



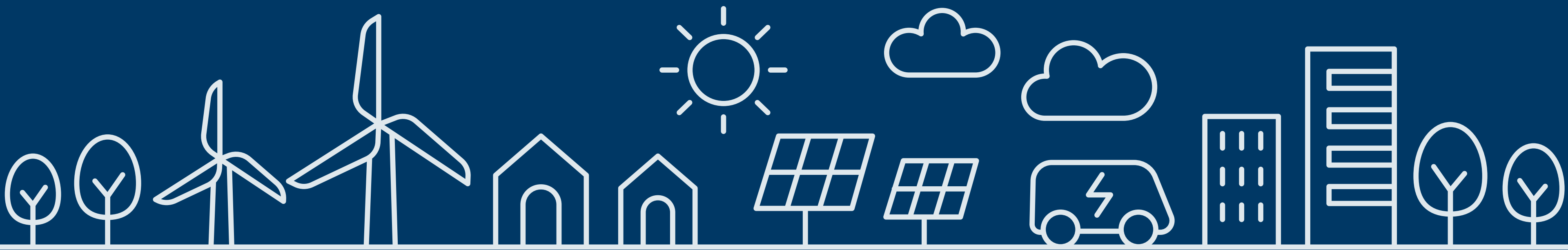
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# **IIJA/IRA Terms & CC/IDP Tracking**

## **Industrial Innovation and Carbon Management Team**

Information Updated: March 2025

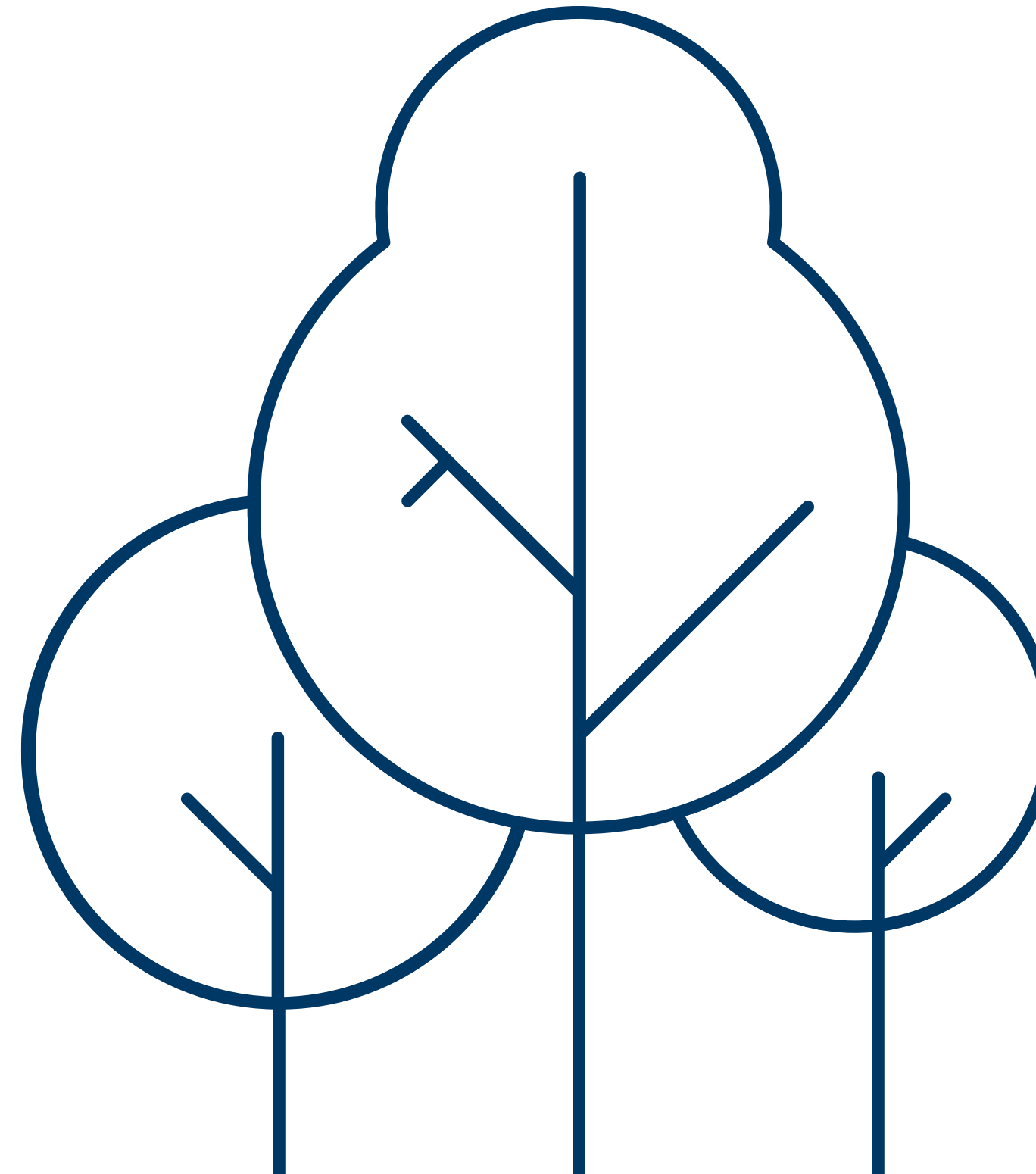
Funding Status Updated: Through Dec 2024



# Table of contents

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- Terms explained
  - Obligated vs. Unobligated Funds
  - Budget Reconciliation
  - Impoundment
  - Rescission
  - Recoupment
  - Repeal
- Status of Key Investments
  - Industrial Demonstrations Program
  - Carbon Management



# Obligated and Unobligated Funds Explained

**Obligated Funds:** Dollars that were appropriated by Congress through law for a given purpose, and that federal agencies have then incurred as an obligation—a legally binding commitment by the Government for the payment of goods and services ordered. Often, the funds must be obligated within a specified period, or they expire and are no longer available for use.

**Unobligated Funds:** Dollars that were appropriated by Congress through law for a given purpose, but that federal agencies have not yet formally obligated for use, or that have been returned to the federal government for reassignment.

## **119th Congress:**

A risk is that unobligated funds will not be awarded, particularly if agencies are not appropriately staffed to be able to make awards and distribute the funds.

***Most of the IIJA funding is available until expended.***

# Budget Reconciliation Explained

**Budget Reconciliation:** A special congressional procedure that allows for easier passage of tax, spending, and debt limit-related measures—if they adhere to certain rules. It is used as a mechanism to avoid the filibuster and pass legislation along party lines, usually with a slim majority. It can be used to change, create, or repeal existing taxes or spending.

***Significant legislation has been passed through reconciliation:** Inflation Reduction Act of 2022; Tax Cuts and Jobs Act of 2017; Health Care and Education Reconciliation Act of 2010; Economic Growth and Tax Relief Reconciliation Act of 2001; Omnibus Budget Reconciliation Act of 1993*

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Budget reconciliation was created via the **Congressional Budget Act of 1974.**

- It cannot be filibustered
- Debate in the Senate is limited to 20 hours
- Allows passage of certain legislation by simple majority.

It must abide by the "**Byrd Rule**":

- Must have a non-incidental effect on the budget
- Must not change overall spending/revenue
- Must not add to the deficit outside the 10-year budget window covered by the bill



# Reconciliation: Tentative Timeline and Legislative Actions

As described by the [National Law Review](#)



## February

Senate and the House adopted separate FY2025 budget resolutions reflecting different priorities and strategies.



## March 14, 2025

Deadline to pass final fiscal 2025 spending bills to avoid a government shutdown.



## March 14, 2025

Senate and House will work to resolve the differences between their two FY2025 budget resolutions; both chambers must pass an identical resolution to trigger reconciliation instructions.



## April

A compromise budget resolution is likely to pass both chambers in early April.



## May 2025

Speaker of the House Mike Johnson (R-LA) has publicly said that he aims to have a budget reconciliation package on Trump's desk by early May.

This is an ambitious one-bill strategy timeline. Dates could be delayed due to lengthy negotiations.

A two-bill approach may stretch until the end of the 2025 calendar year to meet the deadline for expiration of the original Trump tax cuts.



# Impoundment Explained

**Impoundment:** Any action or inaction by an officer or employee of the federal government that prevents federal funds that have been appropriated in legislation from being obligated or spent, either temporarily or permanently.

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## Who can appropriate funds?

The Constitution gives Congress the "power of the purse", meaning that only Congress has the authority to appropriate funds. The Executive branch does not have unilateral power to impound (decide not to spend) funds that Congress has appropriated. However, the administration is testing the impoundment act with recent actions.

**The Impoundment Control Act of 1974 (ICA)** established a clear and public framework for Congress to consider a rescission request ("special message") from the Executive branch to rescind (cancel) funds. Under the ICA, the Executive may temporarily defer (delay) spending specified funds for up to 45 days following a rescission request to Congress. However, if Congress does not approve the request within 45 days of receiving it, then the funds must be spent.





# Key Activities After Trump's Inauguration

On Tuesday, January 21, the Office of Management and Budget (OMB) released a memo on President Trump's Executive Order Unleashing American Energy to immediately pause the disbursement of funds appropriated under the Inflation Reduction Act and the Infrastructure Investment and Jobs Act.

On Tuesday, January 28, a federal judge temporarily blocked the Trump Administration's freeze on federal funding, issuing a stay just minutes before the directive was set to take effect. The ruling, which expires on February 3, prevents the administration from halting congressionally appropriated funds in the interim.

Elimination of around 2,000 probationary employees at DOE.



