STATE SUPPORT CENTER

LAWYERS FOR GOOD GOVERNMENT

Government Finance Officers Association

Current as of June 20th, 2025

Opportunities for State Agencies to Cut Costs with Federal Elective Pay Clean Energy Tax Credits

Introduction

The Inflation Reduction Act (IRA) provides new opportunities for state government agencies to invest in energy projects, vehicles, building improvements, and other state infrastructure that can produce cost savings, sustainability improvements, and other benefits to the state government. This memo provides recommendations for state agencies to take advantage of the elective pay provision of the IRA, and best practices from states that have chosen to use this tool.

This memo is the result of collaboration between the Government Finance Officers Association (GFOA), Lawyers for Good Government (L4GG), and the State Support Center (SSC). Interviews with four states at the forefront of leveraging elective pay informed this memo. This memo is for general educational and informational purposes and should not be considered tax or legal advice. States are recommended to seek appropriate professional guidance for their specific circumstances. For questions, comments, suggestions, or assistance, please reach out to Melissa Cheatham at the State Support Center at melissa@s2strategies.org.

Important Note: This memo provides guidance based on current federal law (June 2025). Changes to the tax code currently under consideration in congress could substantially restrict, terminate, or alter the tax credits discussed in this memo. States and other eligible entities that intend to utilize elective pay, may wish to accelerate project timelines to maximize the opportunity to qualify. This memo will be updated should changes in law be enacted.

What is Elective Pay ?

The IRA expanded the tax credits available for energy projects, including for solar, energy storage, wind, geothermal, electric vehicles (EVs) and EV charging (or clean alternative fueling) infrastructure – and expanded the list of entities eligible to use these tax credits. The **elective pay provision** allows states and other eligible entities that do not typically pay or file federal taxes to receive the financial benefit of the credits in the form of a direct cash payment from the Internal Revenue Service (IRS). These tax credits typically allow for the recovery of **30% of a project's eligible costs**, dramatically improving the financial feasibility and return on investment for the state as the project owner. Bonus adders can further increase the value and can be stacked, allowing certain projects to recover **up to 70% of eligible project costs** in limited circumstances.

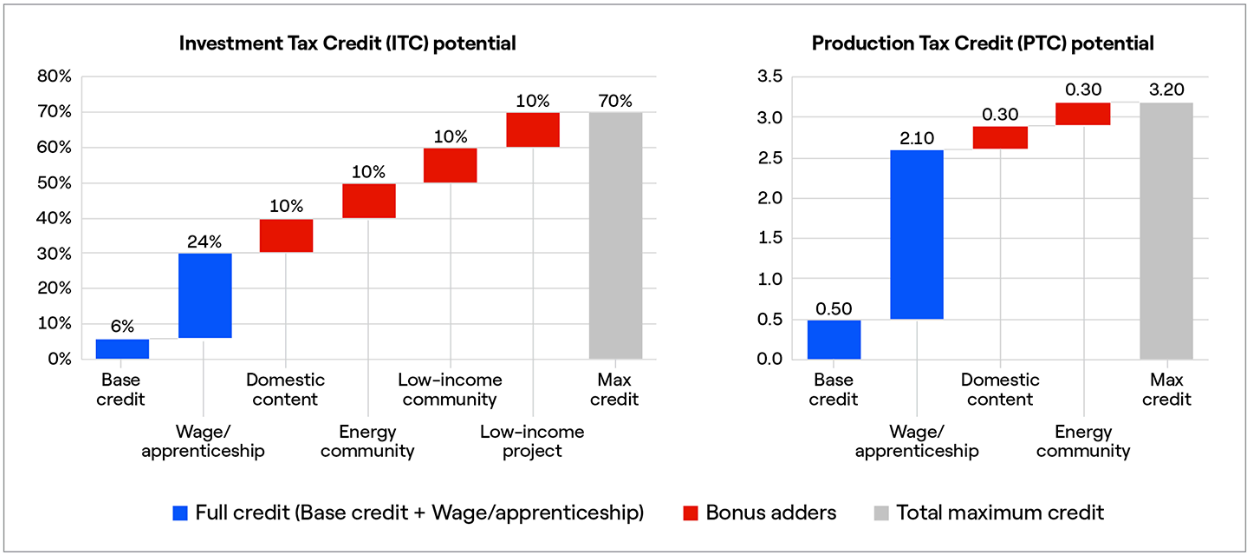

Figure 1. Enel North America's depiction of stackable tax credit bonuses available under the IRA

