

U.S. DEPARTMENT OF THE TREASURY

# Overview of the State and Local Fiscal Recovery Funds 2023 Interim Final Rule

August 2023

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# Housekeeping

## GETTING STARTED

Before we begin, please have the following documents available:

- Overview of the 2022 Final Rule
- 2022 Final Rule Frequently Asked Questions
- Overview of the 2023 Interim Final Rule
- 2023 Interim Final Rule

Links to each of these documents are available in the announcement email and in the meeting invitation



# AGENDA

## Session Overview

### Discussion of eligible uses

Emergency Relief from Natural Disasters

Surface Transportation projects

Title I projects

### Summary

### Public Comment Period Overview

### Q&A

*Generally, 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.*



# AGENDA

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Discussion of eligible uses

**Emergency Relief from Natural Disasters**

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Q&A



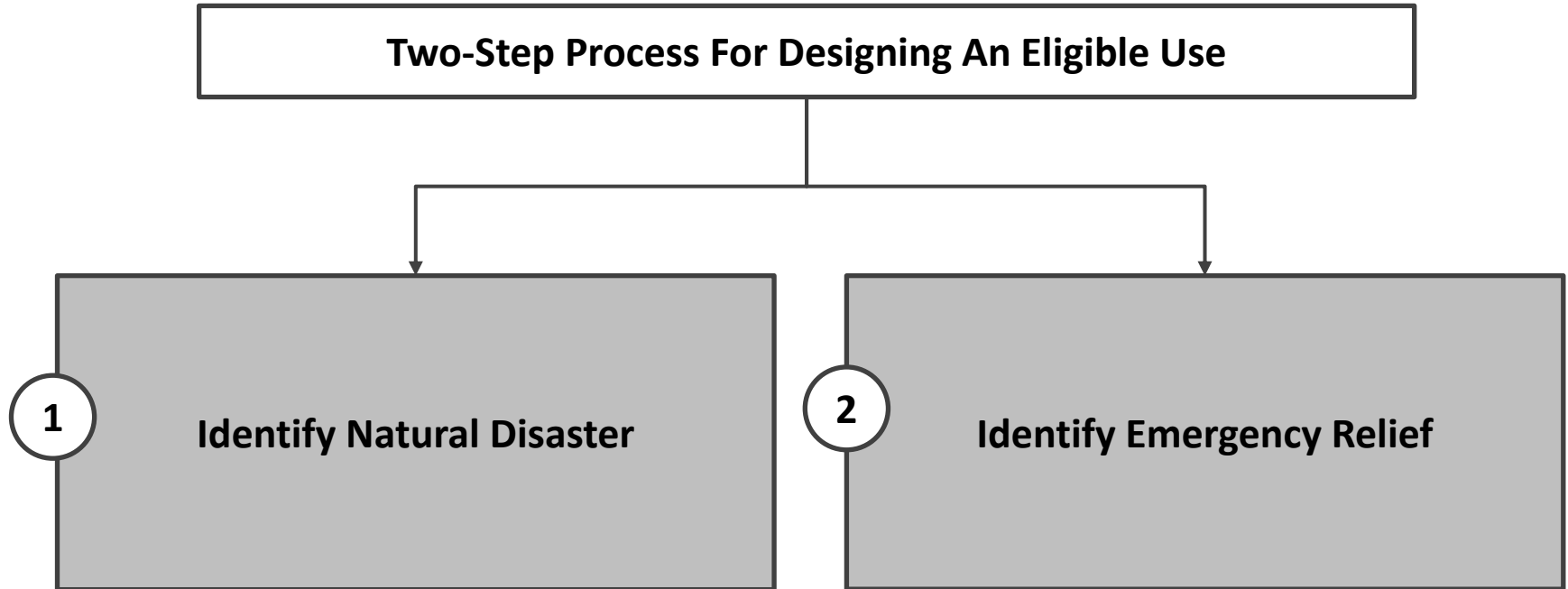
## Emergency Relief from Natural Disasters - Summary