On Monday, January 27, the Trump administration announced a temporary suspension of all federal grants and loans in an Office of Management and Budget (OMB) memo to conduct a spending review.

Department of Energy (DOE) issued a memo to implement President's Executive Order directing to suspend activities under the DEI, CBP and Justice40 requirements, conditions or principles.

Following the January 28 ruling, the Trump Administration officially rescinded its January 27 memo freezing federal grants, according to a Wednesday memo from the White House budget office. Despite this, it is still widely reported that grantees are having difficulty accessing funds across federal programs.

Trump administration formally rescinded the implementing regulations, which instilled the White House's Council on Environmental Quality (CEQ) as the authority to issue binding guidance on the National Environmental Policy Act (NEPA). CEQ is convening a work group to coordinate the revision and issuance of agency-level NEPA regulations. to federal agencies.



# Rescission Explained

**Rescission:** A provision of law that cancels or reduces budget authority previously provided to federal agencies before it would otherwise expire. This typically occurs when allocated funds are no longer needed or are being reallocated. Rescissions generally require specific legislative action by Congress and are used as a tool to reduce federal spending or reallocate resources.

## **Does rescission target obligated or unobligated funds?**

Rescissions targets "unobligated" funds, meaning dollars that were appropriated by Congress through law, but that federal agencies have not yet formally obligated for use or that have been returned to the federal government for reassignment. Whereas money that has been awarded is considered obligated and not the target of rescission. However, obligated funds can still become the target of recoupment (see next slide).





# Recoupment ("Clawbacks") Explained

**Recoupment ("clawbacks"):** A legal construct that allows the federal government to recover (i.e. recoup, clawback) money that was obligated (paid) improperly.

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## What is an improper payment?

A payment made by the federal government to a grant recipient that were:

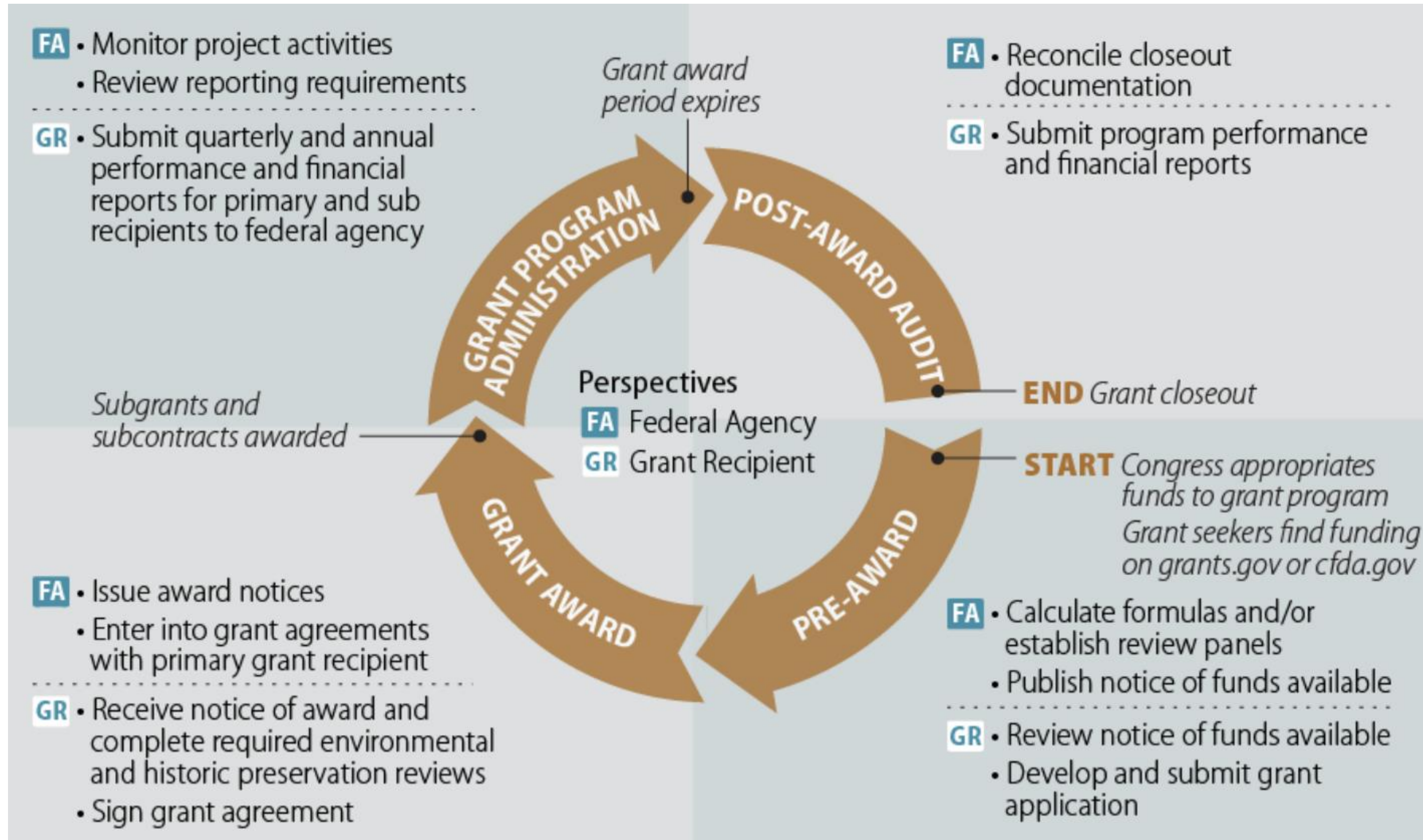
- An overpayment
- Payment for an ineligible expense
- Payment made to a grant recipient who was later determined to be in breach of the terms and conditions of the grant agreement.

The process for establishing the requirements for compliance and evaluating the extent to which a grant recipient is compliant occurs throughout the life cycle of a federal grant (see next slide).

Recouping improper payments is administratively burdensome for both the federal agency and the recipient facing the debt collection, largely due to the collection and review of documentation, and the legal process for recovering the improper payments.



# Recoupment ("Clawbacks") Continued



# Repeal Explained

**Repeal:** When a legislative body formally cancels (i.e. revokes, annuls) a law or statute. The action can abolish the entire law or only affect specific provisions of the law.

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## Who can repeal legislation?

Congress can repeal laws by passing a bill in both chambers that the president signs. If the president vetoes the bill, then it must be approved by a 2/3 majority in both the House and Senate to become law.

The president can propose repealing legislation to Congress but *cannot* repeal it unilaterally. Courts can declare a law unconstitutional (and make the law in question null and void) but *cannot* repeal it.

## If a law is repealed, then what?

If a law is repealed, the law no longer exists and cannot be enforced by either state or federal agencies.

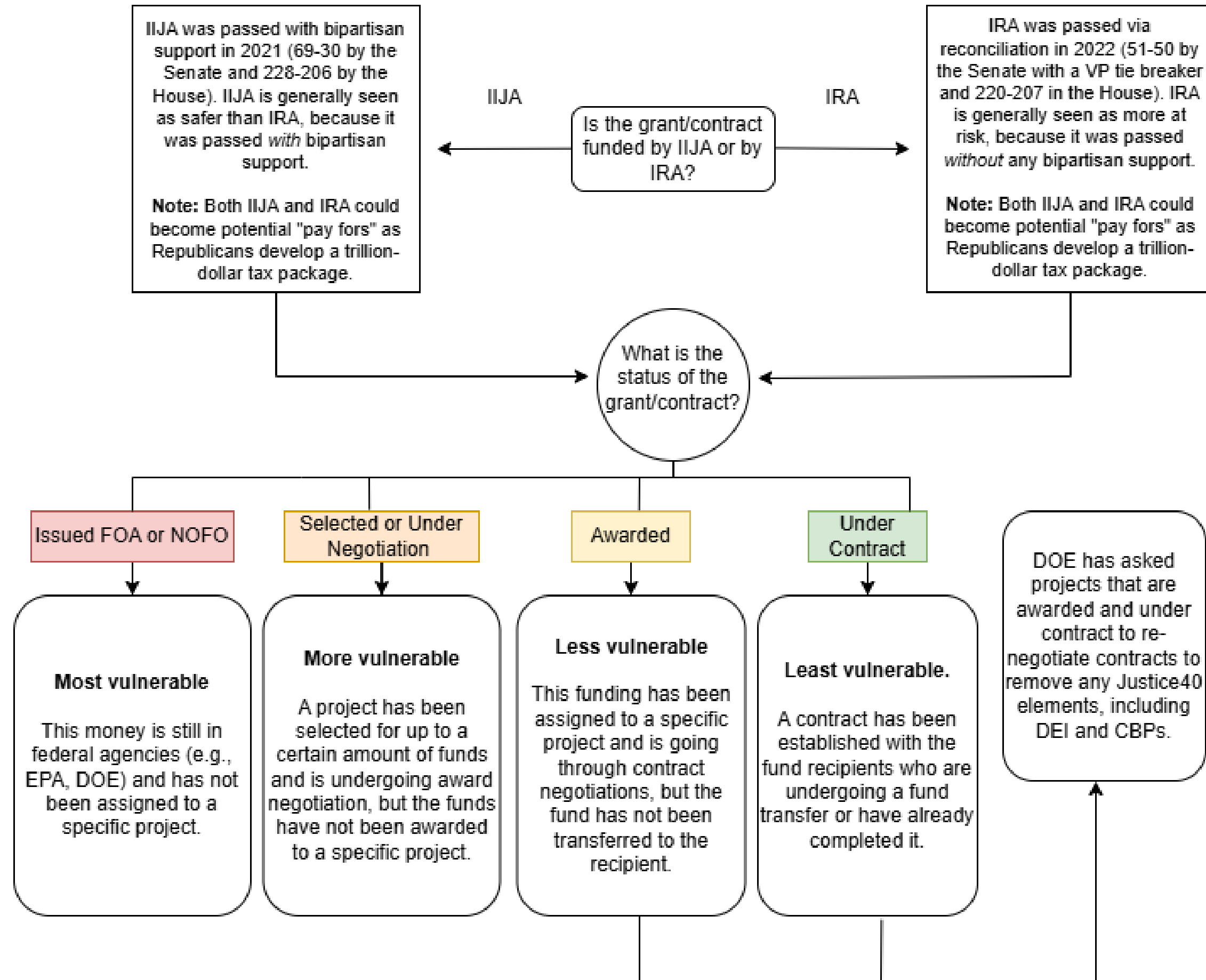
A law is repealed either by a literal declaration by a later law, or by a new statute that contains provisions that contradict or override the previous law.

