



This report was created per the request of CA State Senator Dave Cortese's office for the purposes of understanding current implementation of the following federal climate and infrastructure legislation:

- Infrastructure Investment and Jobs Act (IIJA), commonly referred to as the Bipartisan Infrastructure Law (or BIL)
- Inflation Reduction Act (IRA)
- CHIPS and Science Act

Each of these three laws are at different stages of implementation so it is therefore not possible to provide the same level of information for each of the three. However, where possible, this report will provide a brief summary of each of the laws, information on which federal agencies are in charge of the funding, the types of funding available, how much funding has been allocated and/or could be allocated to California, and the labor standards that are attached to each.

For the purposes of this report, labor standards are understood to be contractual requirements intended primarily to improve conditions for workers. These include compensation standards but can also include other types or protections for workers such as fair scheduling rules, union neutrality, whistleblower protections and others.<sup>1</sup>

### **INFRASTRUCTURE INVESTMENT AND JOBS ACT/BIPARTISAN INFRASTRUCTURE LAW**

The IIJA or BIL was signed into law on November 15 of 2021. This law represents an investment of \$1.2 trillion by the federal government for the purposes of modernizing our nation's physical infrastructure. The BIL seeks to "grow the economy, enhance our competitiveness, create good jobs, and make our economy more sustainable, resilient and just."<sup>2</sup> The money will be distributed across more than 380

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<sup>1</sup> Zabin, Carol. "Putting California on the High Road: A Jobs and Climate Action Plan for 2030." June, 2020, pp 68, <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>

<sup>2</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/02/updated-fact-sheet-bipartisan-infrastructure-investment-and-jobs-act/>

federal programs. Of the \$1.2 trillion, \$650 billion will reauthorize existing funding and \$550 billion will go towards new funding.

The BIL also includes the Build America, Buy America Act (commonly known as BABA). BABA requires that no later than May 14, 2022 the head of each Federal agency receiving funds under the BIL will ensure that “none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the *iron, steel, manufactured products, and construction materials* used in the project are produced in the United States.”<sup>3</sup>

Projects can waive the BABA requirements through the use of agency-specific or project-specific waivers. As an example, the EPA allows for the following 3 types of waivers:

- Public Interest Waiver – Applying the BABA preference would be inconsistent with the public interest.
- Non-Availability Waiver – Types of materials for project are insufficient and not available in reasonably quantities.
- Unreasonable Cost Waiver – Inclusion of US iron, steel, manufactured products and construction materials would increase the cost of the overall project by more than 25%.

#### ***What Federal Agencies Have Funding Available Through the BIL?***

- Dept. of Energy - \$62 billion <sup>4</sup>
- Dept. of Transportation - \$661 billion<sup>5</sup>
- Dept. of Agriculture – Amount not specified
- Dept. of Commerce – Amount not specified
- Dept. of Interior – Amount not specified
- Dept. of Health and Human Services – Amount not specified
- Dept. of Homeland Security - \$8 billion
- EPA - \$50 billion
- US Army Corps of Engineers - \$17.1 billion
- General Services Administration - \$3.4 billion

#### ***What Type of Funding is Available Through the BIL?***

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<sup>3</sup> <https://www.epa.gov/cwsrf/build-america-buy-america-baba>

<sup>4</sup> <https://www.energy.gov/clean-energy-infrastructure/articles/bipartisan-infrastructure-law-frequently-asked-questions>

<sup>5</sup> <https://mikethompson.house.gov/infrastructureguide>

- *Mandatory Grants:* (Grant awarded under a program where the authorizing statute requires the head of the agency designee to make an award to each eligible entity under the conditions and in the amount [or based on the formula] specified in the statute)<sup>6</sup>:
  - Formula
  - Block
- *Discretionary Grants:* (Grant for which the federally awarding agency generally may select the recipient from among all eligible recipients, may decide to make or not make the award based on the programmatic, technical, or scientific content of an application, and can decide the amount of funding to be awarded):<sup>7</sup>
  - Project
- *Loans*
- *Bonds*
- *Technical Assistance*
- *Cooperative Agreements:* (Distinguished from a grant in that it provides substantial involvement between federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award).

### ***Which Entities are Eligible for BIL Funding?***<sup>8</sup>

This is determined by type of project/program.