**In this section you will learn the following:**

1. Newly available uses under the Emergency Relief from Natural Disasters eligible use category
2. The two-step process for identifying an eligible use



# Emergency Relief from Natural Disasters - Overview



# Emergency Relief from Natural Disasters - Overview

## Two-Step Process For Designing An Eligible Use

1

### Identify Natural Disaster

#### Defining a natural disaster

*Natural disaster is defined as a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, or fire, in each case attributable to natural causes, that causes or may cause substantial damage, injury, or imminent threat to civilian property or persons. A natural disaster may also include another type of natural catastrophe, attributable to natural causes, that causes, or may cause, substantial damage, injury, or imminent threat to civilian property or persons.*

# Emergency Relief from Natural Disasters - Overview

## Two-Step Process For Designing An Eligible Use

**2**

### Identify Emergency Relief

#### Identify emergency relief:

- Assistance needed to save lives and to protect property and public health and safety, or to lessen or avert the threat of catastrophe
- Responds to the physical or negative economic impacts, or potential physical or negative economic impacts, of a natural disaster
- Is related and reasonably proportional to the impact identified

## Two Scenarios For Providing Emergency Relief

**A**

### Natural Disaster Has Occurred Or Is Expected To Occur Imminently

Assistance needed to save lives and to protect property and public health and safety

**B**

### Natural Disaster Is Threatened To Occur In The Future

Assistance needed to lessen or avert the threat of catastrophe



# Emergency Relief from Natural Disasters

All emergency relief must be related and reasonably proportional

## A Natural Disaster Has Occurred Or is Expected To Occur Imminently

### 1 Identify Natural Disaster

**Event meets the definition of natural disaster and is, or was, the subject of a declaration or designation in the form of:**

- Stafford Act declaration
- Emergency declaration by the Governor of a state
- Emergency declaration by a Tribal government
- Designation of an event as a natural disaster by the chief executive of the recipient government

### 2 Identify Emergency Relief

**Enumerated eligible uses:**

- Temporary emergency housing
- Food assistance
- Financial assistance for lost wages
- Other immediate needs
  - Emergency protective measures
  - Debris removal
  - Public infrastructure repair
  - Increased operational costs
  - Cash assistance
  - Home repairs

# Emergency Relief from Natural Disasters

All emergency relief must be related and reasonably proportional

## B Natural Disaster Is Threatened to Occur in the Future

### 1 Identify Natural Disaster

- Document evidence of historical patterns or predictions of natural disasters that reasonably demonstrate the likelihood of future occurrence of a natural disaster

### 2 Identify Emergency Relief

- Identify emergency relief that lessens or averts the threat of a natural disaster and its potential physical or negative economic impacts
- Enumerated eligible uses: mitigation activities

# Emergency Relief from Natural Disasters

All emergency relief must be related and reasonably proportional

## B Natural Disaster Is Threatened to Occur in the Future

## 2 Identify Emergency Relief

### Mitigation Activities

- Mitigation activities may be:
  - Stand-alone projects that reduce or eliminate potential impacts of the threat of a natural disaster
  - Incorporated into repair or reconstruction projects that address the impacts of a natural disaster


### Written Justification

- For **mitigation activities with capital expenditures exceeding \$1 million**, recipients (except for Tribal governments) **must complete a Written Justification:**
  - Include description of emergency relief and threat or impact to be addressed
  - Explain why a capital expenditure is appropriate
  - Compare proposed expenditure against alternatives

## Emergency Relief from Natural Disasters - Overview

### Duplication of Benefits

- If a recipient uses SLFRF funds to provide assistance for losses resulting from a natural disaster that is the subject of a Stafford Act declaration, the Stafford Act's prohibition on duplication of benefits applies. *See* 5 U.S.C. 5155(a).



Recipients may not provide financial assistance to a person, business concern, or other entity with respect to disaster losses for which the beneficiary will receive financial assistance under any other program or from insurance or any other source.