## 119th Congress:

Full repeal of laws or portions of laws would require a bipartisan majority in the Senate and allow for only a few defections from the slim Republican majority in the House. The chances of full repeal are very unlikely.



# General risk of IIJA and IRA funding by status





# Summary:

## Industrial Demonstrations Program and Carbon Management Programs

Program	Total Appropriated Funding	Funding Made Available by FOA(s)	Projects Selected	Projects Awarded	Under Negotiation	Funds Remaining to be Distributed
Industrial Demonstrations Program	\$500 million (IIJA); \$5.8 billion (IRA)	~\$6 billion	33	29	1 (3 no longer pursuing negotiations)	
Carbon Capture Demonstration Projects	\$2.537 billion (IIJA)	\$2.639 billion	11	10	1	~2.46 billion
Carbon Capture Technology Program, Front-End Engineering and Design (FEED)	\$100 million (IIJA)	72 million	8	5	4	~85.5 million

*Note: Updated funding awards through December 2024*

# Summary:

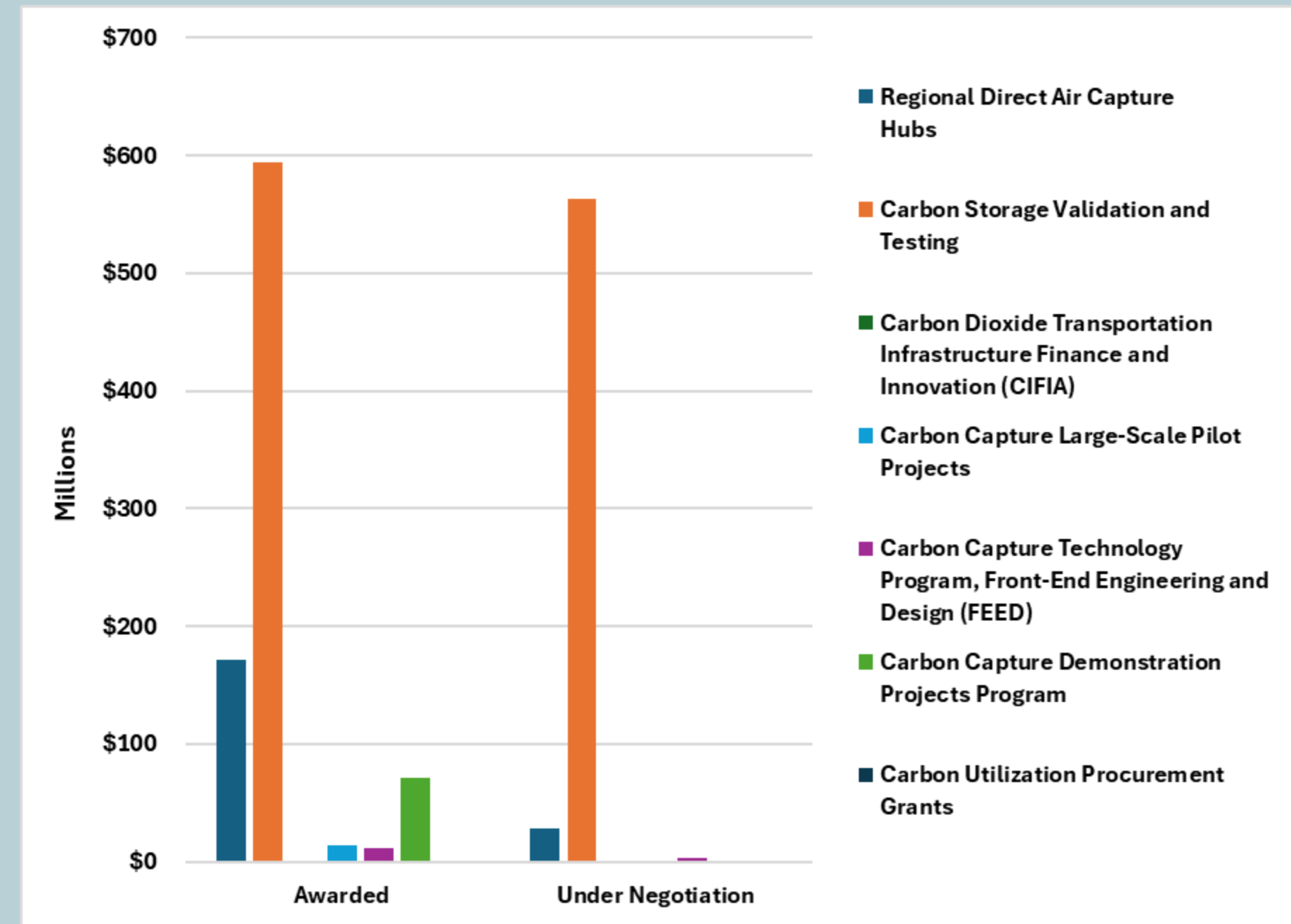
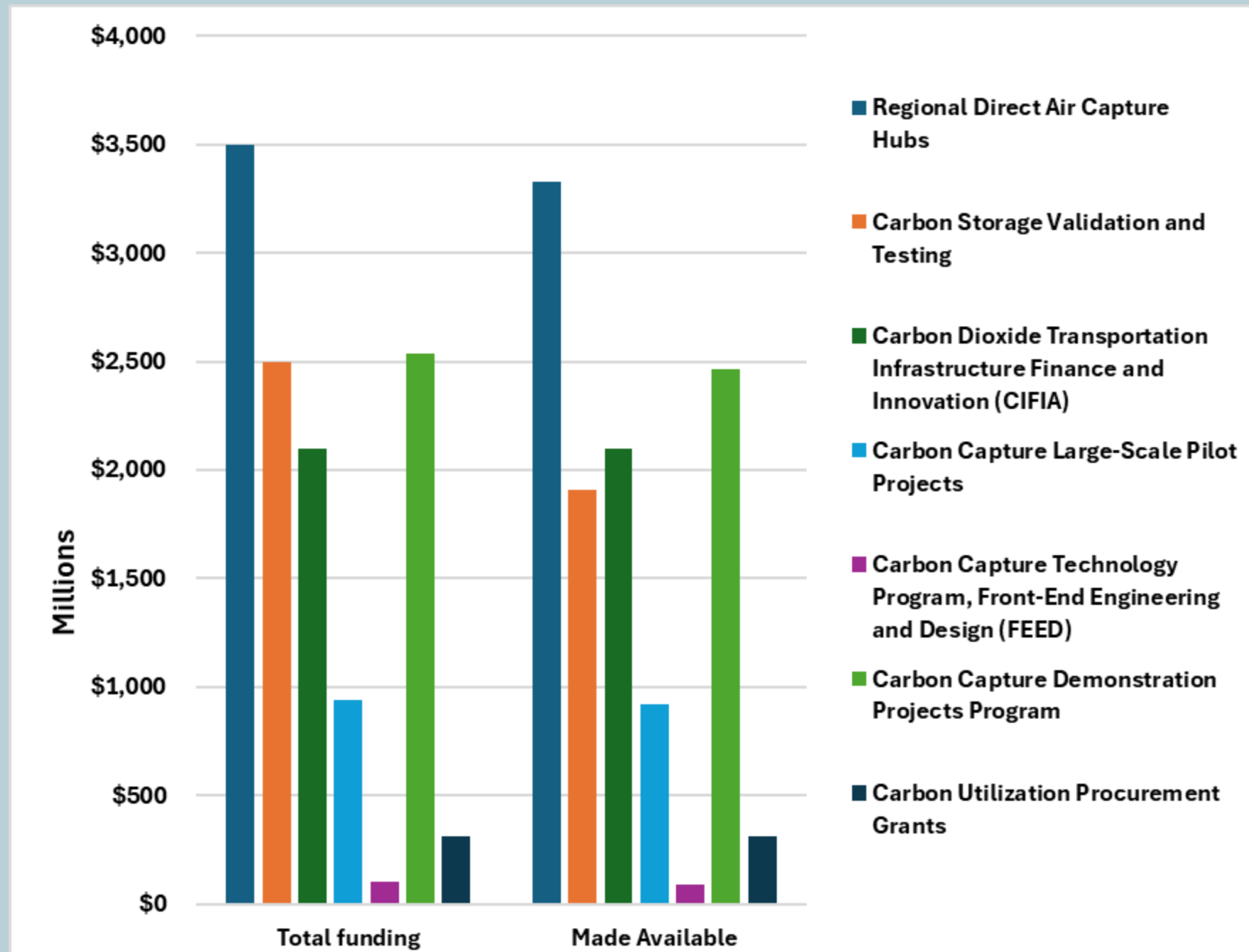
## Industrial Demonstrations Program and Carbon Management Programs

Program	Total Appropriated Funding	Funding Made Available by FOA(s)	Projects Selected	Projects Awarded	Under Negotiation	Funds Remaining to be Distributed
Carbon Storage Validation and Testing	\$2.5 billion (BIL)	\$2.25 billion	48	23	25	~\$1.905 billion
Regional Direct Air Capture Hub	\$3.5 billion (BIL)	\$3.036 billion (BIL)	21	18	3	~\$3.3 billion
Large Scale Pilot Projects	\$937 million (BIL)	\$820 million	4	3	1	~923 million
Carbon Dioxide Transportation Infrastructure Finance and Innovation (CIFIA) Program	\$2.1 billion (BIL)	\$500 million	0	0	0	\$2.1 billion

*Note: Updated funding awards through December 2024*



# IIJA Funding Status



Note: Updated funding awards through December 2024

# Carbon Capture Large Scale Pilot

The Carbon Capture Large-Scale Pilot Projects Program aims to develop transformational carbon capture technologies to significantly improve the efficiency, effectiveness, costs, emissions reductions, and environmental performance of coal and natural gas use in power generation, manufacturing, and industrial facilities.

