Tax Credit favors projects with higher capital costs.
- **Bonus tax credits:** Investment Tax Credit favors projects that also qualify for bonus tax credits/adders/incentives.



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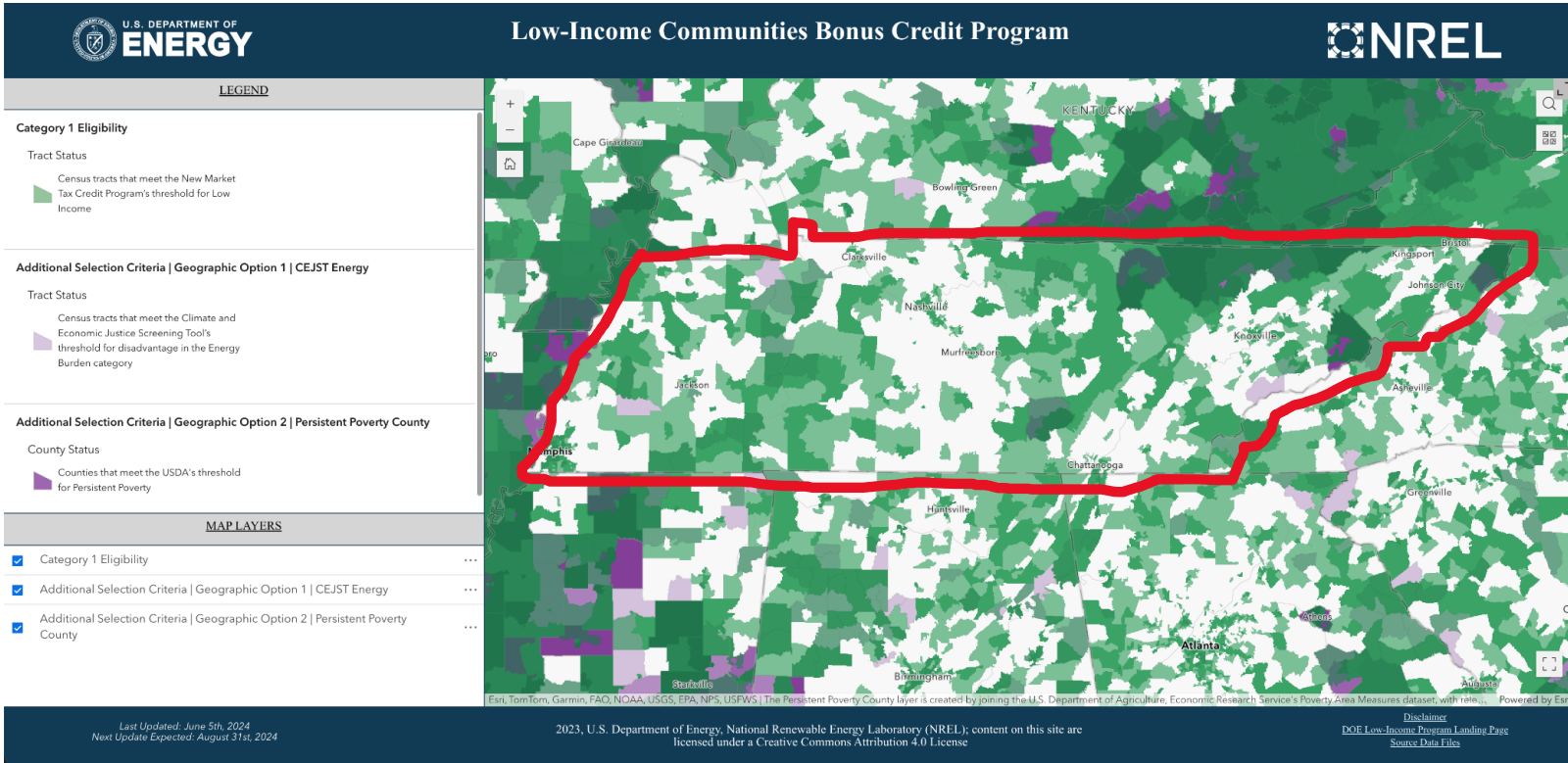
Bonus Credits/Adders/Incentives

Low-Income Communities Bonus Credit (§ 48(e), § 48E(h)) *

- Application required **prior to** completing the project.
- **Purpose:** Additional investment tax credit for small-scale solar and wind (§ 48(e)) or clean electricity (§ 48E(h)) facilities (<5MW net output) on Indian land, federally subsidized housing, in low-income communities, or that benefit low-income households. Allocated through an application process.
- **Tax Credit Amount:** 10 or 20 percentage point increase on base investment tax credit.
- Important considerations:
 - Can only be added onto projects pursuing the Investment Tax Credit (not the Production Tax Credit).
 - Capped at a set allocation – applying early increases your likelihood of tapping into this adder.

