

# Summary of Tribal Consultations Relating to the Coronavirus State and Local Fiscal Recovery Funds

## Overview

Section 602 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021, established the Coronavirus State Fiscal Recovery Fund (FRF) and reserved \$20 billion of the total appropriation for eligible Tribal governments. Section 602(b)(2)(B) of the Social Security Act provides that \$1 billion shall be equally allocated to each of the eligible Tribal governments and the remaining \$19 billion shall be allocated in a manner determined by the Secretary of the Treasury. In accordance with Treasury's Tribal consultation policy, Treasury solicited letters and held five Tribal consultations between March 31, 2021, and April 5, 2021, to gather perspectives from Tribal leaders on allocation methodologies, the use of funds, and administrative functions such as reporting and compliance. More than 1,200 attendees from all regions of the country joined the consultations.

Tribal nations in the United States operate as sovereign nations with vastly different structures, economies, and populations. The feedback delivered by 85 Tribal leaders during these consultations alongside 150 letters from Indian Country reflect this diversity. Treasury appreciates the many perspectives brought to the consultations.

## Feedback from Tribal leaders

Commenters highlighted the importance of the FRF for Tribal governments' ability to continue offering essential services in communities that were among the hardest hit by the pandemic. They largely noted that expediency in disbursing FRF would allow Tribes to address the revenue gap created by the pandemic's economic impact and to continue to fight the spread of COVID-19 in their communities.

With reference to how to allocate the \$19 billion, many Tribal leaders provided their views on which factors should be considered and how these factors could be integrated into an allocation formula.

Tribal leaders broadly affirmed the importance of population levels as one factor in the allocation formula. There was overwhelming support for using self-certified enrollment data. Some commenters, however, argued for including non-enrolled residents on Tribal lands and noted the variation in the correlation between the size of a Tribe's enrolled membership and its fiscal responsibilities.

Commenters also discussed a variety of metrics that might address economic distress within Tribal communities. While there was a diversity of recommendations to this regard, a considerable number of commenters noted that pre-pandemic employment, as was used in the Coronavirus Relief Fund allocations to Tribes, was likely correlated with the negative economic

impact of the pandemic. The use of Tribal expenditures for the allocation formula was also discussed.

Many of the other ideas shared a common challenge: the data gathered for particular Tribes varies considerably. For example, consideration of metrics such as the poverty rate or household income levels for Tribal members were suggested, but commenters noted that this information may not be collected across all Tribes. Similarly, the use of COVID-19 incidence rates was proposed, but commenters noted that these rates may not be tracked consistently by Tribes.

For the distribution of FRF, some commenters suggested incorporating Tribal land size as formula factor for the allocations. Others raised concerns about how particular approaches may disadvantage Tribes of particular sizes or geographies. For example, commenters suggested that a Tribe's land base as a metric might address the particular challenges of geographically large Tribes, but others were concerned how this might impact Tribes without a land base at all.

#### *Other allocation design factors*

Reflecting the complexities in weighting the relative needs of Tribal governments according to an allocation formula, commenters requested flexibility and safeguards for Tribal governments:

- Commenters favored wide latitude for sovereign nations to determine the best use of funds to meet the goals of the American Rescue Plan within their communities.
- Commenters further requested that indirect administrative costs be permitted as an eligible use of funds.
- Tribal leaders requested clear but non-exhaustive examples and guidance at the time funds are distributed.
- Commenters also largely favored establishing a baseline to ensure that no Tribes lost out on funding necessary to continue essential operations. Less common were suggestions to establish an upper cap on disbursements.