\*See IFR for more details on duplication of benefits requirements



# Emergency Relief from Natural Disasters - Overview

## Timeline for Use of Funds

Funds may be used for costs incurred from **December 29, 2022**

Funds must be expended by **December 31, 2026**

Funds must be obligated by **December 31, 2024**



## Emergency Relief from Natural Disasters - Review

### Key takeaways about the Natural Disaster eligible use:

1. Eligible uses
2. The two-step process for identifying an eligible use
3. Reminder that no pre-approval is required and recipients may be able to engage in similar activities in other existing eligible use categories (ex. Revenue Loss)



# AGENDA

## Session Overview

### Discussion of eligible uses

Emergency Relief from Natural Disasters

**Surface Transportation projects**

**Title I projects**

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# Statutory Requirements for Title I and Surface Transportation Projects

<b>1</b> <b>Cap on Use of Funds</b>	<b>2</b> <b>Requirements of Other Laws</b>
<b>3</b> <b>Supplement, not Supplant</b>	<b>4</b> <b>Obligation and Expenditure Deadline</b>



# Statutory Requirements for Title I and Surface Transportation Projects

**1**

## Cap on Use of Funds

- Recipients may only use the greater of 30% of their award and \$10 million (not to exceed their total award) for Surface Transportation projects and Title I projects, taken together.



# Statutory Requirements for Title I and Surface Transportation Projects

**2**

## Requirements of Other Laws

- Titles 23, 40, and 49 of the U.S. Code, and Title I of the Housing and Community Development Act of 1974 apply to the use of funds for Surface Transportation and Title I projects, as applicable, among other cross-referenced statutory requirements.



# Statutory Requirements for Title I and Surface Transportation Projects

**3**

## Supplement, not Supplant

- Recipients using SLFRF funds for these uses must supplement, not supplant, other federal, state, territorial, Tribal, and local government funds (as applicable) that are otherwise available for these projects.



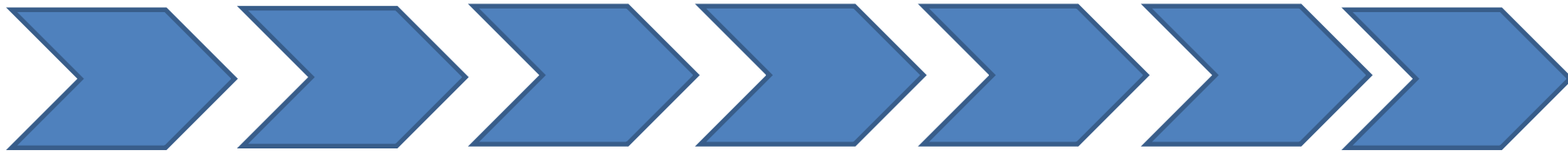
# Statutory Requirements for Title I and Surface Transportation Projects

4

## Obligation & Expenditure Deadline

Funds may be used for costs incurred from **December 29, 2022**

*Most other eligible uses -*  
Funds must be expended by December 31, 2026



Funds must be obligated by **December 31, 2024**

Funds must be expended by September 30, 2026  
**3 months earlier than most eligible uses**

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## Session Overview

### Discussion of eligible uses

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## Surface Transportation - Summary