Elective pay expands eligibility for tax credits: Tax-exempt entities (state and local governments, Tribes, school districts, nonprofits, publicly-owned utilities and other organizations that do not normally file a federal tax return) are now able to benefit from a dozen of these clean energy tax credits. After placing projects in service and filing for the tax credit, eligible entities will receive a direct payment equal to the value of the tax credit. Unlike competitive federal grant and loan programs, in which applicants may not be awarded the grant even if a project is potentially eligible, elective pay provides access to tax credits that are uncapped and must be paid to any project that meets the eligibility requirements for both elective pay and the underlying tax credit and for which a return is properly and timely filed. There is no limit on the amount or dollar value of projects per year that can claim the tax credits eligible for elective pay.

Elective pay requires project completion, followed by pre-registering the project, then filing tax forms with the IRS. After the successful completion of these steps, the IRS processes the filing and will send payment to the project owner that filed for the applicable credit under elective pay. Because this process is new to states and substantially different from federal grant processes, it's important that states thoughtfully develop their processes for constructing or purchasing eligible projects, completing filings, and creating internal controls to manage future audit risk and streamline the filing process to avoid potential filing roadblocks and internal delays.

The following tax credits are currently eligible for elective pay:

List of tax credits and their eligibility under the Inflation Reduction Act

Electricity | Fuels | Vehicles | Manufacturing

		Eligible for transferability	Eligible for direct pay
45, 45Y	Clean electricity production tax credit	✓	✓
48, 48E	Clean electricity investment tax credit	✓	✓
45U	Zero-emission nuclear power production credit	✓	✓
45Q	Credit for carbon oxide sequestration*	✓	✓
45Z	Clean fuel production credit	✓	✓
45V	Clean hydrogen production tax credit*	✓	✓
30C	Alternative fuel vehicle refueling property credit	✓	✓
45W	Credit for qualified commercial clean vehicles	N/A	✓
48C	Advanced energy project credit	✓	✓
45X	Advanced manufacturing production credit*	✓	✓

** Note: Direct payments for these credits are available to taxable entities for five years.*

Source: Source: Legal Information Institute, "26 U.S. Code § 6417 - Elective payment of applicable credits," available at https://www.law.cornell.edu/uscode/text/26/6417 (last accessed May 2023).

Table: Center for American Progress

While all of the credits above are eligible for elective pay, states are generally most likely to utilize the following credits.

48E Clean Electricity Investment Tax Credit (ITC): Section 48E, a technology-neutral ITC, is available for eligible energy property placed in service on or after January 1, 2025. It applies broadly to any clean electricity generation property that meets the zero greenhouse gas (GHG) emissions rate requirement. Examples include wind farms (both land and offshore), solar farms, hydrogen power plants, and nuclear power plants. The Section 48E ITC starts with a base credit rate of 6% of the project costs for the eligible property. The total credit value may increase if these conditions are met: Prevailing Wage & Apprenticeship (PWA) Compliance (5x credit multiplier resulting in a credit rate of 30% of the claimant's eligible basis in the eligible property); Low-Income Communities Bonus (LICB) Credit (up to 20% additional credit); Domestic Content Bonus Credit (up to 10% additional credit); Energy Communities Bonus Credit (up to 10% additional credit).

30C Alternative Fuel Vehicle Refueling Property Credit: Section 30C applies to infrastructure that is used to refuel alternative fuel vehicles, including property that stores or dispenses clean-burning fuel or recharges EVs. Examples of qualifying fuels include electricity, ethanol, natural gas, hydrogen, and biodiesel. The 30C tax credit provides a credit of up to 30% of the filer's eligible cost basis in eligible property, subject to a cap of $100,000 per charger. Current regulations define each individual charging port as a separate charger (e.g. a charging station capable of simultaneously charging two vehicles would be considered 2 chargers for purposes of this credit).

45W Commercial Clean Vehicle Tax Credit: Section 45W credit provides up to 30% of the cost basis of an eligible vehicle, subject to a cap of $7,500 for fully electric light-duty vehicles (GVWR under 14,000 pounds) or a cap of $40,000 for fully electric vehicles with GVWRs of 14,000 pounds or more. For plug-in hybrids, the credit is up to half of the amount of the fully electric credit, 15% of the vehicle's cost basis instead of 30%, subject to the same caps of $7,500 for light-duty vehicles or $40,000 for heavier-duty vehicles. In addition to using less and running off cleaner energy than gas, EVs can increase operational uptime, generating significant cost savings over their lifetime.

