



TaxNewsFlash

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Application period for environmental justice solar and wind capacity limitation program opens October 19

The U.S. Department of the Treasury, U.S. Department of Energy, and IRS today announced that applications for the “Low-Income Communities Bonus Credit program”—the program under section 48(e) to allocate 1.8 gigawatts in environmental justice solar and wind capacity limitation with respect to certain solar and wind facilities placed in service in connection with low-income communities—will open on October 19, 2023.

Only solar and wind projects under 5 MW (A/C) are eligible to apply.

Only projects that are placed in service after an allocation is received are eligible to apply.

The 1.8 gigawatts of capacity for the 2023 round is allocated as follows by category:

- 700 MW for projects located in low-income communities
- 200 MW for projects located on Indian land
- 200 MW for projects located on qualified low-income residential building projects
- 700 MW for projects that are qualified low-income economic benefit projects

While applications will be accepted through early next year, there is an initial 30-day window for applications. If the qualified applications for a category exceed the capacity limitation for the current round, taxpayer that submit applications after the 30-day window will not be considered in the current round. The 30-day window is estimated to close November 18, 2023.

Applications that satisfy one or both project categories—the Ownership Criteria and the Economic Criteria—will obtain priority as part of the application process, over applicants that do not.

In order to apply, applicants must register at a DOE portal (not yet open) and register at login.gov.

Details on the information that will be required to apply can be found in [Rev. Proc. 2023-27](#) (PDF 159 KB).

Today's [Treasury release](#) explains that the program, established under H.R. 5376 (commonly called the "Inflation Reduction Act of 2022" (IRA)), provides an increase of 10% or 20% to the investment tax credit for qualified solar or wind facilities in low-income communities.

To provide information about the application process ahead of this date, the Treasury Department and the Department of Energy will be launching the program help desk and hosting a webinar about the application process on September 29, 2023. Additional materials to help applicants prepare their submissions will be made available on the [Department of Energy landing page](#).

Background

The Treasury Department and IRS launched the program in February 2023 under Notice 2023-17, which provided initial program guidance for potential applicants for allocations of calendar year 2023 capacity limitation. Read [TaxNewsFlash](#)

Treasury and the IRS then published proposed regulations in June 2023, supplementing the guidance provided in Notice 2023-17 to outline the specific application procedures, additional allocation criteria, and applicable definitions, among other information, necessary to submit an application to request an allocation of the capacity limitation for calendar year 2023 under the program. Read [TaxNewsFlash](#)

The proposed regulations were finalized in August 2023, with the [final regulations](#) [PDF 429 KB] providing the four project categories under which facilities apply for an allocation, and the increase of either 10% or 20% associated with a project category. Additionally, the final regulations:

- Clarified that the application period is 30 days (beginning October 19, 2023)
- Defined financial benefits for the two applicable project categories
- Defined energy storage technology installed in connection with the solar or wind facility
- Defined and describe the additional selection criteria for eligible potential applicants
- Adopted the definition of qualified facility provided in the proposed regulations with respect to the classification of a "single facility," but provided that a single factor or factors are not determinative
- Reminded potential applicants that facilities placed in service prior to an allocation are not eligible
- Provided the disqualification and credit recapture rules specific to the program

Treasury and the IRS also released [Rev. Proc. 2023-27](#) [PDF 159 KB] in August 2023, providing procedural and clarifying guidance applicable to the program.

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