**In this section you will learn the following:**

1. How to use funds for Surface Transportation projects
2. Applicable statutory and regulatory requirements

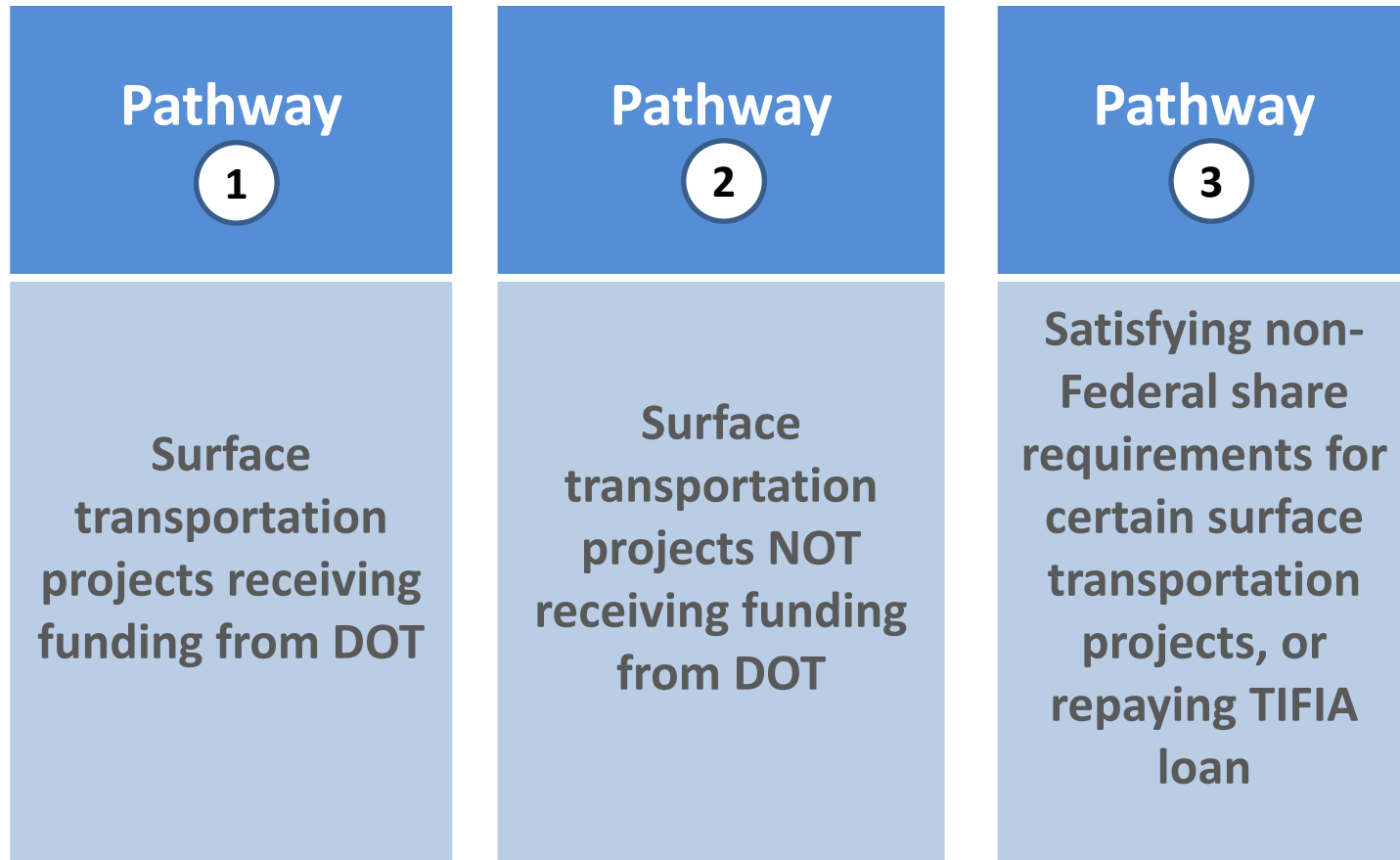


## REMINDER: Statutory Requirements for Title I and Surface Transportation Projects

<b>1</b> <b>Cap on Use of Funds</b>	<b>2</b> <b>Requirements of Other Laws</b>
<b>3</b> <b>Supplement, not Supplant</b>	<b>4</b> <b>Obligation and Expenditure Deadline</b>

## Surface Transportation - Overview

Recipients may use SLFRF funds for Surface Transportation projects, under the following pathways:





# Surface Transportation - Overview

**1**

## Pathway One: Surface Transportation Projects Receiving Funding from the Department of Transportation (DOT)

### Eligible Projects

- Recipients may use funds for projects under 26 programs administered by DOT that currently receive funding from DOT or projects that will receive funding from DOT prior to December 31, 2024.
- Recipients may:
  - **Expand Existing DOT Projects**
  - **Cover Unexpected Costs of Existing DOT Projects**
  - **Fund Projects Not Currently Approved by DOT, but will be before 12/31/24**
- The Surface Transportation project must be subject to DOT's oversight during the period that SLFRF funds are used for the project.