*Proposed rulemaking was issued by the IRS on 9/3/2024, with the comment period ending on 10/3/2024.

Low-Income Communities Bonus Credit: Eligibility Mapping Tool



Category 1 Eligibility

Tract Status

- Census tracts that meet the New Market Tax Credit Program's threshold for Low Income

Additional Selection Criteria | Geographic Option 1 | CEJST Energy

Tract Status

- Census tracts that meet the Climate and Economic Justice Screening Tool's threshold for disadvantage in the Energy Burden category

Additional Selection Criteria | Geographic Option 2 | Persistent Poverty County

County Status

- Counties that meet the USDA's threshold for Persistent Poverty

Mapping Tool: <https://experience.arcgis.com/experience/12227d891a4d471497ac13f60fffd822>

Additional Bonus Credits/Adders/Incentives

- Domestic Content
 - Can apply to both the Production and the Investment Tax Credits
 - 10 percent increase in the Production Tax Credits
 - Up to 10 percentage point increase in the Investment Tax Credits
 - As years go along, failure to meet increasingly stringent* Domestic Content requirements may result in credit reductions (particularly for solar projects larger than 1 MW)
- Prevailing Wage and Apprenticeship
 - Can apply to both the Production and the Investment Tax Credits
 - If you don't comply with requirements, credit reduces from 30% to 6%
 - A project that has a maximum net output of less than 1 MW is eligible for the increased credit amount *without* satisfying the prevailing wage and apprenticeship requirements
- Energy Communities: Eligible projects located in areas with closed coal mines or coal-fired power plants, brownfield sites, and areas with significant employment or local tax revenues from fossil fuels and higher than average unemployment (Energy Community Tax Credit Bonus Map)
 - Can apply to both the Production and the Investment Tax Credits
 - 10 percent increase in the Production Tax Credits
 - Up to 10 percentage point increase in the Investment Tax Credits

* "adjusted percentage increases from 40 percent for qualified facilities the construction of which begins before 2025 to 55 percent for qualified facilities the construction of which begins after 2026." ([Source](#))

Bonus Credit Evaluation

- Ask yourself the following questions:
 - Does it apply to my project?
 - Does it add or subtract?
 - How do I comply?



Summary of Remaining Applicable Credits (Non-Solar Projects)

Credit for Carbon Oxide Sequestration (§ 45Q)

- **Purpose:** Credit for carbon dioxide sequestration coupled with permitted end uses in the United States.
- **Tax Credit Amount:** \$12-36 per metric ton of qualified carbon oxide captured and sequestered, used as a tertiary injectant, or used, depending on the specified end use; \$60-\$180 per metric ton if PWA requirements met.

Zero-Emission Nuclear Power Production Credit (§ 45U)

- **Purpose:** For electricity from nuclear power facilities. Facilities in operation prior to August 16, 2022.
- **Tax Credit Amount:** 0.3 cents/kWh (reduced rate for larger facilities); 1.5 cent/kWh if Prevailing Wage and Apprenticeship rules are met.

Advanced Energy Project Credit (§ 48C)


- **Purpose:** For investments in advanced energy projects*. A total of \$10 billion will be allocated, not less than \$4 billion of which will be allocated to projects in certain energy communities (see map on next slide). Allocated through an application process that occurs prior to the project's completion.
- **Tax Credit Amount:** 6% of taxpayer's qualified investment; 30% if Prevailing Wage and Apprenticeship requirements are met.

