



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

August 10, 2023

via Email

Dear Tribal Leader:

As the Point of Contact for Tribal Consultation for the U.S. Department of the Treasury (Treasury), I invite you to a consultation on the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Interim Final Rule (IFR). The consultation will be held virtually on Tuesday, September 12, 2023, from 1 p.m. – 4 p.m. [You may register for the consultation here.](#)

Background

The [Coronavirus State and Local Fiscal Recovery Funds](#), a part of the American Rescue Plan, allocates \$20 billion for Tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency. In December 2022, Congress amended the SLFRF program through the Consolidated Appropriations Act, 2023, providing additional flexibility for recipients to use SLFRF funds to respond to natural disasters, build critical infrastructure, and support community development. The existing eligible uses, as discussed in the 2022 [Final Rule](#), remain unchanged. Recipients may continue to use SLFRF funds in alignment with the 2022 [Final Rule](#).

Treasury issued an [Interim Final Rule \(IFR\)](#) implementing the amendments to the SLFRF program. Treasury also published a [user-friendly overview](#) of many of the major provisions of the IFR. The IFR provides the features below.

Emergency Relief from Natural Disasters

The IFR provides a framework for using SLFRF funds to provide emergency relief from natural disasters or their negative economic impacts. The IFR defines “natural disaster” and provides a standard for providing emergency relief from natural disasters, using a two-step process. Recipients must first identify a natural disaster that has occurred or is expected to occur imminently, or a natural disaster that is anticipated to occur in the future, and then identify emergency relief that responds to the physical or negative economic impacts, or potential physical or negative economic impacts, of the natural disaster. The emergency relief must be related and reasonably proportional to the impact identified.

Surface Transportation Projects

The IFR provides a framework for using SLFRF funds for projects that are eligible under 26 surface transportation programs specified in the 2023 CAA (Surface Transportation



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projects). This eligible use category is broken out into three pathways. Pathway One outlines how recipients may use SLFRF funds for projects receiving funding from the Department of Transportation (DOT). Pathway Two outlines how recipients may use SLFRF funds for projects that are not receiving funding from DOT. Pathway Three outlines how recipients may use SLFRF funds to satisfy non-federal share requirements for certain Surface Transportation projects or to repay a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan. The requirements of titles 23, 40, and 49 of the U.S. code generally apply to this eligible use category.

Title I Projects

The IFR outlines how recipients may use SLFRF funds for activities that are eligible under section 105(a) of the Housing and Community Development Act of 1974 (Title I projects), which are the activities eligible under the Community Development Block Grant and Indian Community Development Block Grant (ICDBG) programs. The eligible activities under the Title I projects eligible use category are broad and enable recipients to undertake a wide range of projects. The requirements of title I of the Housing and Community Development Act of 1974 generally apply to this eligible use category.

Interim Final Rule Effective Date and Timeline for Use of Funds

The IFR was submitted for publication on August 9, 2023 and will become effective when published. Recipients may use SLFRF funds for the new eligible uses for costs incurred beginning December 29, 2022. Consistent with the existing eligible uses, recipients must obligate SLFRF funds for the new eligible uses by December 31, 2024. Recipients must expend SLFRF funds obligated to provide emergency relief from natural disasters by December 31, 2026. Recipients must expend SLFRF funds obligated for Surface Transportation projects and Title I projects by September 30, 2026.

Pursuant to Executive Order 13175, President Biden's Presidential Memorandum for Tribal Consultation and Strengthening Nation-to-Nation Relationships, and Treasury's Action Plan for Tribal Consultation and Collaboration, Treasury is commencing consultation to engage Tribal governments on Treasury's implementation of the amendments to the SLFRF program made by the Consolidated Appropriations Act, 2023.

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

1. The IFR provides a framework for using SLFRF funds to provide emergency relief from natural disasters. Recipients must first identify a natural disaster that has occurred or is expected to occur imminently, or a natural disaster that is anticipated to occur in the future, and then identify emergency relief that



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responds to the physical or negative economic impacts, or potential physical or negative economic impacts of the natural disaster.

- a. In identifying a natural disaster, does your Tribe have any comments, questions, or concerns with the definition of “natural disaster” provided in the IFR to incorporate the Tribal perspective?
 - b. The IFR provides that, to provide emergency relief from a natural disaster, the natural disaster must be (or have been) the subject of an emergency declaration or designation applicable to the recipient’s geography and jurisdiction. An emergency declaration by a Tribal government satisfies this requirement. Does your Tribe have any questions, comments, or concerns with this approach?
 - c. The IFR provides a non-exhaustive list of eligible emergency relief from a declared or designated natural disaster that has occurred or is expected to occur imminently, and also provides for recipients to provide emergency relief in the form of mitigation activities to lessen or avert the threat of a future natural disaster. Are there uses identified in this non-exhaustive list your Tribe has questions, comments, or concerns about? Are there uses not identified in this non-exhaustive list your Tribe would like to see included?
2. The IFR specifies three pathways for using SLFRF funding for Surface Transportation projects: (1) Outlines how recipients may use SLFRF funds for projects receiving funding from DOT, (2) Outlines how recipients may use SLFRF funds for projects that are not receiving funding from DOT, and (3) Outlines how recipients may use SLFRF funds to satisfy non-federal share requirements for certain Surface Transportation projects or to repay a TIFIA loan.
 - a. What questions, comments, or concerns does your Tribe have regarding any of these three approaches?
 3. Recipients may use SLFRF funds for Title I projects, which include ICDBG projects, subject to requirements and limitations.
 - a. What questions, comments, or concerns does your Tribe have regarding this use of funds, including the Primary Objective and other Title I requirements?
 4. What comments, questions, or concerns does your Tribe have about the IFR that may have not yet been covered and what else should Treasury include in the final rule to incorporate the Tribal perspective?



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[Register here for the consultation.](#)

We respectfully request that each Tribe register one person to participate in the consultation. All others are welcome to register as listen-only participants.

Please note that consultations are off the record and not for press purposes.

Treasury will send out an agenda and a list of registered speakers before the date of the consultation.

The deadline to submit written comments is Friday, October 13, 2023, at 11:59 p.m. AKT. Written comments should be sent to tribal.consult@treasury.gov.

We hope that you will be able to join us for this important discussion and value your participation.

Sincerely,

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