# Surface Transportation - Overview

## 1 Pathway One: Surface Transportation Projects Receiving Funding from DOT

### Requirements

- Recipients must consult with DOT before using funds under Pathway One.
- Recipients must comply with the requirements that would apply to the project as administered by DOT.
- For some projects, SLFRF cannot be used to fund operating expenses. Preventive maintenance is not considered an operating expense.
- For states - a project eligible under title 23 or that otherwise is subject to the requirements of title 23 must either demonstrate progress in achieving a state of good repair under 23 U.S.C. 119(e) or support the achievement of one or more performance targets under 23 U.S.C. 150.

## Surface Transportation Projects Are Eligible Under These Programs within Pathway One

- ✓ Infra Grants
- ✓ National Highway Performance Program (NHPP)
- ✓ Bridge Investment Program (BIP)
- ✓ Surface Transportation Block Grant Program (STBG)
- ✓ Highway Safety Improvement Program (HSIP)
- ✓ Congestion Mitigation and Air Quality Improvement Program (CMAQ)
- ✓ Charging and Fueling Infrastructure Discretionary Grant Program (CFI Program)
- ✓ Territorial and Puerto Rico Highway Program
- ✓ National Highway Freight Program (NHFP)
- ✓ Rural Surface Transportation Grant Program
- ✓ Carbon Reduction Program (CRP)
- ✓ Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT)
- ✓ Tribal Transportation Program (TTP)
- ✓ Federal Lands Transportation Program (FLTTP)
- ✓ Federal Lands Access Program (FLAP)
- ✓ Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program
- ✓ Transportation Infrastructure Finance and Innovation Act (TIFIA)
- ✓ Urbanized Formula Grants
- ✓ Fixed Guideway Capital Investment Grant
- ✓ Formula Grants for Rural Areas
- ✓ State of Good Repair Grants
- ✓ Grants for Buses and Bus Facilities
- ✓ National culvert removal, replacement, and restoration grant program (Culvert AOP Program)
- ✓ Bridge Replacement, Rehabilitation, Preservation, Protection, and Construction Program (Bridge Formula Program or BFP)
- ✓ Activities to carry out metropolitan transportation planning
- ✓ Projects that further the completion of a designated route of the Appalachian Development Highway System (ADHS)



## Surface Transportation - Overview

2

### Pathway Two: Using SLFRF for Surface Transportation Projects Not Receiving Funding from DOT

There are two ways to use SLFRF funds within Pathway Two:

#### Streamlined Framework

- Recipients are not required to obtain Treasury approval prior to using funds on Surface Transportation projects
- NEPA environmental reviews are not required

#### Non-Streamlined Framework

- This pathway is for projects outside of the streamlined framework
- Treasury will design a process for recipients seeking to fund these projects
- Recipients must satisfy NEPA environmental review requirements'
- Treasury will design a process for recipients seeking to fund these projects; Treasury approval will be required

## Surface Transportation - Overview

2

### Pathway Two: Using SLFRF for Surface Transportation Projects Not Receiving Funding from DOT

#### Eligible Projects: Streamlined Framework

- **Qualifies as a project under the RAISE program and satisfies the following criteria:**
  - No more than \$10 million in SLFRF is contributed to a project
  - The entire project scope is limited to the actions or activities deemed by DOT as meeting the criteria for NEPA Categorical Exclusion under 23 CFR 771.116(c)(1)-(22), 771.117(c)(1)-(30), and 771.118(c)(1)-(16) and does not involve “unusual circumstances”