Sample projects likely to be developed and owned by state governments include:

- **Solar Energy Systems:** Powering state buildings with both rooftop and ground-mounted solar panels.
- **Battery Energy Storage Systems:** Providing resilience to state buildings by installing systems that store excess energy in on-site batteries.
- **Ground Source Heat Pumps:** Heating and cooling for state-owned buildings using the stable temperature of the ground.
- **Electric Vehicles (EVs)**: State fleet purchases of eligible light-duty and heavy duty vehicles are eligible for $7,500 or $40,000 credits, respectively.

- **EV Charging Infrastructure:** Installation of EV charging stations, in eligible underserved and rural areas, to charge state fleet vehicles or for public use.

Additional bonus tax credits include:

- **Energy Community Tax Credit.** Bonus for an additional tax credit worth 10% of project costs when the property is located within a designated energy community–which are, broadly speaking, areas where fossil fuel facilities are or were located.
- **Domestic Content Tax Credit.** Bonus offers a 10% increase in credit amount for projects utilizing the specified percentages of domestically sourced steel, iron, and manufactured products.
- **Low-Income Communities Bonus Credit.** Bonus for an additional 10% of the project cost when located in a low-income community or on Tribal land. The bonus credit can increase to 20% for projects that are part of either a qualified low-income residential building project or a qualified low-income economic benefit project. In both cases, the clean energy project must benefit the low-income residents. This bonus credit is subject to a competitive application process and is available for a limited amount of electrical generation capacity.

Key Considerations and Requirements

Elective payments can increase when projects meet key goals related to increasing domestic manufacturing, supporting American workers, and investing in underserved communities.

Prevailing Wage & Apprenticeship Requirements

Prevailing wage and apprenticeship (PWA) requirements are designed to support a strong and fair domestic workforce. PWA requirements apply to EV charging installations and to clean energy investments larger than 1 megawatt (MW). Rooftop solar installations, a common state elective pay project, are generally too small to trigger these requirements.

Prevailing wage requirements call for workers involved in the construction, alteration, or repair of an energy facility to be paid wages at least equal to the prevailing rates for similar work in the same geographic area. The U.S. Department of Labor determines these prevailing wage rates based on comprehensive surveys of wages paid to workers, taking into account factors such as job classification, location, and type of work performed.

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Apprenticeship requirements mandate that a minimum of 15% of the hours worked on a project's construction be performed by apprentices registered with the U.S. Department of Labor. If PWA requirements are not met when required, the 30% credit amount is reduced to 6%. These requirements also mandate the employment of certain numbers of apprentices if crew sizes exceed 3 persons working on a project's construction, alteration, maintenance, or repair. Read more detail about prevailing wage and apprenticeship requirements in this guidance brief.

How to Build and File for State-Owned Elective Pay Projects

State development, ownership, and filing for eligible energy projects is a powerful opportunity to unlock significant federal funding. While this new process may appear complex, states have already used elective pay successfully to unlock millions in federal funding, even with minimal state staff capacity. It is important to have a plan to coordinate across agencies to ensure that 1) projects run smoothly 2) filings are done correctly, and 3) documents are retained appropriately to maximize returns, ensure compliance, and prepare for potential future audits. This memo describes general best practices, including a team approach across multiple departments to successfully develop projects.

Step 1 - Curate a team

As a best practice, states should build a cross-agency team to work together on elective pay projects from start to finish. This team should include:

1. **Financial Expertise:** A budget office staffer and/or additional state finance expert should be part of the project team to ensure accurate accounting, budgeting, and use of the appropriate state funds for both expending up-front capital and receiving the elective payment from the U.S. Treasury. This individual could be housed in the Treasurer's Office, Budget Office, Comptroller Office or elsewhere, depending on the state's budgeting and financial processes.
2. **Facilities/Enterprise Expertise:** A facilities expert should be part of the team. This individual will understand what construction and fleet purchases are occurring throughout the state government enterprise in order to identify potential projects.
3. **Legal Expertise**: It is suggested that the project team include legal expertise from the appropriate department's law or counsel's office. Legal expertise can be utilized to understand the Internal Revenue Code, can assist in putting in place controls, and help to ensure that contracts are written to enforce compliance by contractors and subcontractors.
4. **Sustainability and Energy Expertise:** Given the nature of the projects eligible for elective pay, sustainability and energy expertise may be useful to include on the team.

