Inflation Reduction Act of 2022

An Analysis of Funds and Tax Deductions Related to Building Operations

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Abstract

After years of research, observation, lobbying, and benchmarking environmental regulatory measures from around the world, the United States government took its first major step to address climate change. On August 16, 2022, the U.S. executive branch signed the Inflation Reduction Act into law, which, in part, aims to lower greenhouse gas emissions and reduce environmental injustice. While much of the Act seeks to invoke financial relief for U.S. taxpayers and address industrial and manufacturing practices, it also urges proactive organizational measures by designating monetary incentives of over $8 billion in total to further greenhouse gas reduction and increase organizations' energy efficiency practices. In this paper, we explore Title VI and the significant aspects of Subtitles A and B of the Act as it pertains to buildings, the relevant specifications within the Act's parameters, and the opportunities available to qualifying entities. Based on this, a course of preparatory measures can be identified for immediate action.

History of Climate Research and Legislation in the United States

Beginning in the 1940s, as a result of U.S. military considerations related to the Cold War, scientific studies emerged to support the concept of greenhouse gas (GHG) emissions as a dominant effect of the newly conceptualized term 'global warming.'[2] In the late 1950s, new research-focused organizations formed, and later, in the 1960s, they began to receive government funding to investigate the effects of GHG on atmospheric (oceanic and air quality) matters.[2] Formed in 1970, the Environmental Protection Agency (EPA) expanded in the following years as the public became more interested in environmental conservation; however, research efforts and the establishment of regulatory measures then waned because no conclusive evidence at the time was found to support the prioritization of climate-related policy above other political efforts.[2]

The landmark World Climate Conference held in Geneva (Switzerland) in 1979 gave rise to the 'World Climate Research Programme' that organized a variety of large-scale cooperative projects through the 1980s.[2] Still, throughout that decade and the next, climate initiatives remained in the research phase and never resulted in regulatory measure in the United States.[2] Yet, with mounting scientific evidence of the negative impact of human-related GHG emitting activities, many nations other than the U.S. began to regulate various industries, ranging from energy production to manufacturing and beyond. Despite a prevalence of private and public U.S. organizations devoted to climate change and global warming, it was not until the 21st century that the U.S. saw public discourse move toward environmental regulation. Most distinguishably, the Inflation Reduction Act of 2022 outlines a specific, national GHG emission reduction target, backed by a framework including standards formation and grant programs, that is set to positively impact the imminent threat of climate change.

Inflation Reduction Act of 2022 – New and Substantial Funding for Climate Initiatives

The bill that was signed into law August 16, 2022, widely known as the Inflation Reduction Act of 2022, includes new tax provisions, introduces amendments to existing inflation and deficit relief policies, extends tax credits, and introduces block grants, among other stipulatory laws regarding economic prosperity initiatives. Regarding energy efficiency and climate concerns, the law allocates significant federal funds beyond consumer, industrial, and residential-based reform to include state and local governments, commercial building owners, real estate investment trusts (REITs), and non-profit community-based organizations (CBOs) within Title VI, Subtitles A and B. The underlying ‘inflation’-orientation of the included provisions gives regard to positive environmental effects on humans as well as relief of select financial burdens to members of governed communities gained through urged participation in environmental and energy programs.[1] Such programs are to be measured by the federal government’s administration. It is worth noting that the priority of such funding will be assigned predominantly to qualifying entities in disadvantaged communities.[3]

Greenhouse Gas Air Pollution Plans and Implementation Grants

Section 60114 adds Section 137, Greenhouse Gas Air Pollution Plans and Implementation Grants, to the Clean Air Act, amounting to a total allocation of $5 billion. The planning segment of the law’s addition (Section 137a) accounts for $250 million of the total allocation and will be disbursed, in part, to at least one eligible entity in each state for the costs of developing and submitting a plan for the reduction of GHG air pollution with respect to low-income and disadvantaged communities.[1] Qualifying submissions are to include policies, measures, and projects that will achieve or facilitate the reduction of GHG air pollution.[1] Applications must also include information regarding the degree in which GHG air pollution is projected to be reduced in total. Upon execution, a Greenhouse Gas Air Pollution Reduction Implementation (Section 137b) grant can also be awarded, which accounts for the balance of the funding at $4.75 billion.[1]

