



COALITION OF LARGE TRIBES

Blackfeet Nation • Cheyenne River Sioux Tribe • Crow Nation • Eastern Shoshone Tribe
Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation • Navajo Nation • Northern Arapaho Tribe
Oglala Sioux Tribe • Rosebud Sioux Tribe • Sisseton Wahpeton Sioux Tribe
Shoshone Bannock Tribes • Spokane Tribe • Ute Indian Tribe • Walker River Paiute Tribe

May 17, 2023

Mr. Jacob Leibenluft
Chief Recovery Officer
U.S. Department of the Treasury

VIA EMAIL

Re: Urgent Request for Tribal Broadcast Clarification Regarding Rescission of Unobligated ARPA Balances

Dear Mr. Leibenluft:

On behalf of the Coalition of Large Tribes (“COLT”), a national tribal organization representing the interests of the more than 50 federally recognized Indian tribes that have reservations of 100,000 acres or more, I urge you to provide urgent clarity for Indian Country about what American Rescue Plan Act monies may be at risk if the rescissions contained in the Limit Save and Grow Act of 2023, which recently passed the House, or something like them, are enacted:

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1 **DIVISION B—SAVE TAXPAYER**
2 **DOLLARS**
3 **TITLE I—RESCISSION OF UNOB-**
4 **LIGATED CORONAVIRUS**
5 **FUNDS**

6 **SEC. 201. RESCISSION OF UNOBLIGATED CORONAVIRUS**
7 **FUNDS.**

8 The unobligated balances of amounts appropriated or
9 otherwise made available by the American Rescue Plan
10 Act of 2021 (Public Law 117–2), and by each of Public
11 Laws 116–123, 116–127, 116–136, and 116–139 and di-
12 visions M and N of Public Law 116–260, are hereby per-
13 manently rescinded.

COLT understands that “unobligated balances” refers to ARPA monies which have not yet been distributed to recipients by federal agencies, such as those for programs



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requiring complex applications like the State Small Business Credit Initiative. It is COLT’s understanding, however, that State and Local Fiscal Recovery Funds monies are not at risk because the Department has obligated the SLFRF monies by distributing the funds to tribal, state and local governments. However, we believe that Treasury’s urgent clarification on this issue would be helpful because tribes have paid very close attention to the Department’s SLFRF Final Rule and FAQs and their duty to obligate the funds by December 31, 2024. Response 4.8 in the most recent FAQs provides:

If the entirety of a project is funded with SLFRF funds, then the entire project must be an eligible use. The use of funds would be subject to the deadline on obligating funds no later than December 31, 2024 and expending funds no later than December 31, 2026. If a project is only partially funded with SLFRF funds, then the portion of the project funded must be an eligible use and the SLFRF funds must also be obligated by December 31, 2024 and expended by December 31, 2026. In either case, recipients must be able to, at a minimum, determine and report to Treasury on the amount of SLFRF funds obligated and expended and when such funds were obligated and expended.

Given the potential confusion that could arise from different references to recipients’ duties to obligate SLFRF monies and federal agencies’ duties to obligate funds by distributing them, **we request that you provide the soonest possible clarification in an Office of Tribal and Native Affairs Broadcast that tribes’ SLFRF monies are not at risk in any ARPA rescission of “unobligated balances.”** Without such clarification, we worry that tribes will act out of fear and misinformation and rush to obligate their SLFRF monies to avoid them being clawed-back, given what we are all hearing generally about bipartisan support for the rescission of unobligated pandemic relief monies. Worse still, one of few potential options for rushed recipient obligation of SLFRF funds would be to distribute the monies in per capita relief payments, which would frustrate ARPA’s purpose to provide historic investment in areas of persistent infrastructure inequity such as water, wastewater and broadband that fueled the damage the pandemic wrought in poor and rural communities like ours.

Thank you for your leadership and clarification of this vitally important issue. Your clarification will help tribes be good stewards of ARPA’s historic investment in Indian Country.

Respectfully,

Hon. Marvin Weatherwax, COLT Chairman
Councilman, Blackfeet Nation Tribal Business Council



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CC: Senate Committee on Indian Affairs, Montana, South Dakota, North Dakota, Wyoming, Idaho, Nevada, Arizona, New Mexico, Washington and Utah Congressional Delegations

United South and Eastern Tribes, Inc.

Mr. Gene Sperling, White House American Rescue Coordinator

Chief Lynn Malerba, Treasurer of the United States

Ms. Fatima Abbas, Office of Tribal and Native Affairs

Hon. Bryan Newland, Assistant Secretary, Indian Affairs