5. **Coordinator/Coach**: States should designate a single individual as the coordinator for elective pay projects. Typically this person will be eager to innovate, passionate about seeing projects to completion, and capable of working across multiple state agencies.

Step 2 - Identify, procure, build, and place projects in service

Next the state will identify completed or planned projects that may qualify for elective pay, and then procure or build the planned projects. As states gain greater comfort with elective pay as a tool, the scope and complexity of projects may increase. This will follow the same processes typically used to build projects in the state, including:

1. **Identify eligible planned projects or new opportunities:** Examine the state's fleet management, building maintenance, or other facility improvements to find existing or planned projects that may be eligible for elective pay. Further, identify new opportunities to incorporate elective pay projects into future procurement and investment plans.
2. **Identify funding**: Elective pay projects must be completed before the elective payment can be requested and received, requiring the state to fully fund or finance projects up-front. The team should utilize its typical budget processes to identify funding sources, which could include bridge loans. In deciding whether a project is financially feasible and analyzing lifetime costs and savings, be sure to include the anticipated elective payments. Because projects must be fully funded, built, and placed in service before and only receive the tax credit after project completion, the *budget* must reflect full up-front project costs. The state may budget for the credit to be received at a later date.
3. **Procure contractors:** Elective pay projects can be built using typical state contracting and fleet procurement processes. The state can ensure it maximizes its elective payments by documenting requirements related to meeting domestic content and prevailing wage and apprenticeship in its procurement and contracting process.
4. **Establish documentation:** It is important to ensure proper record keeping to substantiate the projects for filing and potential audit purposes. States must ensure they keep appropriate records to support domestic content and PWA requirements. Collect relevant information from any agencies that make elective pay eligible purchases or build elective pay eligible projects. This L4GG Guidance Brief provides an overview of what documents states may elect to retain.
5. **Build the project or buy the vehicles:** The project is complete when it is placed in service. In many states, multiple departments are able to construct projects and purchase vehicles. Each

department can continue following its own processes; however it will be important for the "Coordinator" on the Elective Pay team to be in communication with any departments building projects.

Step 3 - File for elective pay

Once a project has been placed in service, the state can begin the process of preregistering and filing for elective pay. This document is intended to provide guidance, but is not an exhaustive resource on filing instructions and is not to be construed as legal or accounting advice.

1. **Determine who on the team will manage preregistration and filing:** The coordinated project team will need to select which agency and which individuals will complete the filing itself. Which agency is selected will vary state to state, but must in all cases be led by a designated *Authorized Representative* who will hold the legal authority to act on behalf of the state and must attest that all information submitted to the IRS is true to the best of their knowledge. The Authorized Representative must have a thorough understanding of compliance requirements and operational specifics to guarantee accurate and truthful submissions.
2. **Determine how many EINs exist for the state:** The state will submit its elective pay filings using the state's taxpayer identification number (EIN). In many instances, the state has a single EIN for the entirety of the state government apparatus. In these cases, even though projects may have been executed by multiple state agencies, all elective pay projects must be funneled to a single individual who will manage filings on behalf of the state as a single filer. This highlights the importance of collaboration amongst agencies. In other cases, the state has multiple EINs. In the case of multiple EINs, a state could choose to manage the filings separately or could choose to have a single individual manage all filings on behalf of the different agencies and their EINs. This memo is written for the more common scenario of a single EIN and filing for the entire state government.
3. **Determine The Proper Tax Year:** States without an established tax year may choose whether to utilize a calendar year or a fiscal year for elective pay filings. The filing deadline for the tax forms is four and a half months after the end of the taxable year the energy property was placed in service. If a state has an existing project, they may want to consider selecting a fiscal year that allows for ample time to submit the tax forms. This L4GG Guidance Brief provides more information.