- **Transportation:**
  - State Departments of Transportation
  - Metropolitan Planning Organizations
  - School districts
  - State agencies
  - Tribes
  - Non-profit transportation associations
  - Amtrak
  - Contractors
- **Water:**
  - States
    - Department of Water Resources
  - Municipalities
  - Tribes
  - Interstate and intermunicipal agencies
    - Departments of environmental protection
    - Interstate environmental commissions
    - Joint municipal pollution control boards
  - Public education agencies

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<sup>6</sup> <https://www.grants.gov/learn-grants/grant-terminology.html#M>

<sup>7</sup> <https://www.grants.gov/learn-grants/grant-terminology.html#M>

<sup>8</sup> Information for this section was taken from the Blue Green Alliance's "A User Guide to the Bipartisan Infrastructure Law (BIL)." <https://www.bluegreenalliance.org/wp-content/uploads/2023/02/BGA-BIL-User-Guide-012723-Update-1.pdf>

- Public water systems
- Community water systems
- Utilities
- Public works departments and agencies
- Institutions of higher education and labor organizations
- Nonprofits
- Clean Energy Infrastructure:
  - National Labs
  - Academia
  - Utilities
  - Developers
  - Co-ops
- Manufacturing:
  - Manufacturing firms
- Buildings & Schools:
  - State agencies
    - State energy office
    - Tribal energy office
    - State building code agency
    - Partnerships with one or more local building code agency
  - Tribal governments
  - Eligible units of local government
  - Public K-12 schools
  - Energy efficiency programs
  - Energy efficiency and environmental advocates
  - Codes and standards developers
  - Associations of construction professionals
  - Federal facilities
- Fairness for Workers:
  - States
  - Indian Tribes
  - State agencies (for Appalachian region only)
  - Local agencies
  - State or local governments
  - Local governing boards
  - Higher education institutions
  - Manufacturing firms
  - Corporations
  - Cooperative or mutual organizations
- Methane Leak Reduction:
  - Municipalities
  - Community owned utilities
- Community Resilience & Ecosystem Restoration:
  - States
    - Department of Fish and Wildlife
    - Department of Toxic Substances Control
    - Department of Environmental Quality

- Local, tribal and territorial governments
- Coastal states
- Nonprofits
- Institutions of higher education
- Communities

***What's been funded so far as part of BIL in California: (As of February 2023)*<sup>9</sup>**

Based on formula funding alone, the IIJA will bring to CA an estimated \$41.9 billion over 5 years from Federal FY 2022 through Federal FY 2026.<sup>10</sup> More will be allocated through competitive grants.

As of February 2023, a total of \$16.3 billion has been allocated to CA. \$14 billion of which is for transportation and \$1.2 billion for clean water. There has been a total of 480 projects identified for funding.

- \$16.3 billion allocated so far, 14b of which is for transportation and 1.2b for clean water. 480 total projects identified. The following is a breakdown of the funding:
  - Roads and Bridges: A total of \$28.2 billion will be allocated over 5 years.
    - A total of \$11.2 billion allocated in 2022 and 2023 (highway formula funding, formula funding for bridges, RAISE and INFRA.
  - Internet: At least \$100m will be allocated over five years.
    - \$5 million has been received as of February of 2023.
  - Water: \$609 million allocated in 2022 and 2023 for clean and safe water through EPA.
    - Of those \$609 million:
      - \$250.1 million dedicated to lead pipe and service line replacement.
      - \$158.7 million for safe drinking water investments.
  - Public Transit: \$10.3 billion will be available in formula funding over five years.
    - \$2 billion allocated in 2022 and 2023
  - Clean Buses: To date, CA has received the following:
    - \$68.3 million from EPA's Clean School Bus Program.
    - \$205.8 million to communities from DOT's Low/No Emission Bus Program
  - EV Charging: \$384 million will be allocated in formula funding over five years through National EV Infrastructure Program.
    - \$138.5 million in 2022
  - Clean Energy & Power: \$1.4 billion allocated to CA in 2022 and 2023. This includes:
    - \$125.3 million for weatherization
    - \$30.3 million through the State Energy Program

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<sup>9</sup> <https://www.whitehouse.gov/wp-content/uploads/2023/02/California-Fact-Sheet-E3.pdf>

<sup>10</sup> <http://rebuildingca.ca.gov/ijja-by-the-numbers/>

- \$49.1 million through the Energy Efficiency and Conservation Block Grant Program
  - \$48.9 million for grid resiliency
- Airports: \$390.4 million in 2022 and 2023
- Ports and Waterways: \$152 million in 2022 and 2023
  - This includes \$94 million for 6 projects through the Port Infrastructure Development Program.
- Resilience: \$724.1m in 2022 and 2023 for infrastructure resilience
  - This includes \$329.4 million through the Army Corps of Engineers for flood mitigation.
- Legacy Pollution Cleanup: \$65.5 million in 2022 and 2023
  - \$61.5 million for capping wells and reclaiming abandoned mine lands.
  - \$4 million for cleaning up brownfield and superfund sites.

### ***What Labor Standards Are Included in BIL?***

Projects funded through the BIL are subject to prevailing wage standards under the Davis-Bacon Act. This is the main labor standard in the BIL and applies to projects where construction is involved.

The BIL will fund multiple public works projects throughout the State of CA which means that CA's apprenticeship requirements for public works projects of over \$30,000 will apply.