## Funding:

Authorized by – IIJA Section 41004(a)  
Appropriated – Title III of Division J

*As of December 11, 2024:*

*Total Appropriated  
Funding*  
**\$937 million**

*Funding Made  
Available by FOA(s)*  
**\$820 million**

*Projects Selected*  
**4**

*Awarded*  
**3 Projects**

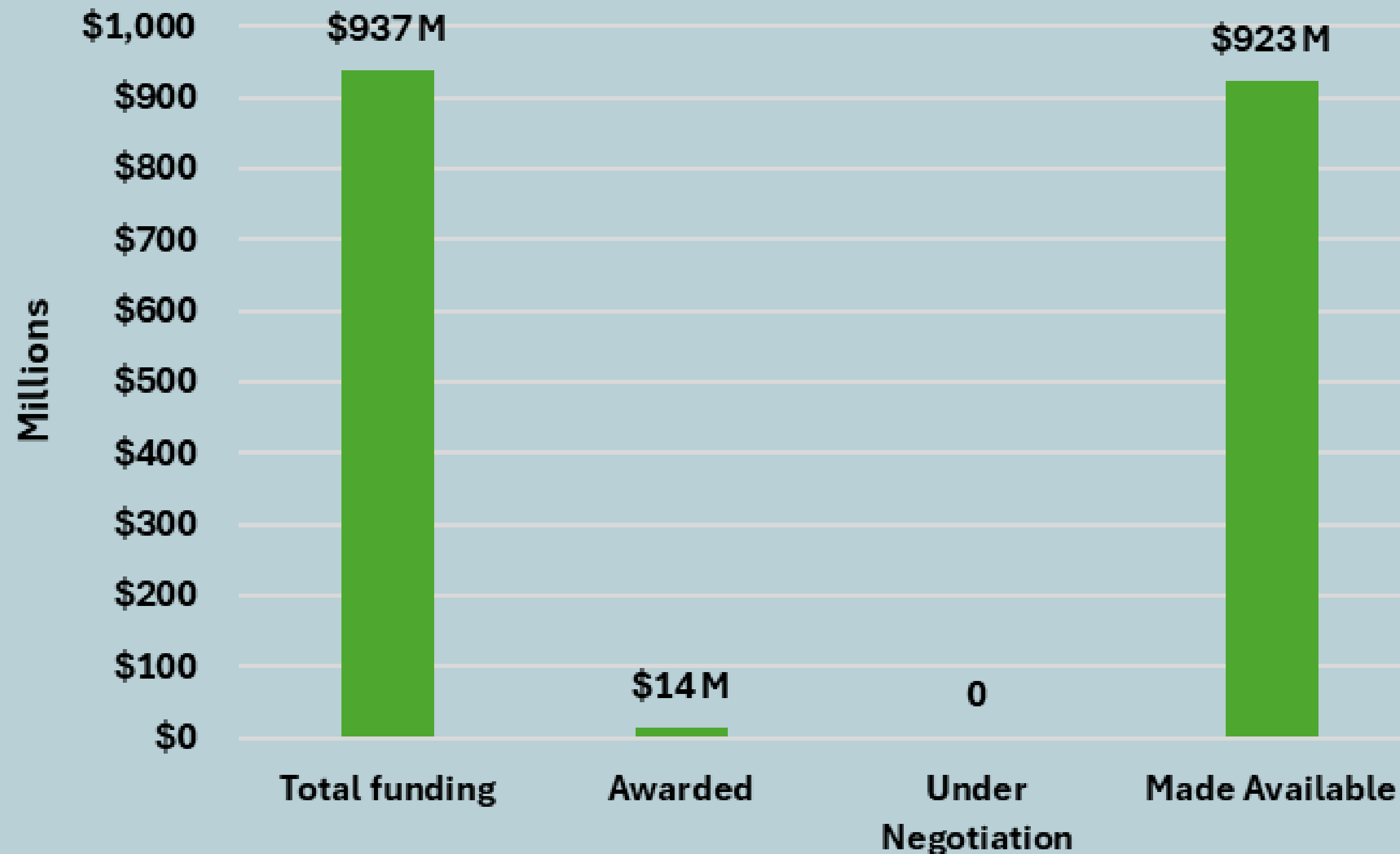
*Under  
Negotiation*  
**1 Project**  
**\$ N/A**

*Fund Remaining  
to be Distributed*  
**~923 million**



# IIJA Funding Status

## Carbon Capture Large-Scale Pilot Projects



# Carbon Capture Demonstration Project Program

The Carbon Capture Demonstration Projects will help accelerate the demonstration and deployment of carbon management technologies, supporting efforts to create good-paying manufacturing jobs, reduce pollution to deliver healthier communities, and reinforce America’s global competitiveness in the clean energy technologies of the future.

**Funding:**

- Commercial Demonstration*  
Authorized by- IIJA Section 41004(b)  
Appropriated by - Title III of Division J of the IIJA
- FEED Program for CO<sub>2</sub> Infrastructure*  
Authorized by- Section 962 of the Energy Policy Act of 2005, as amended by Section 40303 of the IIJA

*\*Commercial Demonstration and FEED studies are two sub-projects program within the Carbon Capture Demonstration Projects Program. While for commercial demonstration, the funding is authorized under section 41004(b) of the IIJA and appropriated by Title III of Division J of the BIL; it is unclear under which section of IIJA is the FEED study funded.*

As of December 11, 2024:



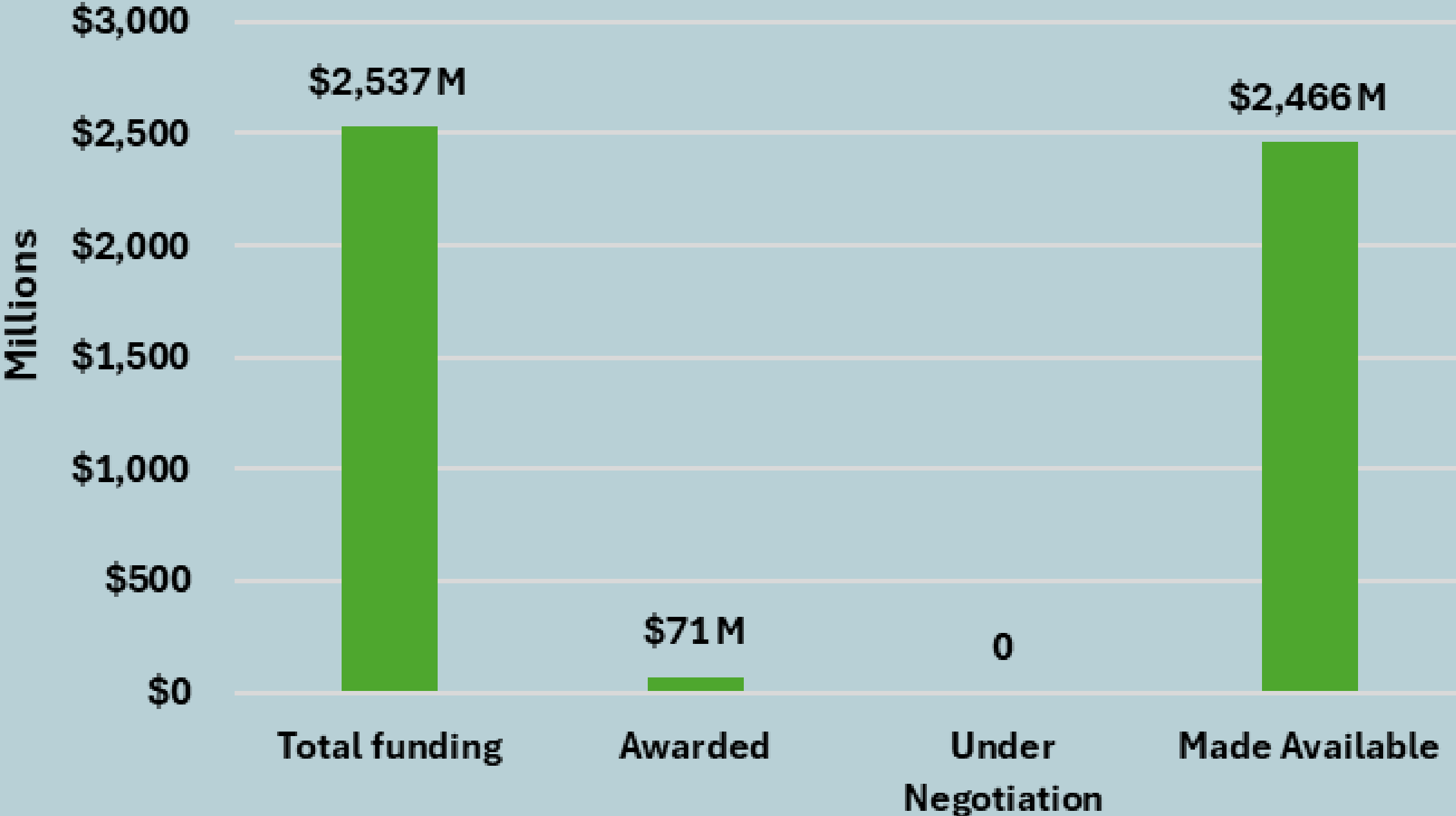
Additional Information:

- There has been a new NOFO released announcing funding up to \$1.3 billion on December 17 where 3 to 15 projects will be funded under TA-1 Large Scale Pilot Projects, TA-2 Commercial Demonstration and TA-3 Networked Demonstration Commercialization.
- Out of the 11 selected projects, 3 projects are under the Commercial Demonstration Project Program & 8 projects are under the FEED Program for CO<sub>2</sub> infrastructure.
- Under the Commercial Demonstration Project Program, 6 projects will be awarded in total, where 2 projects will be awarded for coal electric generation (TA-1), 2 for natural gas electric generation (TA-2), and 2 for industrial facility (TA-3) not purposed for electric generation.



# IIJA Funding Status

## Carbon Capture Demonstration Projects Program



# Regional DAC Hubs Program

The Regional Direct Air Capture (DAC) Hubs program will develop four domestic direct air capture hubs. Each will demonstrate a DAC technology or suite of technologies at a commercial scale with the potential for capturing at least 1 million metric tons of carbon dioxide (CO<sub>2</sub>) annually from the atmosphere.

Funded by: IIJA Section 40308

As of December 24, 2024:

Total Appropriated Funding \$3.5 billion	Funding Made Available by FOA(s) \$3.036 billion	Projects Selected 21	Awarded 18 projects ~171.7 million	Under Negotiation 3 project ~\$27.95 million	Fund Remaining to be Distributed ~\$ 3.3 billion
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Additional Information:

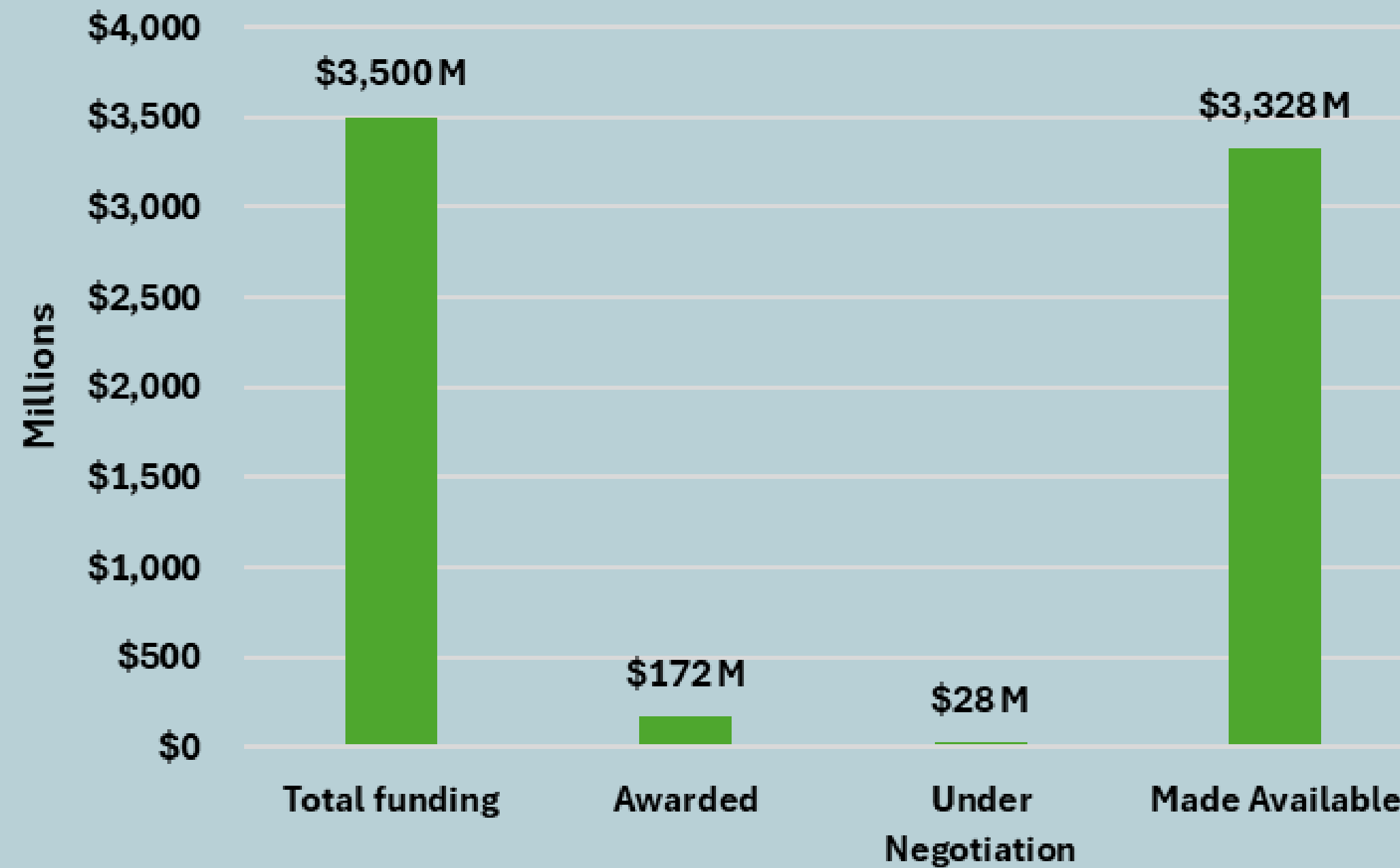
- There has been a new NOFO released announcing funding up to \$1.8 billion on December 19,2024.
  - Regional Direct Air Capture Hubs – Recurring Program will provide funding across three Topic Areas (TAs).
    - TA-1 will support up to 3 infrastructure access platforms, providing up to \$250 million in federal support for each project;
    - TA-2 will support 4 to 8 mid-scale commercial DAC facilities, providing up to \$50 million for each project; and
    - TA-3 will support 2 to 6 large-scale commercial DAC facilities providing up to \$600 million for each project.





# IIJA Funding Status

## Regional Direct Air Capture



# Carbon Storage Validation and Testing

The Carbon Storage Validation and Testing program will support the CarbonSAFE Initiative by developing and expanding commercial large-scale carbon storage projects with the capability to store 50 or more million metric tons of CO<sub>2</sub> over a 30-year period.

Funded by: IIJA Section 40305

As of December 11, 2024:

Total Appropriated  
Funding  
**\$2.5 billion**

Funding Made  
Available by FOA(s)  
**\$2.25 billion**

Projects Selected  
**48**

Awarded  
**23 projects**  
**~594 million**

Under  
Negotiation  
**25 project**  
**~\$562 million**

Fund Remaining  
to be Distributed  
**~\$1.905 billion**

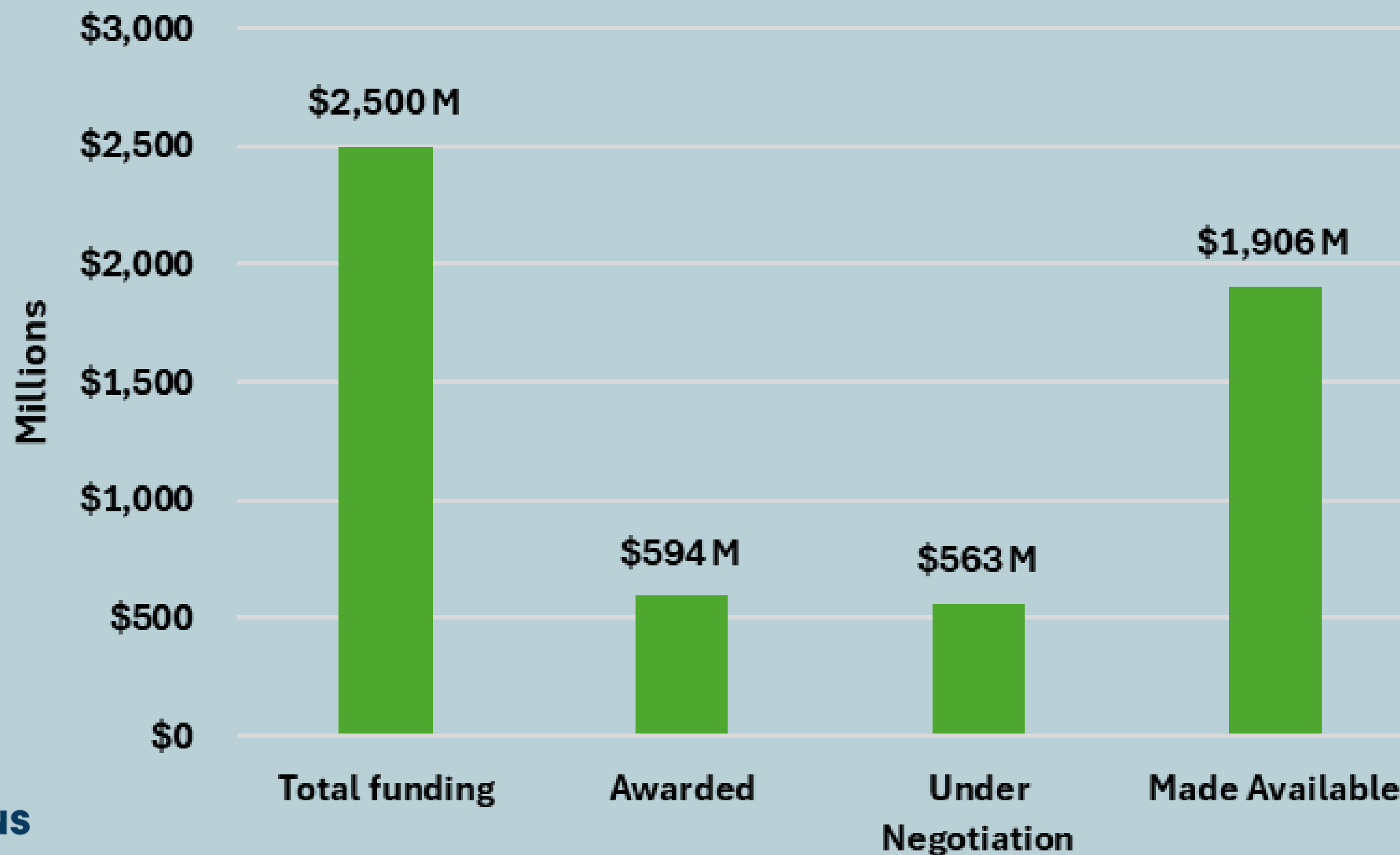
**Additional Information:**

- Out of 23 projects awarded, 8 projects are in Phase II and 15 projects Phase III.
- Out of the 24 projects under negotiation, 12 projects are in Phase II, 10 in Phase III, 1 in Phase III.5 and 1 in Phase IV of the CarbonSAFE initiative.



# IIJA Funding Status

## Carbon Storage Validation and Testing



# Carbon Capture Technology Program, Front-End Engineering and Design (FEED)

Carbon Capture Technology Program's Front-End Engineering and Design (FEED) program aims to buildout carbon dioxide transport infrastructure necessary to deploy carbon capture utilization and storage technologies.

**Funding:**  
Authorized by – IIJA Section 40303

*As of December 11, 2024:*

*Total Appropriated  
Funding*  
**\$100 million**

*Funding Made  
Available by FOA*  
**\$72 million**

*Projects  
Selected*  
**8**

*Awarded*  
**4 Projects**  
**\$12 million**

*Under  
Negotiation*  
**Project**  
**~\$8.5 million**

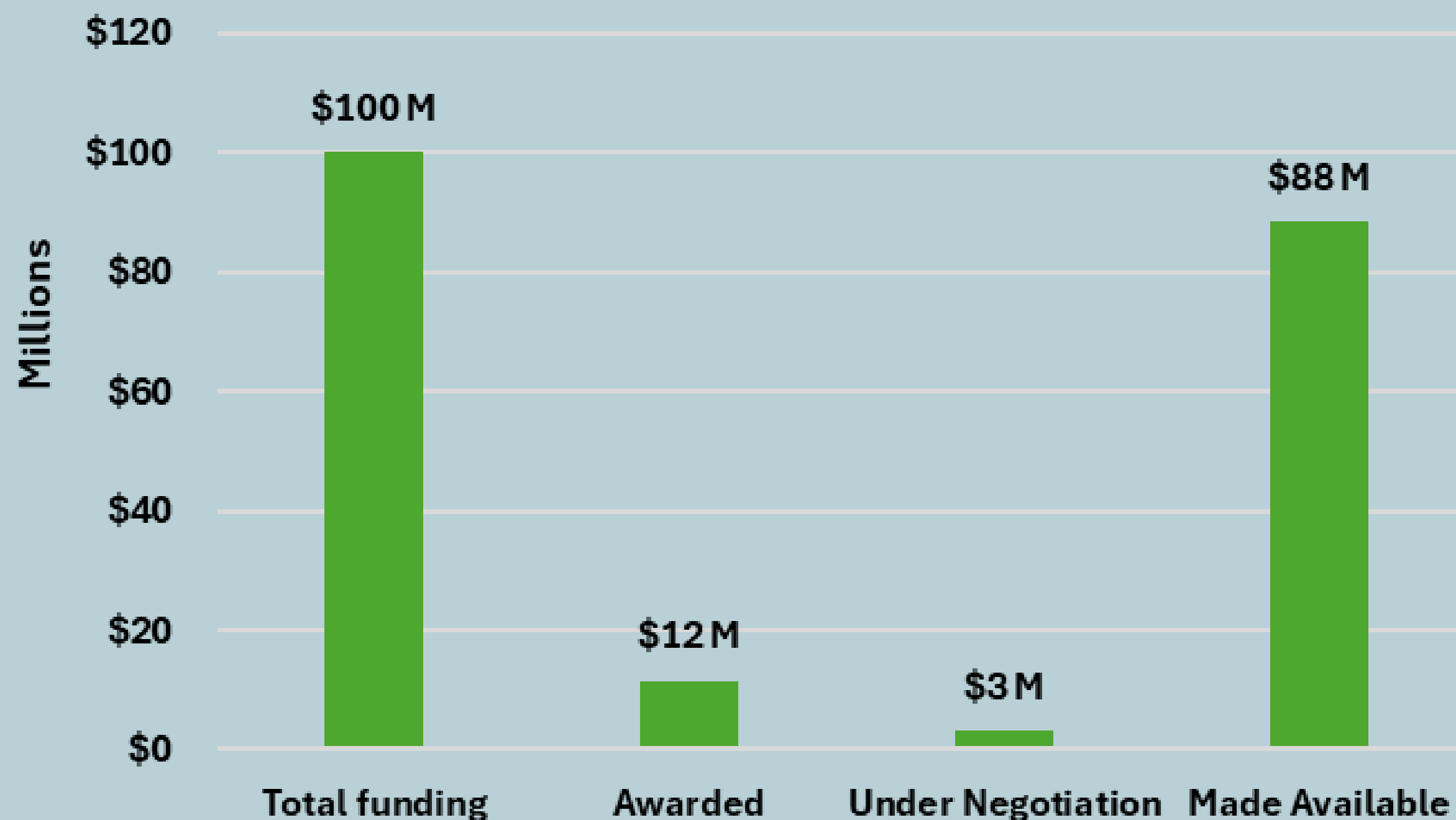
*Fund Remaining  
to be Distributed*  
**~\$85.5 million**



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# IIJA Funding Status

## Carbon Capture Technology Program, Front-End Engineering and Design (FEED)



# Carbon Dioxide Transportation Infrastructure Finance and Innovation (CIFIA) Program: Future Growth Grants

The Carbon Dioxide Transportation Infrastructure Finance and Innovation Program will establish and carry out a carbon dioxide transportation infrastructure finance and innovation program.

**Funding:**  
Authorized by – IIJA section 40304

*As of December 11, 2024:*

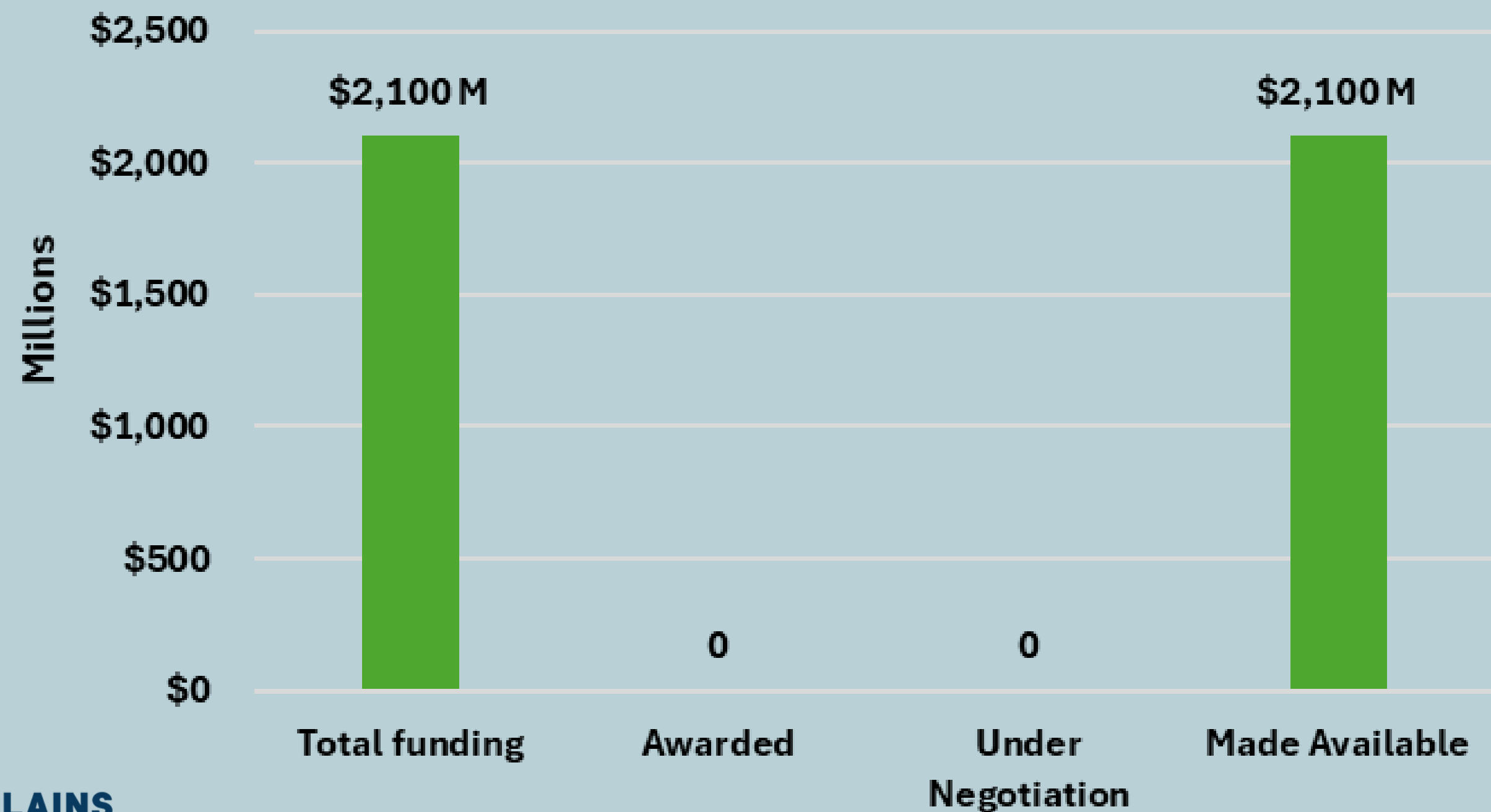
<i>Total Appropriated Funding</i> <b>\$2.1 billion</b>	<i>Funding Made Available by FOA</i> <b>\$500 million</b>	<i>Projects Selected</i> <b>0</b>	<i>Awarded</i> <b>0 Projects</b> <b>0 million</b>	<i>Under Negotiation</i> <b>Project</b> <b>0 million</b>	<i>Fund Remaining to be Distributed</i> <b>0 million</b>
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# IIJA Funding Status