The 2023 RAISE Grants Notice of Funding Opportunity can be viewed at <https://www.transportation.gov/RAISEgrants/raise-nofo>



## Surface Transportation - Overview

**2**

### Pathway Two: Using SLFRF for Surface Transportation Projects Not Receiving Funding from DOT

#### Requirements: Streamlined Framework

- Recipients generally must comply with the requirements of titles 23, 40, and 49 as described in the interim final rule and DOT's implementing regulations.
- For some programs, SLFRF cannot be used to fund operating expenses. Preventive maintenance is not considered an operating expense.
- For states –a project eligible under title 23 or that otherwise is subject to the requirements of title 23 must either demonstrate progress in achieving a state of good repair under 23 U.S.C. 119(e) or support the achievement of one or more performance targets under 23 U.S.C. 150.



## Surface Transportation - Overview

**2**

### Pathway Two: Using SLFRF for Surface Transportation Projects Not Receiving Funding from DOT

#### Non-Streamlined Framework

- If recipients wish to pursue a project within Pathway Two, but outside of the streamlined approach, they may submit a notice of intent to Treasury.
- Treasury will evaluate the projects included in these notices of intent, along with comments to this IFR, to design and implement the framework for approving these types of projects.
- Projects submitted outside the streamlined framework via this process will be subject to Treasury approval.
- The notice of intent must be submitted to [NOI-SLFRF@Treasury.gov](mailto:NOI-SLFRF@Treasury.gov) and is due 30 calendar days after the end of the IFR comment period.
- For an example of what an ideal notice of intent would include, please see the 2023 IFR section titled “Pathway Two: Notice of Intent for Projects Outside Streamlined Framework.”



## Surface Transportation - Overview

**3**

### Pathway Three: Using SLFRF to Satisfy Non-Federal Share Requirements for Certain Transportation Projects

#### Eligible Projects

- Can be used to repay a TIFIA loan
- Can be used to satisfy non-federal cost share requirements under these four DOT programs:
  - INFRA Grants
  - Fixed Guideway Capital Investment Grants
  - Mega Grants
  - Projects eligible for credit assistance under the TIFIA program





## Surface Transportation - Overview

**3**

### Pathway Three: Using SLFRF to Satisfy Non-Federal Share Requirements for Certain Transportation Projects or to Repay a TIFIA Loan

#### Requirements

- Recipients must consult with DOT prior to using funds under Pathway Three.
- As with any use of funds to meet non-federal cost share requirements, the requirements associated with the project, as administered by DOT, continue to apply unless provided otherwise by DOT.

## REMINDER: Statutory Requirements for Title I and Surface Transportation Projects

1

Cap on Use of Funds

2

Requirements of Other  
Laws

3

Supplement, not  
Supplant

4

Obligation and  
Expenditure Deadline

# Reminder: Statutory Requirements for Title I and Surface Transportation Projects

## Obligation & Expenditure Deadline

Funds may be used for costs incurred from **December 29, 2022**

*Most other eligible uses -*  
Funds must be expended by December 31, 2026

Funds must be obligated by **December 31, 2024**

Funds must be expended by September 30, 2026  
**3 months earlier than most eligible uses**

## “Supplement, Not Supplant” Example

### As a reminder, recipients may not:

- De-obligate funds and replace those previously obligated funds with SLFRF funds under this eligible use category or
- Use SLFRF to replace federal or non-federal funds identified in a federal commitment, such as an award agreement.

### Consider a municipal road project totaling \$30 million:

- The recipient has **not yet entered into an award agreement** with DOT but is expecting that federal funds from DOT will make up \$25 million of the project and plan on allocating local sources to satisfy the other \$5 million required to satisfy cost-share requirements.
- **Since the recipient has not yet entered into an award agreement with DOT, the recipient may choose to alter the funding mixture to include SLFRF funding.**
- If the recipient had entered into an award agreement with DOT, then the funds for the project may not be replaced with SLFRF funds.
  - In this scenario, recipients would be able to use SLFRF funds to expand the scope of the project or to cover unexpected costs, after consulting with DOT.