Environmental and Climate Justice Block Grants

Section 60201, Environmental and Climate Justice Block Grants, amends the Clean Air Act by adding Section 138b, which allocates $2.8 billion in grants for the following:

- Community-led air and other pollution monitoring, prevention, remediation, and investments in related technologies, infrastructure, and workforce development that help reduce GHG emissions and other air pollutants.
- Mitigating climate and health risks from urban heat islands, extreme heat, wood heater emissions, and wildfire events.
- Climate resiliency and adaptation.
- Reducing indoor toxins and indoor air pollution.
- Facilitating engagement of disadvantaged communities in state and federal advisory groups, workshops, rulemakings, and other public processes.[1]

Entities eligible for grant qualification include:

- A partnership between an Indian tribe, a local government, or an institution of higher education, with a non-profit CBO.
- A non-profit CBO.
- A partnership of non-profit CBOs.[1]

Priority usage of grants within Section 60201 will be awarded to organizations residing in disadvantaged communities, which is described as those residing in low-income geographies and/ or areas of high pollution.[1] For eligible entities, an additional $200 million will be reserved for technical assistance related to grants given under this Section.[1]

Energy-Efficient Commercial Buildings Deduction – Clean Air Act 179D Adjustments

Section 13303, Energy Efficient Commercial Buildings Deduction, amends the Clean Air Act (179D) to address inflation beginning with a fivefold increase in deductibles, per square foot, for qualifying, energy-certified buildings.[1] Other amendments to the 179D tax reduction include the waived requirement of an energy simulation model and a decrease in energy intensity from 50% down to 25%.[1] Qualifying commercial buildings can also realize deductions on a specific building 'every three years' as opposed to the original time frame of 'once per the lifetime of the building.'[1] Non-profits are now eligible to receive these benefits and apply them to system or design costs, while REITs may also now enjoy the benefit by realizing these savings as profits.[1]

Entities of Focus

Architecture 2030, a non-profit environmental organization, reported that the built environment generates nearly 50% of annual GHG globally.[4] As discussed above, the Inflation Reduction Act introduced significant funding to support certain entities including state governments, higher education institutions, and local governments that have partnered with non-profit CBOs. Existing relief funds have been extended to support the commercial building industry as well as non-profits and REITs. While guidance on 179D deductions and precedent exists for the similar Energy Efficiency and Conservation Block Grant Program, the exact dollar amounts attainable per entity for the new grants are not explicitly detailed in the Act.[6,7] The award grants may and could potentially cover the full costs of such projects and/ or be applied to core initiatives such as employee retention, increasing patient or occupant experiences, reaching enrollment or billings targets, or even adding capital projects like solar and renewable energy programs.

State Governments and Indian Tribes

Each state or Indian tribe can apply for Greenhouse Gas Air Pollution Plans and Implementation Grants by addressing the impacts of their facilities on the environment and within their community.[1] A state or Indian tribe may consider planning GHG reduction programs for their hospitals and behavioral health institutions, universities, prisons, casinos, as well as organizational, legislative, and judicial facilities such as office buildings and courts.

Local Governments

Municipalities can qualify for Greenhouse Gas Air Pollution Plans and Implementation Grants, as described above. Additionally, in partnership with a CBO, local governments can partake in and apply for Environmental and Climate Justice Block Grants.[1] Local governments that partner with CBOs advocating for local interests (e.g., behavioral health, communication/ translations, LGBTQ, cultural awareness, maternal care, or patient or child advocacy) have the option to examine the carbon footprints of their government buildings, police stations, maintenance facilities, and respective operations to gain financial support when executing improvement plans. 340B Hospitals (i.e., state hospitals in disadvantaged communities) are a specific example of entities that may have a substantial impact on both bettering indoor and outdoor environments as well as recognizing significant funding for projects such as capital improvements, personnel retention, and enhanced patient care.