On February of 2022, President Biden signed an Executive Order to require Project Labor Agreements (PLAs) for large scale federal construction projects that have an estimated cost of \$35 million or more.

It is important to highlight that most of the labor standards in the BIL apply mainly to construction projects that fall within the respective thresholds required for the standards to kick in. There is, however, a big opportunity to expand these standards to workers who are not participating in the construction of these projects through the application requirements of competitive grants. These competitive grants are consistently requiring applicants to include community benefit plans that seek to address the job quality and equity goals that are at the heart of the legislation. Federal agencies are already working together and entering into MOUs to achieve these goals, as shown in the attached MOU between the Department of Energy and the Department of Labor.

### **INFLATION REDUCTION ACT:**

The Inflation Reduction Act, commonly referred to as the IRA, is the single largest climate investment in American history. The law was signed on August 16, 2022 with the goal of building a new, clean economy through the use of tax credits, loans, rebates and direct federal spending. The IRA is projected to cut US greenhouse gas emissions by over 40% by the year 2030, compared to peak emissions in 2005.

The IRA will invest \$390 billion in climate and clean energy programs and initiatives. It consists of 125 programs, 66 of which are new or contain new components. Federal agencies are still in the process of publishing rules and have not launched many of the new programs.

### ***Which Federal Agencies Are Responsible for IRA Funding?***

- Dept. of Agriculture
- Dept. of Commerce
- Dept. of Energy
- Dept. of Homeland Security
- Dept. of Housing and Urban Development
- Dept. of the Interior
- Dept. of the Treasury
- Dept. of Transportation
- Environmental Protection Agency
- General Services Administration
- US Postal Service

### ***What Type of Funding Is Available Through the IRA?***

IRA funding consists of grants, both formula and non-formula based, tax credits, and loans.

- Grants: \$75.1 billion available through grants.
  - Formula funding: A small minority of programs are entirely formula funding:
    - Home Energy Performance Based, Whole House Rebates – \$4.3 billion in funds
      - Up to 20% can be used by states for planning, administration or technical assistance
      - Remaining funds for eligible equipment that reduces energy consumption in single family homes or multi-family housing.
      - Grants go to state agencies (CEC in CA)
      - Overseen by DOE
    - High Efficiency Electric Home Rebate Program – \$4.5 billion in grants
      - Money going to state energy offices to develop and implement a high efficiency electric home rebate program.
      - Up to 20% can be used by states for planning, administration or technical assistance
      - Remaining funds going towards rebates for purchase of high-efficiency electric home appliances
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  - 8 other programs with formula funding:
    - Climate pollution reduction grants – \$5B
      - CA eligible: yes
    - Funding to Address Air Pollution: Emissions from Wood Heaters”, \$15m
      - CA eligible: yes
    - Funding to Address Air Pollution: Mobile Source Grants, \$5m

- CA eligible: Likely not since it is meant to bring other states to CA standards.
- Environmental Product Declaration Assistance, \$250m
  - CA eligible: yes
- Low Embodied Carbon Labeling for Construction Materials, \$100m
  - CA eligible: TBD
- Assistance and Support for Underserved Farmers, Ranchers, and Foresters, \$2.2B
  - CA eligible: TBD
- Investing in Coastal Communities and Climate Resilience, \$2.6B
  - CA eligible: Yes. Only coastal states eligible
- Research and Forecasting for Weather and Climate, \$200m
  - CA Eligible: TBD
- Block Grants: \$3 billion available from one block grant program:
  - The Environmental and Climate Justice Block Grants program will provide funding directly to community-based organizations to undertake air pollution reduction, improve community resilience to climate change, and capacity building to engage with state and federal decision makers.
  - Administered through the EPA
- Tax Credits:
  - The goals of the IRA depend heavily on the use of refundable and non-refundable tax credits.
  - The IRA allows eligible entities who may not have a federal tax burden, including state governments, to qualify for tax credit benefits via Direct Pay.
    - Direct Pay means qualified entities can receive up-front payments to be used as direct capital (rather than deductions or refunds through taxes).
  - Production Tax Credits – Rebates based on the amount of production of a particular product (like clean energy).
  - Investment Tax Credit: Credits to offset investments in renewable energy projects and other sectors of the clean economy.
  - Consumer tax credit – credits to consumers of certain goods
  - Additional Business Tax Credits – (excise, property and income)
- Loans, Loan Guarantees, Loan Forgiveness
  - Not a significant portion of IRA
  - 9 of the 125 IRA programs involve loans.
- Direct Federal Spending:
  - \$15.25 billion distributed across the country through 20 programs.

### **What Labor Standards Are Included in the IRA?**



The IRA's primary inclusion of labor standards beyond current federal standards are contained in the tax credit and loan programs.