## REMINDER: Other Resources

- For more information, please see the following materials:
  - The 2023 Interim Final Rule
  - Overview of the 2023 Interim Final Rule
- Reminder – revenue loss funds may be used to provide government services, which may include activities that are eligible under the Surface Transportation eligible use category



## Surface Transportation - Review

### Key takeaways about the Surface Transportation eligible use:

1. Reviewed the three pathways for transportation projects
2. Highlighted applicable requirements
3. Reviewed key difference from existing eligible uses



# AGENDA

## Session Overview

### Discussion of eligible uses

Emergency Relief from Natural Disasters

Surface Transportation projects

**Title I projects**

## Summary

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## Title I - Summary

### In this section you will learn the following:

1. How to use funds for Title I projects, which are those eligible in the Community Development Block Grant (CDBG) or Indian Community Development Block Grant (ICDBG) programs available through the Department of Housing and Urban Development (HUD)
2. Program administration
3. Key differences from existing eligible uses and limitations on use





# Title I - Overview

## Eligible Uses: Illustrative List of Eligible Activities under CDBG and ICDBG

*Recipients may undertake projects under this eligible use that are eligible activities under the CDBG and ICDBG programs, as outlined in section 105(a) of Title I of the Housing and Community Development Act of 1974*

- ✓ Acquisition of certain real property for a public purpose, subject to certain limitations
- ✓ Disposition of certain property, subject to certain limitations and rules
- ✓ Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, clearance and remediation activities
- ✓ Public services, subject to the limitation as discussed
- ✓ Interim assistance where immediate action is required for certain activities such as street repair, and costs to complete an urban renewal project under Title I
- ✓ Relocation payments for relocated families, businesses, nonprofit organizations, and farm operations, under certain conditions
- ✓ Payments to housing owners for loss of certain rental income
- ✓ Certain housing services
- ✓ Acquisition, construction, reconstruction, rehabilitation, or installation of privately owned utilities
- ✓ Rehabilitation and reconstruction of housing, conversion of structures to housing, or construction of certain housing
- ✓ Homeownership assistance
- ✓ Technical assistance to entities to increase capacity to carry out CDBG-eligible projects
- ✓ Assistance to certain institutions of higher education to carry out eligible activities
- ✓ Administration activities including general management, oversight, and coordination costs, fair housing activities, indirect costs, and submission of applications for federal programs
- ✓ Planning activities including the development of plans and studies, policy planning, and management and capacity building activities; and
- ✓ Satisfying the non-federal share requirements of a federal financial assistance program in support of activities that would be eligible under the CDBG and ICDBG programs.



# Title I - Overview

## Applicable Requirements

*Recipients using SLFRF funds for Title I projects generally must comply with Title I requirements and the associated regulations except as provided otherwise in the IFR*

### For all recipients

- **The Primary Objective:** Direct at least 70% of SLFRF funds used for Title I projects to projects that principally benefit low- and moderate-income persons.
- **Public Services Cap:** Not more than 15% of SLFRF funds used for Title I projects may be spent under the “public services” category of eligible activities.
- **Planning and Administrative Costs Cap:** Not more than 20% of SLFRF funds used for Title I projects may be spent on planning and administrative costs.
- **BEAD Program Requirements:** requirements of the Broadband Equity, Access, and Deployment (BEAD) program, as outlined in section 60102 of the Infrastructure Investment and Jobs Act, apply.
- **Environmental Review Requirements:** Satisfy NEPA environmental review requirements

### For non-Tribal governments only

- **CDBG National Objectives:** Each project undertaken under the Title I eligible use must satisfy at least one CDBG National Objective.
- **Labor Standards:** Prevailing wage rate requirements in accordance with the Davis-Bacon Act and other labor standards applied by HUD to construction work under Title I apply.