4. **Complete pre-registration (also commonly referred to as "prefiling" registration):** After the project is placed in service, the Authorized Representative will "pre-register" or "prefile" the state's intention to seek an elective payment via an online registration portal. Prefiling acts as a high-level initial review for the IRS. Within 120 days of successful prefiling, the IRS will issue unique project identification numbers for each project or respond with a denial and comments regarding issues that the entity will need to resolve. These project ID numbers are required for the final tax forms and filing cannot be completed without them. Therefore, it is important to complete the prefiling process 120 days before the state's filing deadline to ensure there is enough time to receive the identification numbers. IRS publications 5884 and publication 5902 are practical user guides for elective pay entities for registering and filing. IRS confirmation of successfully prefiling a project does not mean that the IRS has determined the project is eligible for the tax credits.
5. **File for elective pay:** Once the Authorized Representative receives unique identification numbers, the process of filing for elective pay can begin. The Authorized Representative will collect the project and financial information for each project and input that information into tax forms before the filing deadline. The state will prepare a combination of tax forms based on which tax credits are being used. The state will file all eligible properties (projects) completed within the same tax year on the same filing with the IRS. States can choose to complete the filing utilizing in-house staff or can hire an outside consultant to complete these tasks. For more detailed information on the filing process see L4GG's Annotated Tax Form Page which includes links to relevant IRS resources.

Step 4 - Establish and maintain internal controls for audits

The Authorized Representative or the designated "Clean Energy Officer" should work with the full project team including the entity's legal counsel and accounting team to establish appropriate internal controls. States should consult with their accountant and follow U.S. Generally Accepted Accounting Principles (GAAP). The state should retain documentation of compliance with all applicable credit and bonus requirements for a minimum of seven years after filing for a credit through the elective pay process (see Guidance Brief regarding Documentation and Internal Controls for Direct Pay Guidance Brief).

Key Differences from Other Grants/Funding Controls

Area	Direct Pay under IRA	Traditional Grant Controls
Funding Flow	Post-project tax credit	Pre- or post-funded via grant agreement
Audit Risk	IRS/tax-focused, especially on eligibility & documentation	Grantee compliance
Controls Focus	Eligibility, pre-registration, labor compliance, cost attribution	Terms and conditions of grant

Step 5 - Receive and account for the elective payment

Once filing is complete, the state must prepare to receive the elective payment. Elective payments may be delivered by check or direct deposit and are to be paid within 45 days of the due date for filing. Although entities have been experiencing significant delays in receiving payment, the IRS is required to pay interest on payments made more than 45 days after the due date for a timely filing. States should be prepared to receive the payment by either method and should ensure that any staff who might encounter the check or deposit are prepared to process and account for it appropriately.

The project team should decide in advance how the proceeds of the elective payment will be utilized and evaluate any applicable statutory requirements relating to the use of the credit funds. The project team should ensure statutory authority is in place to accept funds and to utilize funds as intended. Some states require legislative approval before state agencies can receive federal grants; the same conditions may apply to receipt of elective payments. In some cases, the executive branch may need to work with legislative counterparts to adjust authority or create new funds in the state budget. Options beyond any statutory requirements include:

- Return to the state general fund.
- Return to the agency that undertook the project.
- Designate funds in a special fund intended to finance similar, additional projects.

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State Case Studies

To complete this memo, GFOA, L4GG, and SSC interviewed state officials who had already completed elective pay filings. Their experiences are summarized here.

Minnesota

Minnesota's initial package of elective pay filings included two ground source heat pumps, four solar energy projects and 110 vehicles.

Step 1 - Curate a team: The Office of Enterprise Sustainability, within the Minnesota Department of Administration served as the coordinator of the state's elective pay effort. The Department of Administration has the primary responsibility for most of the state's construction and real estate holdings. Three additional departments have construction authority: Transportation, Natural Resources and Military Affairs. Four agencies purchase state vehicles: Administration, Transportation, Natural Resources, and Public Safety. The coordinating staff at OES communicated regularly with construction supervisors and fleet managers in each of these departments to understand qualifying projects and to obtain information needed to complete filings. Staff from Minnesota Management and Budget were also key members of the project team. The state worked with a well-known global accounting firm to complete the filings.

Step 2 - Identify, procure, build, and place projects in service: Minnesota already had a number of systems in place to facilitate the construction of elective pay eligible projects due to pre-existing state legislation, Sustainable Buildings 2030, that requires efficient, low-carbon outcomes for construction and renovation projects funded by state-issued bonds. Due to these standards, many buildings are outfitted with solar panels or ground source heat pumps. At this time, the state is not accounting for elective pay in conducting its payback analysis, due to uncertainty.

