



NACo OVERVIEW:

U.S. TREASURY'S INTERIM FINAL RULE FOR ARPA FLEXIBILITY: *TITLE I PROJECTS*

SEPTEMBER 6, 2023

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*Scan the QR code to access
NACo's analysis of the new
U.S. Treasury Interim Final Rule*

TREASURY RESOURCES

The screenshot shows the U.S. Department of the Treasury website. The header includes the Treasury logo and the text "U.S. DEPARTMENT OF THE TREASURY". Below the header is a navigation bar with links for "ABOUT TREASURY", "POLICY ISSUES" (highlighted), "DATA", "SERVICES", and "NEWS", along with a search icon. A breadcrumb trail reads: "HOME > POLICY ISSUES > COVID19 ECONOMIC RELIEF > ASSISTANCE FOR STATE, LOCAL, AND TRIBAL GOVERNMENTS > STATE AND LOCAL FISCAL RECOVERY FUNDS".

The main content area features a "POLICY ISSUES" sidebar on the left with three categories: "COVID19 Economic Relief" (selected), "Assistance for American Families and Workers", and "Assistance for Small Businesses". Under "Assistance for State, Local, and Tribal Governments", the "State and Local Fiscal Recovery Funds" link is highlighted.

Coronavirus State and Local Fiscal Recovery Funds

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program authorized by the American Rescue Plan Act, delivers \$350 billion to state, territorial, local, and Tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency.

On the right side of the page, there are two blue buttons: "REQUEST FISCAL RECOVERY FUNDS" and "RECEIVE COVID-19 RELIEF UPDATES". Below these buttons is a list of links:

- 2023 Interim Final Rule
- Overview of the 2023 Interim Final Rule
- SLFRF Program Quick Reference
- 2022 Final Rule



Scan the QR code for U.S. Treasury's ARPA resource hub

OVERVIEW OF TREASURY'S INTERIM FINAL RULE

Treasury released the new Interim Final Rule for the bipartisan State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act that was signed into law as part of the FY 2023 omnibus package

- **Public sector revenue:** Provide general government services up to the amount of revenue loss, either using the standard allowance (up to \$10M) or Treasury's revenue loss formula
- **Public health and economic response:** Address, mitigate and respond to COVID-19 public health impacts, along with its negative economic harms
- **Premium pay for essential workers:** Offer additional compensation for workers, including the county government workforce, who bear the greatest health risks because of their service in critical sectors
- **Water, sewer and broadband infrastructure:** Invest in critical water and sewer projects (including stormwater and culverts), along with high-speed broadband infrastructure
- **Emergency Relief from Natural Disasters:** Use funds to provide emergency relief from natural disasters or the negative economic effects of natural disasters
- **Surface Transportation Infrastructure:** Invest in surface transportation infrastructure, in line with certain U.S. Department of Transportation program
- **Title I Projects:** Invest in community development in line with HUD's Community Development Block Grant Program

TOP HIGHLIGHTS OF ARPA FLEXIBILITY GUIDANCE

1. Provides information on ***additional eligible uses*** authorized under the Cornyn/Padilla amendment
2. **Does NOT alter existing eligible uses** for Recovery Funds as outlined under the 2022 Final Rule
3. Counties **may** use ARPA funds for these newly eligible uses for costs incurred **beginning Dec. 29, 2022**
4. Counties **may** use funds for mitigation activities to **lessen or avert the threat of a natural disaster** and its potential physical or negative economic impacts
5. Counties **shall obligate** funds, **including newly eligible activities, by Dec. 31, 2024**
6. Counties **shall complete** **emergency relief activities related to natural disasters** by Dec. 31, 2026
7. Counties **shall complete** **Surface Transportation projects and CDBG Title 1 projects by Sept. 30, 2026**
8. Counties **may** use Recovery Funds as the non-federal match for ***certain*** surface transportation and FEMA projects
9. Counties **may** use Recovery Funds for non-federal match for activities that would be eligible under the CDBG program

SURFACE TRANSPORTATION & TITLE I PROJECTS

Counties **may** use Recovery Funds for certain federal Surface Transportation and Title I/HUD CDBG projects. **HOWEVER**, counties **shall** comply with the following requirements:

1. **Limitation of Recovery Fund contribution towards Surface Transportation and CDBG projects:** The total amount of Recovery Funds that a county **may** use for Surface Transportation projects and CDBG-eligible projects, **combined, shall not** exceed the greater of \$10 million and 30 percent of a county's Recovery Fund allocation
2. **Supplanting funds:** Counties using Recovery Funds for Surface Transportation and CDBG projects **shall** supplement, *not supplant*, other federal, state, territorial, tribal and other local government funds otherwise available for such uses.
 - **Shall not** de-obligate county funds previously dedicated to the project(s)
 - **Shall not** replace federal or non-federal funds identified in a federal commitment
3. **Compliance with other existing laws:** Activities under this eligible use category are subject to certain other laws, including requirements under the National Environmental Policy Act (NEPA) and Title I of the Housing and Development Act
4. **Obligation and expenditure deadlines:** Counties using Recovery Funds for Surface Transportation and CDBG Title 1 projects **shall obligate funds by December 31, 2024, and expend funds by September 30, 2026**

**U.S. TREASURY
MAY DELEGATE
OVERSIGHT TO
DIFFERENT FEDERAL
AGENCIES FOR
ACTIVITIES UNDER
THIS ELIGIBLE
CATEGORY**

TITLE I/CDBG PROJECTS

Counties may use Recovery Funds for Title I projects, which are activities that are eligible under HUD's CDBG program. Counties shall comply with Title I requirements and associated regulations if used.

