



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

April 17, 2023

Via Email

Dear Tribal Leader:

As the Department of the Treasury's Point of Contact for Tribal Consultation, I invite you to attend a Tribal consultation on proposed State and Local Fiscal Recovery Funds (SLFRF) and Capital Projects Fund (CPF) Supplementary Broadband Guidance for Tribal governments. The consultation will be held **Wednesday, May 17, 2023, from 3:00 – 5:00 p.m. Eastern Time.** [You may register here for the consultation.](#)

The American Rescue Plan Act of 2021 (ARPA) established the [Coronavirus State and Local Fiscal Recovery Funds \(SLFRF\)](#) and reserved \$20 billion of the total appropriation for eligible Tribal governments. The SLFRF provides Tribal governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger and more equitable economy as the country recovers. Recipients may use SLFRF funds to replace lost public sector revenue for the provision of government services, respond to the public health and negative economic impacts of the pandemic, provide premium pay for essential workers, and invest in water, sewer, and broadband infrastructure.

In 2021, Treasury hosted numerous Tribal consultations on the SLFRF on the national and regional level to receive feedback from Tribal governments on the allocation methodology, eligible uses for the program, and reporting and compliance issues. The input and recommendations were considered when developing the [Final Rule](#).

ARPA also established the Coronavirus [Capital Projects Fund \(CPF\)](#) and provides \$100 million for Tribal governments to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to COVID-19. CPF addresses many challenges laid bare by the pandemic, especially in Tribal communities, helping to ensure that all communities have access to the high-quality modern infrastructure, including broadband, needed to access critical services. In accordance with the statute, each eligible Tribal government received an allocation of \$167,504. Tribal governments must have submitted a CPF application by October 14, 2022, to participate in the program.

Treasury held a [Tribal consultation](#) on April 13, 2021 to receive input from Tribal governments on CPF program guidelines, allocation methodology, and eligible uses. Most recently, Treasury held a Tribal consultation on January 17, 2023, to receive input from Tribal governments on reporting requirements.

As provided for in each SLFRF and CPF award agreement, the Uniform Guidance (also known generally as 2 CFR 200) applies to all uses of funds made available under those awards unless provided otherwise by Treasury. In response to questions from recipients and internet service providers, Treasury is proposing to issue this [supplementary guidance](#) regarding the application

of Uniform Guidance rules to broadband infrastructure projects carried out under the SLFRF or CPF. This proposed guidance does not apply to non-broadband infrastructure projects (including both digital connectivity technology (e.g., tablets, laptops) and multi-purpose community centers). Therefore, this consultation only impacts Tribes approved to or planning to use Treasury funds for broadband infrastructure.

Treasury has separately requested comments from the state and local government recipients of the CPF and SLFRF and others regarding proposed supplementary guidance on broadband projects that would apply to non-Tribal recipients. Treasury recognizes that Tribes face different circumstances from other recipients and for this reason the final guidance adopted for Tribes may differ from the guidance that is adopted for non-Tribal recipients. Treasury is holding this Tribal consultation to ensure it has the perspective of Tribal leaders before promulgating the Tribal guidance.

Specifically, we hope to receive your input on the following questions:

1. Treasury is proposing not to treat income generated by broadband infrastructure as program income. Specifically, if an internet service provider (ISP) is characterized as a subrecipient, income generated by the ISP from a subaward will not be considered program income, and the ISP may use such income without restriction. If an ISP is characterized as a contractor, a Tribe may agree to permit the ISP to retain and use income generated from broadband infrastructure the ISP installs without restriction provided that [such an agreement][the contract] is consistent with the Uniform Guidance provisions on procurement. What comments, questions, or concerns does your Tribe have to further clarify this proposed policy?
2. Treasury is also proposing that ISPs that receive fixed amount subawards do not have to comply with procurement practices and cost principles contained in the Uniform Guidance. What comments, questions, or concerns does your Tribe have to further clarify this proposed policy?
3. Treasury is proposing to clarify that recipients may provide that title to real property or equipment acquired or improved under a Treasury award will vest in the ISP subject to certain conditions as described in the supplementary guidance. What comments, questions, or concerns does your Tribe have to further clarify this proposed policy?
4. What comments, questions, or concerns does your Tribe have about the overall proposed policy, and what else should Treasury include in the proposal to incorporate the Tribal perspective?

We respectfully request that each Tribal government register one primary leader or designee to provide comments. All others are welcome to register as listen-only participants. Please note that each consultation can host 500 participants. The deadline to submit written comments is Friday, June 16, 2023 at 11:59 p.m. Alaska Time. Written comments should be sent to tribal.consult@treasury.gov.

Consultations are off the record and not for press purposes.

[Register here for the Wednesday, May 17, 2023, 3:00 p.m. ET session.](#)

If you have any questions, please email tribal.consult@treasury.gov. We look forward to hearing your feedback during this consultation to ensure Tribal governments and communities are integrated into the work of our department.

Sincerely,

Chief Lynn Malerba
Treasurer of the United States
Treasury Point of Contact for Tribal Consultation
U.S. Department of the Treasury