*A qualifying advanced energy project is one:


(i) which re-equips, expands, or establishes an industrial or manufacturing facility for the production or recycling of—
(I) property designed to be used to produce energy from the sun, water, wind, geothermal deposits (within the meaning of [section 613\(e\)\(2\)](#)), or other renewable resources; (II) fuel cells, microturbines, or energy storage systems and components; (III) electric grid modernization equipment or components; (IV) property designed to capture, remove, use, or sequester carbon oxide emissions, (V) equipment designed to refine, electrolyze, or blend any fuel, chemical, or product which is—(aa) renewable, or (bb) low-carbon and low-emission; (VI) property designed to produce energy conservation technologies (including residential, commercial, and industrial applications); (VII) light-, medium-, or heavy-duty electric or fuel cell vehicles, as well as—(aa) technologies, components, or materials for such vehicles, and (bb) associated charging or refueling infrastructure; (VIII) hybrid vehicles with a gross vehicle weight rating of not less than 14,000 pounds, as well as technologies, components, or materials for such vehicles, or (IX) other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary;


(ii) which re-equips an industrial or manufacturing facility with equipment designed to reduce greenhouse gas emissions by at least 20 percent through the installation of—
(I) low- or zero-carbon process heat systems; (II) carbon capture, transport, utilization and storage systems; (III) energy efficiency and reduction in waste from industrial processes; or (IV) any other industrial technology designed to reduce greenhouse gas emissions, as determined by the Secretary, or (iii) which re-equips, expands, or establishes an industrial facility for the processing, refining, or recycling of critical materials (as defined in section 7002(a) of the Energy Act of 2020 ([30 U.S.C. 1606\(a\)](#))).

Advanced Energy Project Credit (§ 48C) – Mapping Tool

 U.S. DEPARTMENT OF ENERGY


Section 48C Tax Credits - Designated Energy Communities

 NATIONAL ENERGY TECHNOLOGY LABORATORY




LEGEND

Eligible for 48C tax credit as a designated energy community - 2024 Update





MAP LAYERS


- Eligible for 48C tax credit as a designated energy community - 2024 Update
- Eligible for 48C tax credit but NOT as a designated energy community - 2024 Update
- 48C Census Tract Eligibility - 2023



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Advanced Manufacturing Production Credit (§ 45X)

- **Purpose:** Production tax credit for domestic clean energy manufacturing of components including solar and wind energy, inverters, battery components, and critical materials.
- **Tax Credit Amount:** Varies by component.

Credit for Qualified Commercial Clean Vehicles (§ 45W)

- **Purpose:** For purchasers of commercial clean vehicles. Qualifying vehicles include passenger vehicles, buses, ambulances, and certain other vehicles for use on public streets, roads, and highways.
- **Tax Credit Amount:** Up to \$40,000 (max \$7,500 for vehicles <14,000 lbs.).

Alternative Fuel Vehicle Refueling Property Credit (§ 30C)

- **Purpose:** For alternative fuel vehicle refueling and charging property, located in low-income and non-urban areas. Qualified fuels include electricity, ethanol, natural gas, hydrogen, and biodiesel.
- **Tax Credit Amount:** 6% of basis for businesses and can increase to 30% if Prevailing Wage and Apprenticeship requirements are met.

Clean Hydrogen Production Tax Credit (§ 45V)

- **Purpose:** For producing clean hydrogen at a qualified, U.S.-based clean hydrogen production facility.
- **Tax Credit Amount:** \$0.60/kg multiplied by the applicable percentage (20% to 100%, depending on lifecycle greenhouse gas emissions), amount increases if Prevailing Wage and Apprenticeship requirements are met.

Clean Fuel Production Credit (§ 45Z)

- **Purpose:** Technology-neutral tax credit for domestic production of clean transportation fuels, including sustainable aviation fuels, beginning in 2025.
- **Tax Credit Amount:** \$0.20/gallon (\$0.35/gal for aviation fuel) multiplied by CO2 “emissions factor”; \$1.00/gallon (\$1.75/gal for aviation fuel) multiplied by CO2 “emissions factor” if Prevailing Wage and Apprenticeship requirements are met.



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Key Considerations

Ownership and Partnership Considerations

- Property ownership

- The applicable entity or electing taxpayer must own the property that generates the eligible credit **and** conduct the activities giving rise to the property (except for the Advanced Manufacturing Production Tax Credit - § 45X).
- A single eligible property (project) cannot pursue two credits, and two applicable entities cannot file for tax credits using one single eligible property (project).

- Partnerships

- Partners of partnerships **are not allowed** to use Elective Pay.
- Even if all partners in a partnership are considered Applicable Entities, the partnership is not an Applicable Entity.
- A partnership as a whole can make an Elective Pay election if the partnership qualifies as an electing taxpayer with respect to the Carbon Oxide Sequestration Credit (§ 45Q), Clean Hydrogen Production Credit (§ 45V), or the Advanced Manufacturing Production Credit (§ 45X).