Commercial Building Owners

The 179D Commercial Buildings Energy-Efficiency Tax deduction has been effective since January 2006.[5] In 2020, the law went into permanent effect and, per the Inflation Reduction Act of 2022, is now enhanced to account for inflation, includes a wider range of qualifying entities (non-profit organizations and REITs), and contains simplified requirements for project qualification. The process for certifying a building through the EPA has not changed. Commercial building owners recognizing the reductions every three years will be able to leverage added savings in support of continued efficiency efforts such as ongoing building systems commissioning services.

Real Estate Investment Trusts

A REIT is an investment company that owns and operates income-producing real estate assets and distributes at least 90% of this income to shareholders in the form of dividends. The savings now available to REITs through Section 179D's amendments may only be recognized once when a building is placed into service or, in the case of an energy-efficient building retrofit property, the year in which the qualifying final certification is made.[1] By gaining qualification for the 179D incentives, REITs may use the savings to enhance their portfolios or distribute the money to shareholders.

Non-Profit Organizations

Tax-exempt entities such as non-profits have gained eligibility per the 179D tax credit amendments in the Inflation Reduction Act. Qualifying non-profits may apply the credits against the cost of their building efficiency programs, paid directly to the consultants/ providers of such designs, technologies, and services. Non-profit CBOs can submit decarbonization program plans and implementations on their own or in partnership with a local government to qualify for grant funds.[1] This opportunity may stimulate the formation of new partnerships and can create a host of benefits for community-driven efforts.

Measures, Standards, and Preparation

In addition to the grantee parameters defined in the Inflation Reduction Act, there are also portions of the funding allocated for the administration of such grant applications. This includes the training, overhead, software development, and other resource costs associated with the management of grant submissions, which directly allude to impending details regarding submission guidelines. The award of such grants will require evidentiary documentation and support for the monitoring of pollutants and the resulting, reduced GHG emissions data from the submitting organizations' operations. Without the data to show the tracking, monitoring, and resulting positive changes for reducing indoor toxins, lowering GHG emissions, or any of the other defined targets/ results, the administration will not be able to achieve grant requirement validation nor award the funds sought by applicants. While the forms and process required for submission of Greenhouse Gas Air Pollution Plans and Implementation Grants and Environmental and Climate Justice Block Grants are set to be released by May 13, 2023, it is expected that qualifying entities will need to track, monitor, and report their associated carbon footprint data.[1]

Carbon Intensity and Energy Efficiency Measures and Standards

Under Title VI, Committee on Environment and Public Works, Section 60111, the EPA has been designated $5 million to enhance the standardization and transparency of corporate plans, and their implementations, to progress commitments.[1] The EPA is also allocated $25 million under Section 6005, Funding To Address Air Pollution, to specifically support grants and other activities related to the Clean Air Act grants described in this paper.[1] It is expected that the EPA will aim to further provide guidance and establish regulatory standards related to how businesses and organizations report current and expected resource usage related to grants. Furthermore, the EPA may require that their

ENERGY STAR® Portfolio Manager software be leveraged to qualify any stated resource metrics or even utilize such funds to support their own technology-based assessments processes and tools.

Data Collection and Review

The Council on Environmental Quality (CEQ) is allocated $32.5 million by the Inflation Reduction Act via Title VI to support data collection efforts of environmental impacts including tracking, mapping, screening, and the analytics and informatics infrastructure related to such data collection systems.[1,8] An additional $30 million is allocated to the CEQ for functions and purposes of training personnel, developing programmatic environmental documents, and developing tools, guidance, and techniques to improve stakeholder and community engagement.[1]

Practical Guidance and Preparation

Research

- Determining the qualification parameters per entity type is a great starting place. State and local governments, commercial entities, and non-profits all have varying degrees of specification to qualify for the new grants and improvised deduction opportunities.
- Confirming the time frames and applicable deductions for the business will save time and effort associated to project planning. Also, knowing the exact square footage of all buildings and facilities that might be eligible for any such programs is a necessary specification for the new grant and improvised deduction opportunities.
- Understanding current energy and GHG consumption rates and sources of consumption is critical to initializing improvement programs that will qualify for funding or tax deduction. By gathering data and bringing relevant stakeholders together, the operations teams related to resource usage can highlight any concerns or opportunities ahead of program planning and implementation.
- Establishing grant/ deduction applicability early will serve to guide resource consumption improvement programs. Does the building/ facility reside in a heat island? Is the business operating in a disadvantaged community and is the identified disadvantage pollution-based or low income-based? What are the planned outcomes for the community, indoor air quality, and overall environment? How will any savings/ funds be applied to better these environments?