Step 3 - File for elective pay: Staff in the Office of Enterprise Sustainability completed pre-filing registrations. The state contracted with a well-known global accounting firm to manage the filings. State officials valued the authoritative recommendations the firm could provide across multiple interested departments. The firm's participation provided substantial risk mitigation for the state. For a small number of electric vehicle charging projects installed by in-house electricians, the state chose not to file, determining that the consultant costs and prevailing wage documentation requirements exceeded the economic benefit of the tax credit that would be received. Most state entities in Minnesota have a single taxpayer identification number (TIN) and this team completed filings on their behalf. Other entities like Minnesota State Colleges and Universities, and The Metropolitan Council had their own TIN and also filed.

Step 4 - Establish and Maintain Internal Controls For Audits: Minnesota maintains substantial documentation in case of a future audit. The state documents every transaction in journal entries and retains documentation on a project by project basis. Additionally, the state relies on the expertise of its accounting firm for advice regarding controls.

Step 5 - Receive and account for the elective payment: Minnesota's elective payments will go to the state's general fund at this time. Legislation was proposed, but was not passed by the legislature, to establish a state building renewable energy, storage, and electric vehicle account. The account would receive elective payments and expend those funds to construct additional projects for the same purposes; the account would operate like a revolving loan fund. Absent direction like that contained in the proposed legislation, all federal funds would be directed to the state general fund.

Pennsylvania

Pennsylvania's initial elective pay filing included 37 vehicles, 7 solar projects, and 7 vehicle charging stations. The forthcoming 2024 filing is expected to include 20 charging stations, 7 electric vehicles, 7 solar projects and one large ground source heat pump project located at a state-affiliated university. The state expects to receive more than $3 million in elective payments for its initial filings.

Step 1 - Curate a team: Pennsylvania's elective pay team was coordinated by the Governor's Office though its Critical Investments Office, which had focused on opportunities emerging as a result of new federal changes in recent years. The Department of General Services procures all fleet vehicles for the state. Three state departments can build projects: General Services, Transportation, and Conservation and Natural Resources. Each department that builds projects provided a single point of contact for the coordinator in the Governor's Office. The Budget Office was also involved, with agreement from the Comptroller. Legal assistance was provided by a special general counsel within the Department of Environmental Protection.

Step 2 - Identify, procure, build, and place projects in service: Projects were budgeted and constructed under pre-existing procedures. Due to current uncertainty, the state is not currently adjusting project cost estimates to account for anticipated elective payments.

Step 3 - File for elective pay: Staff in the Governor's Office completed the initial elective pay filing under one of the state's taxpayer identification numbers. The state selected an EIN that is not utilized for state employee payroll to avoid misapplying the elective payment, when it arrives. In preparing for more complex and a larger number of projects, the state is soliciting proposals to contract with a third-party tax adviser. The adviser will utilize their existing software and other tools to manage filings and receive a share of the credits recovered.

Step 4 - Establish and Maintain Internal Controls For Audits: Pennsylvania staff utilized a shared online filing system to compile all documents related to elective pay projects, accessible by all members of the project team. This document library would be utilized in case of future audit.

Step 5 - Receive and account for the elective payment: Pennsylvania's elective payments will flow back to the same department that funded the project. The funds will be received through the Department of Treasury and will be transferred to the same agency subaccount that funded the project. Staff expressed concern about receiving payments in the form of a check and ensuring those are properly identified and deposited upon receipt.

Utah

Utah has completed two elective pay filings for projects completed in 2023: a 107 kW solar array on a parking lot and electric vehicle charging infrastructure at a courthouse. The state received a 30% elective pay tax credit for both projects. In the coming years, the state intends to file for elective payments for electric vehicles purchases and the installation of three ground-source geothermal heat pump projects to be located at university campuses and a national guard facility.

Step 1 - Curate a team: The project team in Utah included the Division of Facilities Construction and Management (DFCM), the Department of Environmental Quality, and the Coordinator of Resource Stewardship in the state's Department of Government Operations. DFCM was the coordinator for the effort. Elective pay filings related to vehicles will also include the Division of Fleet Operations. DFCM is responsible for construction and capital development including new construction or improvement of more than 4,000 state buildings. DFCM, with visibility into all state construction projects, was able to evaluate all projects for elective pay eligibility and was able to pursue elective pay in order to return funds to the state. DFCM worked alongside the Offices of Finance in multiple state agencies to get buy-in before pursuing elective pay.