## Carbon Dioxide Transportation Infrastructure Finance and Innovation (CIFIA)



# Industrial Demonstration Program (IDP)

The Industrial Demonstrations Program (IDP) will accelerate decarbonization projects in energy-intensive industries and provide American manufacturers a competitive advantage in the race to lead the world in low- and net-zero carbon manufacturing.

**Funded by:**  
BIL Section 41008  
IRA Section 50161

*As of January 15, 2024:*

*Total Program  
Funding*  
**30 projects**  
**~\$5.3 billion\***

*Awarded  
(Phase I)*  
**27 projects**  
**~197.68 million\***

*Under Negotiation  
(Phase I)*  
**3 projects**  
**\$TBD**

*Funds Remaining to  
be Distributed*  
**30 projects**  
**~\$5.14 billion**

## Additional Information:

- 33 projects were originally selected for negotiations (~\$5.96 billion). 3 companies are no longer moving forward in project negotiations (~\$556.1 million): ISP, Unilever, and SSAB.
- Most awarded projects received funds for Phase I activities, except ExxonMobil Corporation, which also received funds for Phase II activities.
- OCED reviewed 411 Concept Papers (requesting \$60B in federal funding and representing nearly \$100B of private capital) and encouraged 130 to submit Full Applications. [Here](#) is more information.
- [Here](#) is more detailed tracking of the awards. More information can also be found on [OCED's website](#).



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# Budget Reconciliation Primer

*Last Updated: 1/6/25*  
*Prepared by AJW, Inc.*



# Budget Reconciliation Overview

## Allows for Quick Legislating

- Created via the Congressional Budget Act of 1974
  - Provides an expedited process for passing congressional measures related to the budget

## Cannot be Filibustered

- Debate in the Senate is limited to 20 hours
- Allows passage of certain legislation by simple majority

## Must Abide by the “Byrd Rule”

- Must have a non-incidental effect on the budget
  - Must not change overall spending / revenue
  - Must not add to the deficit outside the budget window covered by the bill



# Budget Reconciliation Process

*Although reconciliation is an optional procedure, the House and Senate have used it in most years since its first use in 1980. 23 reconciliation bills have been enacted into law and four have been vetoed.*



## Step 1.

Both House and Senate pass a budget resolution which includes reconciliation instructions

- No filibuster – simple majority vote in both Chambers

## Step 2.

Instructed committees develop and vote on policy recommendations related to the instructions (simple majority vote)

## Step 3.

Budget committees bundle proposals into budget measure and vote (simple majority vote)

## Step 4.

Both chambers vote.

- Full House votes (rules for debate and final passage are by simple majority vote)
- Senate debate limited to 20 hours (no filibuster), but unlimited amendments can be offered (vote-a-rama)

## Step 5.

President signs budget reconciliation measure



# The “Byrd Rule”

The Byrd Rule, named after its principal sponsor Sen. Robert C. Byrd (D-WV), protects the deliberative nature of the Senate and effectiveness of the budget reconciliation to reduce the deficit. Utilized temporarily from 1985-89 and written into law in 1990, the rule defines what is an “extraneous” matter, e.g., what cannot be considered under budget reconciliation

## BYRD RULE PROCESS

A senator raises a point of order to prevent or strike extraneous matter from the bill



The chair (vice president), in consultation with the parliamentarian, makes a ruling



Byrd rule can be waived or chair rulings overruled by a 3/5 majority vote (60 senators)

## THE 6 DEFINITIONS OF EXTRANEIOUS MATTER

1. It does not produce a change in outlays or revenues or a change in the terms and conditions under which outlays are made or revenues collected
2. It produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions
3. It produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions
4. It produces a change in outlays or revenues which is merely incidental to the non-budgetary components of the provision
5. It would increase the deficit beyond the “budget window” covered by the reconciliation measure
6. It recommends changes in Social Security







# Notable Legislation Recently Passed Through Reconciliation

Legislation	Details
Inflation Reduction Act (IRA)	Signed into law by President Biden Invested in domestic clean energy production and climate initiatives through tax credits, subsidies, and grants; extended Affordable Care Act subsidies; introduced a 15% corporate minimum tax on large companies, among various other provisions
Tax Cuts and Jobs Act of 2017	Signed into law by President Trump Lowered the tax rate for top income earners; cut the corporate tax rate from 35% to 21%; gave families a higher child tax credit; decreased the estate tax; repealed the individual health mandate of the Affordable Care Act
Health Care and Education Reconciliation Act of 2010	Signed into law by President Obama, part of “Obamacare” Modified the Affordable Care Act by closing the gap in Medicare prescription drug coverage, allowing children to stay on parent’s insurance until 2026, among various other provisions
Economic Growth and Tax Relief Reconciliation Act of 2001	Signed into law by President George W. Bush, part of “Bush Tax Cuts” Lowered the tax rate for top income earners; doubled the child tax credit over 10 years; allowed tax-free withdrawals from IRAs for tuition; increased IRA contribution amounts; started process to repeal the estate tax
Omnibus Budget Reconciliation Act of 1993	Signed into law by President Clinton Repealed the cap on Medicare taxes; increased the tax rate for high income earners; increased the corporate income tax rate for high revenue companies; raised the gas tax; created two new personal income tax rates





# Reconciliation in the 119<sup>th</sup> Congress

Current Outlook



# Republicans are likely to pursue one, large-scale reconciliation package

## President Trump is reportedly in favor of a single reconciliation package

- New Senate Majority Leader John Thune and Speaker Mike Johnson had previously advocated for “at least” two reconciliation packages, with an initial package potentially addressing border and energy policy, and a later package to extend the 2017 tax cuts
- However, President Trump stated that he would like to “Secure our Border, Unleash American Energy, and Renew the Trump Tax Cuts,” in a single reconciliation effort
  - According to Trump, the cost of these policies would be offset by new tariffs
  - While the preference is currently for one package, the President is open to two efforts, “as long as we get something passed as quickly as possible”
- This new plan is aligned with House Ways & Means Committee Chair Jason Smith’s preference for one package

## Speaker Johnson now hopes to vote on the singular package by the first week in April

- As the scope of the reconciliation bill increases, Sen. Thune indicated that he will oppose efforts to overrule the Senate’s parliamentarian if provisions are ruled inconsistent with budget reconciliation rules, like sweeping border policy changes
- Some Republicans, however, argue that Democrats expanded the scope of reconciliation with the passage of the Inflation Reduction Act in 2022

*As of 11am on  
January 6, 2025*





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# Reconciliation 101



# Current Landscape

- The 119th Congress is shaping up to be the Congress of budget and tax, with a Republican trifecta gearing up to do **reconciliation**, the **expiration of the debt limit extension**, and the **expiration of the Tax Cuts and Jobs Act** credits.
  - January 1, 2025: Expiration of Debt Limit Extension – possibility of extraordinary measures
  - December 2025: Expiration of Tax Credits / \$4T Cliff
  - April 15, 2026: Tax day for individuals
- Republican leadership has proposed **multiple strategies for reconciliation**
  - Jason Smith wants to do one bill encompassing the five priorities: no individual tax increases (maintaining status quo); immigration; energy dominance; reigning in Biden spending; and shrinking federal agencies.
  - John Thune wants to do two bills, with the first addressing immigration and energy, and the second addressing tax.
  - The House Freedom Caucus wants to do two bills, with the first addressing immigration and the second focused on energy and tax.
- **Donald Trump recently came out in support of “one big, beautiful bill”** making many believe that this will be the likely strategy, however Trump does not seem tied to any particular number of bills.
- **Speaker Johnson likely wants to wait to proceed until after special elections in April** when his margins will be higher.
- Republicans have the chance to do **three budget resolutions** (therefore three reconciliation bills) in the 119th Congress - one for FY25, one for FY26, and one for FY27.
  - Current budget resolution discussions are for FY25. If Republicans are able to pass a resolution but unable to pass a reconciliation bill before the end of the fiscal year on **September 30, 2025**, they will need to start the process over with a new budget resolution.