Strategize

- By conducting research to best take advantage of the Inflation Reduction Act of 2022, a course of action will naturally start to take shape for applicable businesses.
- Once the project and operations teams have brought together the collected building/ facilities data, their expertise, and enhancement ideation, the stakeholder group can better determine if any gaps exist (e.g., technology needs, CBO partnership connections/ creations, initial funding). Such gaps should be addressed prior to planning out resource reduction plans.
- The stakeholder group should create a timeline that coordinates with the expectations set out in the grants or tax credit provisions.
- Specific reduction targets accompanied by deadlines will be key when presenting plans to the program administrators. By establishing a roadmap and taking note of any risks or threats related to the meeting of such targets, a task force can be assigned to formulate a program proposal.

Track and Monitor

The administrators (primarily the EPA and CEQ) of the programs outlined herein will be receiving the submissions for grant application and tax deductions related to the Inflation Reduction Act.[8] The EPA uses their ENERY STAR® Portfolio Manager software to collect energy data from U.S. business related to building certifications. It is likely that such data will not only continue to be used to assess 179D qualification, but also (potentially) for the validation of GHG reduction grant-related plans and implementation submissions. Entities must ensure to have an ENERGY STAR® Portfolio Manager account to collect energy data such as electric, steam, gas, and other resource usage associated with their business efforts. Documenting historical and current data as well as presenting program results will all be critical elements of each grant submission or in substantiating a 179D tax deduction.

Consult

Within each grant and tax provision, qualifying entities are able to consider the costs of related services and even technologies needed to achieve environmental justice. It is not expected that every entity maintain expert knowledge pertaining to the intricacies of how energy efficiency and GHG reduction measures are formulated and executed, which is why the Act permits funding and tax deductions associated with third-party services. Whether a qualifying entity requires accounting support, legal services, environmental expertise, building data services, or efficiency program advisory, such costs can qualify for reimbursement through the grant’s funds and 179D tax deductions.

Limitations

Due to its brevity, this paper’s assessment and analysis does not take into account all aspects of Title VI of the Inflation Reduction Act of 2022, such as Forestry Grants, which apply to many of the entities addressed within. This work also does not account for residential, industrial, or other aspects of the Act outside of Title VI. Details related to the comprehensive set of unamended, existing requirements related to 179D reductions have not been addressed. Some of these energy efficiency initiatives impacting federal properties, Indian tribes, and the Office of Native Hawaiian Relations, outside of Title VI, are not addressed here.

Conclusion

The Inflation Reduction Act of 2022 presents tremendous financial opportunities for public and private entities regarding operational improvement programs to positively impact the environment and local communities in the United States. With over $5 billion directly allocated to qualifying programs and nearly $80 million allocated to the EPA and CEQ for efforts related to administering such programs, there is potential to lower inflation rates and slow the human impact on climate change. While awaiting final guidance on the specifications related to the Greenhouse Gas Air Pollution Grants and the Environmental and Climate Justice Block Grants, there are activities businesses and non-profit organizations can take now to prepare for their submissions and for substantiating the newly expanded 179D tax deductions.

In seeking expert consultative third-party services, entities can bolster their opportunities to gain significant monetary support by the U.S. government. Ultimately, businesses that are swift to conduct research related to qualification opportunities, strategize with appropriate stakeholders, partner with CBOs, and engage in accurate data tracking and tracing activities will be better positioned to take advantage of the Act resulting in inflation reduction and improved environmental outcomes.

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InSite believes businesses benefit financially by continually improving their management of energy resources, and the environment benefits from reduced levels of related pollution. We are proud to offer services and products that can assist businesses that have committed to the goals of ENERGY STAR.

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