Step 2 - Identify, procure, build, and place projects in service: Like many states, Utah's first elective pay projects were conceived before the state realized they would even be filing for elective pay. The budget and planning process was the same as for other construction projects. Going forward, the state will include the expected elective payments in calculating overall project costs and payback time on investments, and will ensure contract documents are designed to maximize deductions by holding contractors accountable for meeting and documenting prevailing wage and apprenticeship rules.

Step 3 - File for elective pay: DFCM staff led the elective pay filing for 2023 and completed the filing using software provided by Giraffe Financial to complete the return. However, going forward for future project years as the filings grow more complex for larger projects and the tax credit amounts larger, the state intends to engage a tax consultant, who has worked with the state on other energy related tax deductions, to assist with filings. The consulting agreement will be structured on a performance-based payment system under which the consultant is paid only when the credit is successfully received by the state. Future projects are expected at certain state institutions of higher education, which will complete their own filings under their own taxpayer identification numbers.

Step 4 - Establish and Maintain Internal Controls For Audits:
The State of Utah uses a cloud-based filing system. A shared folder is available to all relevant parties (Finance Teams, Building Performance Team, etc.). All documentation related to pre-filing and the actual tax filing resides within this folder for the team's visibility. In the event of an audit, the documentation is readily available to whichever party will handle that request. Any final reports and "audit ready packages" provided by our current tax consultant would reside in this shared folder.

Step 5 - Receive and account for the elective payment: Utah sought pre-clearance to receive Utah's elective payment of $112,000 was applied to the state's first quarter payment under its filing of Form 941, the Employer's Quarterly Federal Tax Return, on which the state, as an employer, reports the employer contribution to Social Security and Medicare taxes and withholding of taxes from employees' paychecks. The state hopes that it can receive direct payment in the future, to be applied to funding additional energy projects.

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Massachusetts

Massachusetts filed for dozens of elective pay projects across the state beginning in 2023

Step 1 - Curate a team: The elective pay team in Massachusetts has been led by the Deputy Director of Federal Funds and Infrastructure within the Executive Office of Administration and Finance (A&F). Legal support was provided by both the agency's general counsel and outside counsel. Partner agencies that build projects include the Division of Capital Asset Management and Maintenance (DCAMM); the Operational Services Division (OSD) and its Office of Vehicle Management; the Executive Office of Energy and Environmental Affairs and its Department of Energy Resources; the Department of Conservation and Recreation, which manages park buildings and parking lots; and the Department of Transportation. The Treasurer's Office will receive the elective payment and deposit it in the appropriate account.

Step 2 - Identify, procure, build, and place projects in service: All completed projects were built using typical budgeting and construction protocols as the projects were conceived prior to elective pay passage. Projects were executed across multiple departments. Due to project size, PWA requirements were not applicable.

Step 3 - File for elective pay: Pre-registration and elective pay filings were completed by the Office of Administration and Finance, with support from outside counsel. The first year's filing was completed on paper and the state is evaluating options for electronic filing going forward. Obtaining necessary documentation was challenging due to perceived uncertainty about whether the financial benefit would come through. However, identifying a key contact within each agency that completed projects helped to overcome this. Massachusetts staff emphasized the importance of utilizing a single point person to manage filings, alongside an outside counsel.

Step 4 - Establish and Maintain Internal Controls For Audits: A&F collected appropriate documentation during the filing and pre-registration process and will retain this documentation. The level of detail on invoices was a challenge that had to be overcome. The state should be certain to work with vendors to ensure that invoices are itemized to reflect the placed in service or delivery date of each item.

Step 5 - Receive and account for the elective payment: Massachusetts is exploring plans to deposit elective payments into a fund dedicated to supporting additional climate-related infrastructure projects.

Conclusion

The credits that are accessible through elective pay offer significant cost-saving opportunities for states, and help states improve their state-owned assets. The benefits to state economic and energy goals make it worthwhile for state governments to tackle the challenges of learning to use this new, but long-term, opportunity. The technologies that are eligible for elective pay can help reduce costs, increase reliability, enhance local air quality, and promote resilience. The strategies outlined in this memo are intended to provide guidance for states seeking to start or improve their elective pay utilization strategies. For further support, Lawyers for Good Government, Government Finance Officers Association, and the State Support Center are available for individualized consultation to assist states with this ongoing work.