# Fiscal Year 2025 Budget

## NEXT STEPS



Agreement between the House and Senate on a budget resolution triggers the budget reconciliation process.



The House and Senate must first agree to a budget resolution with reconciliation instructions for fiscal year 2025 to unlock the reconciliation process.

House adopts  
Budget Resolution

Senate adopts  
Budget Resolution

Agreement between House  
and Senate triggers Budget  
Reconciliation Process

## RECONCILIATION



The fiscal year 2025 budget resolution would instruct authorizing committees to “reconcile” direct spending and revenue changes within their jurisdiction to meet budget targets.

- The budget resolution **does not need to be signed** by the President, only agreed to by both chambers.
- The budget resolution will **include instructions** to trigger the budget reconciliation process.
  - These instructions will include **topline numbers for spending and cuts**.
  - These instructions can also include specific measures, though the **topline numbers are the only binding part**.
- For reference, **tax pieces are scored by JCT**, whereas **other provisions are scored by CBO**.
- They may **ask JCT to rescore IRA** (higher) which will make cuts to certain pieces much more valuable as pay-fors.
- They also may **try to argue that an extension of the TCJA tax cuts is already included in the baseline score**, making an extension through legislation budget neutral.
  - This will likely not be supported by many House Republicans.
- In order to get **final scores for grant recisions**, they will need to **figure out what is obligated and unobligated** by sending requests to agencies. To speed the process along, they could issue a freeze on implementation until the request is fulfilled.
- The current Republican plan is to pay for spending with **tariffs**.
  - Tariffs **would not score because they are an executive action** and not legislative. This could lead to Republicans trying to **legislate tariffs**, which would be a major break from norms.



# Reconciliation

## BACKGROUND

Section 310 of the Congressional Budget Act of 1974 sets out a special procedure that allows the House Budget Committee to direct one or more authorizing committees to produce legislation changing direct spending, revenue, or the debt limit to bring these levels into compliance with budget resolution policies. Reconciliation instructions must be included in a concurrent resolution on the budget adopted by both the House and Senate to be valid.

*Agreement between House and Senate triggers  
Budget Reconciliation Instructions to Authorizing Committees*

House Committee A

House Committee B

House Committee C

Committees Submit Legislative  
Recommendations to  
Budget Committee

*In general, Reconciliation instructions include:*

the amount of  
budgetary change  
to be achieved

the time period over  
which such  
budgetary change  
should be measured

a deadline for  
authorizing  
committees to  
report legislation

The Committee on the Budget then incorporates all submissions together, without any substantive revision, into a single bill and reports it to the House. If only one authorizing committee receives reconciliation instructions, then that committee's bill is reported directly to the House and is not submitted to the Committee on the Budget.

4

- It is expected that **multiple committees** will receive reconciliation instructions.
  - Ex. EPW, ENR, HEC, HNR
- For **spending instructions**, committees can **spend up to the amount included** in the reconciliation instructions.
- For **instructions to cut**, committees **must cut the amount included in the instructions** and have the **ability to cut more**.
  - A concern here is that the instructions **may lock in a large amount of cuts by identifying specific programs**.
  - On the other hand, the [FY22 Budget Resolution](#) for Build Back Better included a line saying “*Committee on Finance The Finance Committee will receive an instruction that requires at least \$1 billion in deficit reduction. This will provide the Committee with flexibility to make investment, revenue and offset decisions consistent with the policy recommendations.*”
- Changes must be **direct spending** or **mandatory cuts** and cannot be subject to annual appropriations
  - If changes are for annual appropriations, it can only be for spending.
- Could see a version in which one committees instructions are mostly cuts used to offset the spending for something like border
  - Ex. ENR portion could pay for the border portion at DHS



# Reconciliation in the House and Senate

## IN THE HOUSE



The House Committee on the Budget determines whether an authorizing committee is in compliance with its reconciliation instructions and relies on the Congressional Budget Office’s estimates when determining compliance. Under section 310 of the Congressional Budget Act of 1974, authorizing committees must comply with reconciliation instructions.



The Committee on Rules reports a rule governing the consideration of a reconciliation bill. If an authorizing committee does not comply with its instructions, the Committee on Rules may make in order amendments that achieve required budgetary changes pursuant to section 310(d)(5) of the Congressional Budget Act of 1974.

## IN THE SENATE



A reconciliation bill is a privileged measure in the Senate. Distinct from most Senate bills, debate is limited to 20 hours and only requires a simple majority to pass (51 votes) rather than the 60 votes otherwise required to invoke cloture and cut off debate.



The ‘Byrd Rule’ (section 313 of the Congressional Budget Act of 1974) limits the content of a reconciliation bill. Under the Byrd Rule, extraneous provisions cannot be included in a reconciliation bill. If a provision is found to violate the Byrd Rule, it is stricken from the bill or conference report unless 60 Senators vote to waive it.

- The Byrd Rule ensures **compliance with the Congressional Budget Act of 1974.**
- **Tax policy is inherently Byrd Rule friendly.**
  - For programs like the MERP and Sec. 111 Authorizations, there would need to be discussions with the Parliamentarian on Byrd Rule compliance.
- If a measure is not Byrd Rule friendly, it is struck from the bill unless **60 or more Senators vote to waive the violation.**
  - **Thune** has said he is **encouraging Republicans to adhere to the decisions of the Parliamentarian** on what is and is not Byrd Rule friendly.
- It will be important for **Democrats** to **continuously be monitoring bill text and challenging various provisions.**
  - The Nuclear Waste Policy Amendments Act of 1987 went on a reconciliation bill and passed because it was un-challenged.



# The Senate 'Byrd Rule'

## CONFERENCE CONSIDERATIONS

The 'Byrd Rule' (section 313 of the Congressional Budget Act) prohibits the consideration of extraneous provisions as part of a reconciliation bill. The definition of what constitutes an extraneous provision is set forth in the Congressional Budget Act, but is subject to interpretation by the presiding officer (who relies on the Senate parliamentarian).

*The Byrd Rule applies only in the Senate, but has a profound effect on what provisions can ultimately pass Congress.*



The Byrd Rule is not self-enforcing: a point of order must be raised at the appropriate time to enforce the rule.



If a point of order is raised against a provision as extraneous and if 60 Senators vote to waive the Byrd Rule, the provision may remain.



The House may then pass the reconciliation bill as modified, amend it and send it back to the Senate, or decline to consider it.

If a point of order is raised and sustained with respect to a conference report, then the conference report is sent back to the House with the stricken provision or provisions removed. The House may then pass the reconciliation bill as modified, amend it and send it back to the Senate, or decline to consider it.

- The Nuclear Waste Policy Amendments Act is a good example of when **a point of order was not raised** and **something that does not directly affect spending was passed on reconciliation**.
- For **Democrats** who are opposed to cutting IRA, they need to **be vigilant and be ready to challenge**.
- Both **House and Senate Republicans** will need to **align** to **protect provisions from Byrd Rule** challenges.
- **Byrd Rule is word by word and line by line.** Defensive efforts should be focused on monitoring the text that we have access to on a word by word basis.
- If the **challenge is successful**, they **do not get to rewrite the bill** (can lead to some awkward sentences).
- It will likely be a **ping-pong conference**.
  - Challenges will be raised by Democrats. These will go to the Parliamentarian. Then the decision will be made and text will remain the same or be struck.



# The Byrd Rule Test

Section 313(b)(2) of the Congressional Budget Act outlines provisions that would not be considered extraneous under the Byrd Rule for Senate-originated provisions that the Chair and Ranking Member of the Senate Committee on the Budget and the Chair and Ranking Member of the reporting Committee certify meets one or more of the following criteria:

## A PROVISION WILL NOT BE CONSIDERED EXTRANEOUS IF:

✓	The provision mitigates direct affects that are clearly attributable to a provision changing outlays or revenue, and both provisions together produce a net reduction in the deficit.
✓	The provision will result in a substantial reduction in outlays or a substantial increase in revenue during fiscal years after the fiscal years covered by the reconciliation bill.
✓	The provision will likely reduce outlays or increase revenue based on actions that are not currently projected by the Congressional Budget Office for scorekeeping purposes.
✓	The provision will likely produce a significant reduction in outlays or increase in revenue, but due to insufficient data such effects cannot be reliably estimated.

Section 313(b)(1) of the Congressional Budget Act sets forth six definitions of what is considered extraneous under the Byrd Rule.

## A PROVISION MAY BE CONSIDERED EXTRANEOUS IF IT:

✗	Does not produce a change in outlays or revenue.
✗	Increases outlays or decreases revenue and does not meet its (that is, the instructed committee) reconciliation instructions.
✗	Is outside the jurisdiction of the reporting committee (note, this does not apply to conference reports).
✗	Produces budgetary effects which are merely incidental to the non-budgetary components of the provision.
✗	Increases the deficit during a fiscal year after the 10-year budget window.
✗	Changes Social Security.

# What section of IRA added or updated each tax credit to the Code?

45Q: Carbon Oxide Sequestration Credit

IRA Section 13104

48C: Qualifying Advanced Energy Project Credit

IRA Section 13501

45V: Clean Hydrogen Production Credit

IRA Section 13204

45X: Manufacturing Production Credit

IRA Section 13502

45Z: Clean Fuel Production Tax Credit

IRA Section 13704