The two primary labor standards extended by the IRA are Prevailing Wage and Apprenticeship requirements:

- Prevailing Wage:
  - Pursuant to the Davis-Bacon Act, federally funded project projects are required to pay prevailing wages. State law goes further in requiring prevailing wages on public works projects meaning that the vast majority of projects through the IRA's grant-funded and Direct Pay programs will be subject to prevailing wage requirements.
  - The IRA also creates incentives in programs that don't use direct public funding, such as tax credit and loan programs, to encourage prevailing wages in the deployment of that funding. Most tax credit programs increase the credit by 5x if prevailing wage requirements are met.
- Apprenticeship:
  - CA has a Public Works project requirement that all public works contracts of over \$30k have an obligation to hire apprentices unless the trade does not require the use of apprentices.
  - This means that vast majority of IRA grant-funded and Direct Pay funded projects will be subject to apprenticeship requirements.
  - The IRA also creates incentives in programs that don't use direct public funding, such as tax credit and loan programs, to encourage apprenticeship programs.
  - Most tax credit programs increase the credit by 5x if apprenticeship and other requirements are met.
  - CA has also expanded apprenticeship requirements for some private sector construction and subset of public works projects through "skilled and trained" workforce requirements. This standard was established in Senate Bill 54.

### **CHIPS AND SCIENCE ACT:**

The Creating Helpful Incentives to Produce Semiconductors and Science Act, commonly referred to as the CHIPS and Science Act, was signed into law on August 9, 2022. It seeks to boost American semiconductor research, development, and production. The funding consists of \$52.7 billion broken down into \$39 billion for manufacturing incentives, \$13.2 billion in research and development and workforce development, and \$500 million to provide for international information communications technology security and semiconductor supply chain activities.<sup>11</sup>

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<sup>11</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/09/fact-sheet-chips-and-science-act-will-lower-costs-create-jobs-strengthen-supply-chains-and-counter-china/>

The first funding opportunity for CHIPS was announced on February 28, 2023. It is for the construction, expansion or modernization of commercial facilities in the fabrication of leading-edge, current-generation, and mature-node semiconductors.

- Awards under this program will take the form of direct funding, federal loans, and/or federal guarantees of third-party loans.
  - Six program Priorities:
    - Economic and National Security
    - Commercial Viability
    - Financial Strength
    - Project Technical Feasibility and Readiness
    - Workforce Development
      - Applicants must commit to developing and maintaining a highly skilled, diverse workforce, including by outlining their plans to hire economically disadvantaged individuals. In addition, applicants are encouraged to work with government organizations, educational institutions, labor unions, industry associations, and other strategic partners to meet the needs of the semiconductor industry in their region. Finally, any applicant requesting more than \$150 million in funding must provide a plan for access to affordable, accessible, reliable, and high-quality child care for both facility and construction workers.<sup>12</sup>
  - Broader Impacts
- It is required that applicants have secured state and local incentives, so California's opportunity to enforce the highest labor standards comes into play in the state's and local governments' incentive decisions.

In addition to this funding opportunity, the CHIPS Program Office is expected to release a funding opportunity announcement for semiconductor materials and manufacturing equipment facilities in late spring of 2023, and one for research and development in the fall of 2023.

#### ***What are the Labor Standards In the CHIPS and Science Act?***

- Prevailing wages in funded construction projects.
- In addition to prevailing wage, there are other opportunities to create labor standards that get to the following goals under the CHIPS Act.
  - **“Create good-paying jobs and build strong communities.** The CHIPS for America Fund will support the growth of a vibrant U.S. semiconductor industry that supports quality jobs and a diverse workforce. Workforce development investments will create jobs in communities around the country and create opportunities to increase industry participation for economically disadvantaged individuals and populations that may be

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<sup>12</sup> [https://www.nist.gov/system/files/documents/2023/02/28/CHIPS\\_NOFO-1\\_Fact\\_Sheet\\_0.pdf](https://www.nist.gov/system/files/documents/2023/02/28/CHIPS_NOFO-1_Fact_Sheet_0.pdf)

underrepresented in the industry, such as women, people of color, workers in rural areas, and veterans.”<sup>13</sup>

- **“Expand the workforce pipeline to match increased domestic capacity workforce needs:** The CHIPS incentives program will create good-paying jobs that benefit all Americans, including economically disadvantaged individuals and populations that may be underrepresented in the industry. The program will prioritize workforce solutions that enable employers, training providers, workforce development organizations, labor unions, and other key stakeholders to work together. The goal is to create more paid training and experiential apprenticeship programs, provide wrap around services, prioritize creative recruitment strategies and hire workers based on their acquired skills.”<sup>14</sup>

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<sup>13</sup> <https://www.nist.gov/chips/implementation-strategy>

<sup>14</sup> <https://www.nist.gov/chips/implementation-strategy>