Financial Considerations

- Available for qualifying projects placed in service between January 1, 2023 – December 31, 2032.
- Certain credits offer higher credit amounts to projects that:
 - Pay prevailing wages and use registered apprentices,
 - Are located in low-income communities or energy communities, or
 - Meet certain domestic content requirements.
- Every Applicable Credit is not necessarily eligible for any or all bonus credits/add-ons.
- Domestic Content requirements apply to solar projects larger than 1 MW – beginning in 2026, this will lead a significant “haircut” for the tax.
- No Excess Benefit Rule: Allowed to capital stack, but cannot earn more money than the cost of project (the restricted grant—in this case, Solar for All + elective pay).
- Bridge Financing may be critical.
- These are not competitive, like grant funding. However, you do need an eligible project, an applicable entity, and to correctly complete all requirements prior to the deadline.



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Elective Pay Process Overview

Elective Pay Process

- Identify and pursue the qualifying project or activity.
 - Know the applicable credit you intend to earn and use elective pay for.
- Determine your tax year, if not already known.
 - Tax year will determine the due date for your tax return.
- Satisfy all eligibility requirements for the tax credit and any applicable bonus credits, for a given year.
 - Most credits require the project to be “placed in service” before making an elective payment election.
- Complete pre-filing registration with the IRS.
 - You will receive a registration number for each applicable credit property upon completing pre-filing registration.
- File the required annual tax return by the due date and make a valid Elective Pay election.

Project Eligibility for Elective Pay

- Elective Pay is only available after an applicable credit is earned and able to be claimed on the relevant annual tax return.
- In general, the applicable credit determines when a tax credit is earned during the taxable year.
 - **Investment tax credits** earn a tax credit during the taxable year the applicable credit property **is placed in service**.
 - **Production tax credits** earn a tax credit during the taxable year **eligible production occurs**.



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Next Steps & Resources

Potential Next Steps for Solar for All

- Consider if your potential projects are community or rooftop solar, and whether they'll be better suited for the Production or the Investment Tax Credit.
- For projects that may pursue the Investment Tax Credit, list potential sites to host your solar infrastructure and confirm if they are located in an eligible area for the Low-Income Communities Bonus Credit ([map](#)).
- Within your organization, pass along Elective Pay's basic info to your financial representative, legal counsel, and/or anyone else who may assist with the legal, financial, administrative, and project-specific aspects of filing for Elective Pay. Encourage them to review the basics and begin researching answers to any questions that may arise.
- Make a plan for when you may tentatively pursue what (bonus credit may require application prior to project completion, whereas other credits cannot be filed for until after project is completed and placed into service).
- Review optional bonus credits/add-ons that may be pursued by either the Production Credit or the Investment Credit and identify if your organization is interested in learning more/trying to pursue the requirements necessary to unlock any of the bonus credits.

Resources

- [Elective Pay Overview](#)
- [IRS Elective Pay and Transferability Webpage](#)
- [Elective Pay FAQs](#)
- [Lawyers for Good Government's Elective Pay Resources](#)
- [Investment vs. Production Tax Credit Breakdown](#) by Department of Energy
- [Low-Income Communities Bonus Credit's Active Proposed Rulemaking](#) – open for comments until 10/3/2024



APPENDIX A

Definitions & Terminology

Last Updated: September 5, 2023

Key Definitions

- **Elective Pay/Direct Pay:** Allows Applicable Entities, including tax-exempt and governmental entities that would otherwise be unable to claim certain credits because they do not owe federal income tax, to benefit from some clean energy tax credits by treating the amount of the credit as a payment of tax and refunding any resulting overpayment.
- **Transferability:** Allows a taxpayer who generates certain clean energy tax credits to elect to transfer (i.e., sell) all or a portion of a tax credit to an unrelated third-party transferee (i.e., buyer) in exchange for cash.

Key Definitions

- **Applicable Entities:** These are the types of entities that can benefit from Elective Pay. Applicable Entities include tax-exempt organizations; states and political subdivisions such as local governments; Indian tribal governments; Alaska Native Corporations; the Tennessee Valley Authority; rural electric cooperatives; U.S. territories and their political subdivisions; and agencies and instrumentalities of state, local, tribal and U.S. territorial governments.
- **Applicable Tax Credits:** There are 12 credits an applicable entity can use Elective Pay for as long as a project meets the tax credit's underlying requirements. Refer to Slide 5 for the list of credits.
- **Production Tax Credit:** A per kilowatt-hour (kWh) tax credit for *electricity generated* by solar and other qualifying technologies for the first 10 years of a system's operation. It reduces the federal income tax liability and is adjusted annually for inflation.
- **Investment Tax Credit:** A tax credit that reduces the federal income tax liability for a *percentage of the cost of a solar system* that is installed during the tax year.

