

5 Considerations When Seeking Federal EV Funding

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President Joe Biden's administration embarked on an expansive and holistic plan to promote the development and adoption of electric vehicles from its first day in office.

With a goal for electric vehicles to make up 50% of all vehicles sold in the U.S. by 2030, the office pushed for the passage of the Bipartisan Infrastructure Law, which invests \$7.5 billion to build a national network of 500,000 EV chargers; the Inflation Reduction Act, which provides incentives for buyers of new and used EVs; and the CHIPS and Science Act, which encourages domestic productions of the semiconductors necessary for EVs, to help reach that goal.

On Sept. 14, the White House issued a fact sheet^[1] that showed how these federal efforts to support the full scope of the EV industry have moved the needle.

According to the White House, companies have invested nearly \$85 billion in manufacturing of electric vehicles, batteries, and EV chargers in the U.S. since Biden took office. And the pace of this investment is accelerating as companies have announced \$13 billion in domestic EV manufacturing in 2022, triple the amount invested in 2020.

The fact sheet also showed a \$24 billion investment in battery production, which is more than 28 times the investment in 2020 — and over \$700 million to support EV charging. And on the consumer side, the number of electric vehicles sold in the U.S. has tripled in the past two years.

But with that rapid speed of adoption, some finer details about how to use those funds are still being ironed out. Here are the top five considerations for those looking to break into the EV market to consider when accessing federal funds.

1. Access to Charging Infrastructure

For both developers and EV drivers, the No. 1 concern that is brought up surrounds charging limitations. Drivers want to ensure they have access to enough charging stations to take the trips they want.



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Biden addressed that concern through the Infrastructure Act, which dedicated \$7.5 billion to make chargers more publicly available. The funds are composed of two programs: a \$5 billion program known as the National Electric Vehicle Infrastructure Formula Program, or NEVI, and a \$2.5 billion discretionary grant program.

Each state is required to develop and submit a plan to the Federal Highway Administration for review and approval before any NEVI funding will be made available to the state. Under the federal funding rules, those plans had to be submitted no later than Aug. 1, and the FHWA is obligated to approve eligible plans by Sept. 30.

Once the U.S. Department of Transportation signs off on the plans, the state then can award the grant opportunities and projects can be started. With that tight timeline, new charging stations could begin breaking ground as early as next month.

2. Charging Infrastructure: Ownership and Operation

The issue of who owns and is responsible for EV charging stations is one that is resolved on a state by state basis and, at its core, concerns whether utilities or nonutility entities are permitted to own a charging station.

Or, more granularly, whether utilities are permitted to own only portions of the charging infrastructure while nonutility entities own the actual charging station. The ownership question raises the issue of responsibility. Who is required to maintain the stations, ensure adequate energy sources and set rate structures for energy?

All of these questions are in flux under these new funding opportunities. While still being decided within individual states, we have started to see more state regulatory commissions start deciding nonutility entities are allowed — and even encouraged — to own charging stations, but are not subject to the same regulatory hurdles as a public utility.

Outside of regulatory concerns, there are also rate concerns. If we have a network charger, what do we do with the energy that is being used to charge the car — do we give it away or can we sell it? And if we sell it, who sets the rates?

For the past few years, this has been decided on an ad hoc basis, which has led to a few different business models: a subscription model that sets a monthly fee for users to charge their cars at any charging station owned by that company or a pay-per-hour fee to basically rent a charging station parking space.

Previously any company that sold energy could be considered a utility, but states have started issuing rulings that specifically say the sale of energy at these charging stations doesn't make a company a utility. That is providing some certainty for charging station owners, but not a lot of transparency for the end user.

3. Commercial Agreements

Often, the owner of the charging station and the owner of the real estate where that station sits are two different entities. So as we see those 500,000 federally funded charging stations being developed, there will be an increased need to have airtight commercial agreements between the landowner and the

charging station owner.

Those agreements should address things like: exclusivity for charging stations companies so there aren't different companies at the same location, a potential revenue sharing mechanism, and obligations for the removal or upkeep of the charging stations themselves.

More retail owners are also getting into this mix by offering charging stations at their stores to increase the amount of time spent shopping there, and therefore potentially increasing revenue. Since there are no standard agreements for this developing field, it's important to consider a full host of issues when negotiating the site host agreements or service agreements — when a company is seeking to provide charging services through a third party.

4. Vehicle-to-Grid Capability

Vehicle-to-grid technology is an important aspect of the future of EV adoption by allowing car batteries to give back to the power grid. The batteries become tools to power EVs and serve as backup storage cells for the electrical grid.

The regulations and options for federal funding to support vehicle-to-grid technology differ greatly if the company seeking funding is a registered utility owner or a nonutility owner, so companies looking to monetize charging stations in this way should be prepared to get in the weeds before starting on any project. But it could offer a new revenue source for electric fleet operators and owners/operators of EV fleet bidirectional charging assets.

For example, school or public buses that have a set schedule and route could be a more steady source of energy back to the grid, because utilities will be able to count on when energy is being put into chargers, and therefore provide a more steady revenue stream for the fleet owner during periods of fleet nonoperation.

5. What About the Inflation Reduction Act?

Prior to the Inflation Reduction Act, or IRA, there was a tax credit of up to \$,7500 for purchasers of qualified EVs. That tax credit included a unit phaseout so manufacturers who sold over a certain number of EV units would no longer be able to market those tax credits to their purchasers.

The IRA has been redesigned to remove that cap, allowing some of the most prolific EV manufacturers back into the game for EV credits. But there are new requirements in the IRA for consumers to be able to access those tax credits, including an income cap — consumers have to be under a certain threshold in order to qualify for EV credit.

There is a mechanism tied to the price of the automobile; the manufacturer's suggested retail price has to be below a certain amount to qualify for the tax credit. Both of those additions are trying to address the criticism that EVs are only accessible to the wealthy and open up the market to a wider range of consumers.

But the tax credit provision that is getting the most attention from manufacturers relates to the final assembly provision. Under that provision, tax credits were only available for the purchase of EV if the vehicle's final assembly happened in the U.S. That provision went into effect immediately and many manufacturers are still seeking clarification on the exact definition of "final assembly."

There are also questions around the commercial clean vehicle tax provision, specifically on how companies can qualify to access the tax credits. Some believe that clean vehicles put into the market for commercial use would qualify, but there is uncertainty around tax credits for nonindividual use purposes, such as fleet purchases. The U.S. Department of the Treasury is expected to issue guidance on these questions by the end of the year.

The efforts of the Biden-Harris administration — and specifically the IRA — have created new opportunities for tax credits, but there is still need for clarification and explanation on how these provisions will be implemented. Many companies are in a holding pattern until the end of the year when amendments are expected to be released.

And the Biden-Harris administration is still announcing new rules and incentives around EVs, such as an August proposal from the Department of Transportation that would, if finalized, require federally funded EV chargers to be built in the U.S. starting in January 2023 and have more than 55% domestic content by January 2024, so it's clear there are still more developments to come.

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[1] <https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/14/fact-sheet-president-bidens-economic-plan-drives-americas-electric-vehicle-manufacturing-boom/>.