ELIGIBLE ACTIVITIES

- Acquisition of certain real property for a public purpose
- Disposition of certain property,
- Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, clearance and remediation activities
- 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
- 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
- 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, management and capacity building activities

TITLE I/CDBG PROJECTS

INELIGIBLE ACTIVITIES

There are a handful of activities that are not eligible under the Title 1 CDBG program and, therefore, are not an eligible use of Recovery Funds *if reporting under this category*. Please NOTE that counties may still be allowed to fund these activities under other eligible uses of Recovery Funds such as Revenue Loss.

Ineligible activities under Title I include:

- Building or portions used for the general conduct of government
- General government expenses
- Political activities
- Purchase of equipment
- Operating and maintenance expenses
- New housing construction
- Income payments

**ALTHOUGH THESE ARE INELIGIBLE
USES UNDER TITLE I CDBG,
COUNTIES MAY STILL BE ELIGIBLE
TO USE RECOVERY FUNDS FOR
THESE PURPOSES UNDER OTHER
ELIGIBLE USE CATEGORIES**

TITLE I - CDBG PROJECTS

PROJECT REQUIREMENTS

If Recovery Funds are used and reported as Title 1 CDBG Projects, counties shall generally comply with HUD CDBG Title I requirements and associated regulations, such as:

- **Primary Objective:** Direct at least 70 percent of Recovery Funds used for Title I projects to project(s) that benefit low- and moderate-income individuals
- **Public Services Cap:** No more than 15 percent of Recovery Funds shall be spent under the “public services” category
- **Planning and Administrative Costs Cap:** No more than 20 percent of SLFRF funds shall be spent on planning and administrative costs
- **BEAD Program requirements** under Section 60120 apply for broadband projects
- **NEPA environmental requirements** apply
- **CDBG National Objectives:** Each project shall satisfy at least ONE CDBG National Objective
- **Davis-Bacon Act** and other labor standards applied by HUD

TITLE I - CDBG PROJECTS

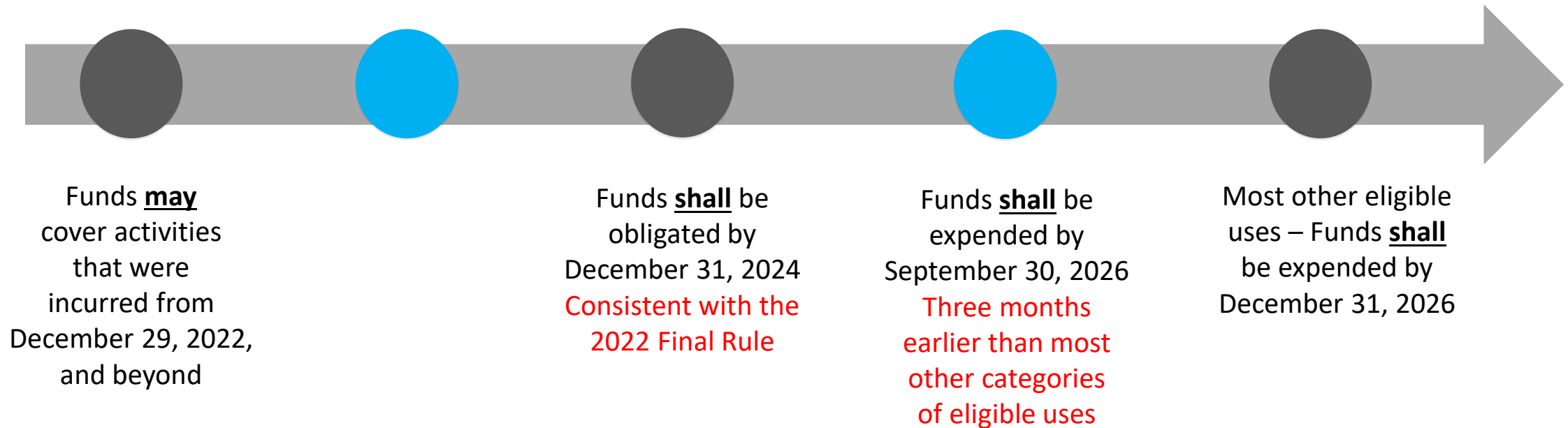
PRE-APPROVAL REQUIREMENTS

- Before implementing a Title 1 project, counties **shall**:
 - Comply with NEPA
 - Submit a project certification to the U.S. Treasury
 - Receive Treasury approval *prior to using funds* for a Title I project
- There are **some exemptions** that will not require counties to submit certifications or obtain U.S. Treasury approval for Title I projects
 - Counties must write a document demonstrating the project meets the exemptions
 - Maintain an Environmental Review Record

**HUD IS NOT OVERSEEING
THESE PROGRAMS.
COUNTIES SHALL REPORT
TITLE 1 PROJECTS
ONLY TO U.S. TREASURY**

TITLE I - CDBG PROJECTS

TIMELINE FOR USE OF FUNDS FOR TITLE 1 PROJECTS



PUBLIC COMMENTS

Mail comments to:

Office of Recovery Programs
Department of the Treasury
1500 Pennsylvania Avenue
Washington, D.C. 20220

All comments must be captioned:

*“Coronavirus State and Local Fiscal Recovery Funds
2023 Interim Final Rule Comments”*

Include your:

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



*You can submit
comments electronically
by scanning the QR code*



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