Key Definitions

- **Bonus Credits/Adders/Incentives:** Qualifying energy projects that also meet other specific criteria may be eligible for additional tax credit amounts, also known as bonuses. While many bonuses add to the credit amount, some can reduce the credit amount if requirements are not met. All tax credits are not eligible for all bonuses.
- **Low-Income Community (for Bonus Credit):** Increases the amount of the energy investment tax credits, under §48 or § 48E, for certain facilities built in low-income communities, on Indian land, as part of affordable housing developments, or which benefit low-income households. Qualifying communities are defined by this map: <https://experience.arcgis.com/experience/12227d891a4d471497ac13f60fffd822>.

Key Definitions

- **Domestic Content (for Bonus Credit):** Available if Applicable Entities/taxpayers certify their qualified facility, energy project, or energy storage technology was built with certain percentages of steel, iron, or manufactured products that were mined, produced, or manufactured in the U.S.
 - Increases available production tax credit by 10% if domestic content requirement is satisfied.
 - Increases available investment tax credit by increasing the energy percentage or applicable percentage by either 10-percentage or 2-percentage points if the domestic content requirement is satisfied.
 - Applicable entities making an elective pay election with respect to a production tax credit or investment tax credit may be subject to a reduced credit amount (“phaseouts”) if the qualified facility or energy project does not satisfy the domestic content requirement or does not have maximum net output of less than 1 megawatt. There are cost and availability exceptions to these phaseouts.

Key Definitions

- **Energy Communities (for Bonus Credit):** Applies a bonus of up to 10% (for production tax credits) or 10-percentage points (for investment tax credits) for projects, facilities, and technologies located in energy communities. The IRA defines energy communities as:
 - A “brownfield site” (as defined in certain subparagraphs of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA))
 - A “metropolitan statistical area” or “non-metropolitan statistical area” that has (or had any time after 2009):
 - 0.17% or greater direct employment of 25% or greater tax revenues related to the extraction, processing, transport, or storage of coal, oil, or natural gas; and
 - Has an unemployment rate at or above the national average unemployment rate for the previous year.
 - A census tract (or directly adjoining census tract):
 - In which a coal mine has closed after 1999; or
 - In which a coal-fired electric generating unit has been retired after 2009
 - Mapping Tool:
<https://arcgis.netl.doe.gov/portal/apps/experiencebuilder/experience/?id=a2ce47d4721a477a8701bd0e08495e1d>

Key Definitions

- **Prevailing Wage and Apprenticeship Requirements (for Bonus Credits):**
Applicable Entities/taxpayers can increase the base amounts of certain clean energy tax incentives by 5 times by:
 - Paying laborers and mechanics employed in construction, alteration or repair no less than applicable prevailing wage rates.
 - Employ apprentices from registered apprenticeship programs for a certain number of hours.
 - IRS' Frequently Asked Questions: <https://www.irs.gov/credits-deductions/frequently-asked-questions-about-the-prevailing-wage-and-apprenticeship-under-the-inflation-reduction-act>

Key Definitions

- **Pre-Filing Registration:** A required electronic process for all entities that intend to make an Elective Pay election. It is designed to expedite the processing of returns and prevent improper payments. This must be completed prior to filing your tax filing. Requirements for pre-filing:
 - List all Applicable Credits intended to be claimed on income tax return or Form 990-T and each applicable credit property that contributed (or will contribute) to the determination of such credits.
 - Any other specific information required.
- **Elective Pay Tax Filing:** The Elective Pay election is made on the annual tax return in the manner prescribed by the IRS, along with any form required to claim the relevant tax credit, a completed Form 3800 - General Business Credit, and any additional information, supporting calculations, required in instructions to the relevant forms.

Key Definitions

- **Tax Year:** When making an Elective Pay election, an organization's tax year will determine the due date for the tax return. To determine tax year, check the instructions for the annual tax return you are filing.
 - For tax-exempt entities filling Form 990 or Form 990-T, the return must be filed using the organization's established tax year.
 - If the organization has not previously filed an annual information or income tax return and established a taxable year, the return may be filed on the calendar-year basis provided the organization maintains adequate books and records to reconcile any difference between its regular books of account and the calendar year. Those without an established taxable year can choose to follow a fiscal year or calendar year.