



TaxNewsFlash

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Application period for environmental justice solar and wind capacity limitation program closing February 29

The U.S. Department of the Treasury, U.S. Department of Energy (DOE), and IRS yesterday announced that applications for the 2023 program year for the “Low-Income Communities Bonus Credit program” under section 48(e)—which allocates 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 close on February 29, 2024.

Yesterday’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. 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

The initial 30-day window for applications for the 2023 program began on October 19, 2023, and closed on November 18, 2023 (read [TaxNewsFlash](#)). If qualified applications for a category submitted during the 30-day window exceed the capacity limitation for the current round, taxpayers that submit applications after the window will not be considered in the current round. Thus, although applications for the 2023 program year will continue to be accepted on a rolling basis until February 29, 2024, only applications submitted in categories with remaining capacity will be considered. Updates about how much capacity remains available by category can be accessed via a [dashboard](#) on the DOE website.

After 2023 program year applications have been processed, all applications that do not receive an allocation will be withdrawn and those applicants will need to reapply. The 2024 program, opening this spring, will unlock an additional 1.8 gigawatts of capacity.

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. Read [TaxNewsFlash](#)

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