# Title I - Overview

## Pre-Approval Requirements

- Recipients generally must comply with environmental review requirements in HUD statutes and regulations, submit a project-level certification to Treasury, and receive Treasury approval prior to using SLFRF funds for Title I projects.
- **Recipients are not required to submit certifications or obtain Treasury approval for Title I projects that satisfy either of the criteria below.** Additionally, they may begin using SLFRF funds for the project right away:
  - **Exempt Activities:** as contemplated by 24 CFR 58.34(a).
  - **Categorically Excluded Activities Not Subject to 24 CFR 58.5,** as contemplated by 24 CFR 58.35(b), provided that the circumstances described in 24 CFR 58.35(c) are not present.



## REMINDER: Statutory Requirements for Title I and Surface Transportation Projects

1

Cap on Use of Funds

2

Requirements of Other  
Laws

3

Supplement, not  
Supplant

4

Obligation and  
Expenditure Deadline

## “Supplement, Not Supplant” Example

### As a reminder, recipients may not:

- De-obligate funds and replace those previously obligated funds with SLFRF funds under this eligible use category or
- Use SLFRF to replace federal or non-federal funds identified in a federal commitment, such as an award agreement.

### Consider an ongoing project for the construction of a community garden:

- If a recipient had already obligated non-SLFRF funds to the project, the recipient could not terminate or renegotiate existing contracts for the construction of that garden in order to use SLFRF funds to replace the previously obligated funds.
- SLFRF funds could be used to:
  - Provide additional resources to that project / expand the scope of the project
  - Undertake a separate, eligible project (e.g., another community garden project)



# Reminder: Statutory Requirements for Title I and Surface Transportation Projects

## Obligation & Expenditure Deadline

Funds may be used for costs incurred from **December 29, 2022**

*Most other eligible uses -*  
Funds must be expended by December 31, 2026

Funds must be obligated by **December 31, 2024**

Funds must be expended by September 30, 2026  
**3 months earlier than most eligible uses**

## REMINDER: Other Resources

- For more information, please see the following materials:
  - The 2023 Interim Final Rule
  - Overview of the 2023 Interim Final Rule
- Reminder – recipients are already able to undertake many eligible Title I activities under revenue loss and the public health and negative economic impacts eligible use.



## Title I - Review

### Key takeaways about the Title I eligible use:

1. Reviewed how to use funds for projects eligible under the CDBG program
2. Highlighted applicable requirements
3. Reviewed key difference from existing eligible uses





# AGENDA

Session Overview

Discussion of eligible uses

- Emergency Relief from Natural Disasters

- Surface Transportation projects

- Title I projects

**Summary**

Public Comment Period Overview

Q&A



# AGENDA

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### **Public Comment Period Overview**

## Q&A



# Overview of Public Comment Period Process

Please submit comments electronically through the Federal eRulemaking Portal:

<http://www.regulations.gov>

Comments also can be mailed to:

Office of Recovery Programs  
Department of the Treasury  
1500 Pennsylvania Avenue  
Washington, DC 20220

All comments should be captioned “Coronavirus State and Local Fiscal Recovery Funds 2023 Interim Final Rule Comments.” Please include your:

- Name
- Organization affiliation
- Address
- Email address
- Telephone number

Outside of the public comment process, Tribal governments may provide feedback during the upcoming Tribal consultation on the SLFRF IFR on September 12, 2023 at 1:00 PM ET.



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- Emergency Relief from Natural Disasters

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- Title I projects

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**Q&A**

# Thank you.



**For More Information about SLFRF, including a link to the 2023 Interim Final Rule:**

Please visit Treasury's State & Local website at [www.treasury.gov/SLFRP](http://www.treasury.gov/SLFRP)

**For Media Inquiries:**

Please contact the U.S. Treasury Press Office at (202) 622-2960

**For General Inquiries:**

Please email [SLFRF@treasury.gov](mailto:SLFRF@treasury.gov)

