



**NCPRO**

**NC Pandemic Recovery Office**

# ARPA State Fiscal Recovery Funds

*Interagency Meeting*

November 30, 2023

# Agenda

## 1. SFRF Obligation Definition

- Overview
- Impacts on State Agencies
- Discussion
- Public Response Period

## 2. Performance Measures Update

## 3. Next Meeting - CRF Desk Review lessons learned and what it means for state agencies

## 4. Office Hours (remaining time)

A decorative background at the top of the slide features a series of overlapping, fan-shaped geometric shapes in various colors: light orange, light purple, light yellow, light green, light blue, and a darker blue. These shapes are arranged in a semi-circular pattern, creating a sense of movement and depth.

# SFRF Obligation Definition

*Stephanie McGarrah & Jon Williams*

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# Overview of SFRF Obligation Definition

- Original issue is interpreting Congress' intent in ARPA that SFRF is only **"to cover costs incurred by the State, territory, or Tribal government, by December 31, 2024"**
- What does "costs incurred" mean here, when ARPA allows expenditures through December 31 of 2026?
- In 2021 Treasury adopted an Interim Final Rule (Final in 2022) that "cost incurred" only needs to be an "Obligation" to pay under a new definition (similar to but not uniform guidance).
- That definition has now been expanded as of November 20 with a new Obligation Interim Final Rule.
- Public Comment period is open to December 20, 2023.

# Overview of SFRF Obligation Definition

<p>2021/22 SLFRF Final Rule definition of “Obligation” at 31 CFR 35.3</p>	<p>2023 new Interim Final Rule definition of “Obligation” at 31 CFR 35.3 adds a sentence, and IFR also adds interpretive guidance</p>
<p><b><i>Obligation</i> means an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.</b></p>	<p><b><i>Obligation</i> means an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment. <u>An obligation also means a requirement under federal law or regulation or provision of the award terms and conditions to which a recipient becomes subject as a result of receiving or expending funds.</u></b></p>

# Overview of SFRF Obligation Guidance

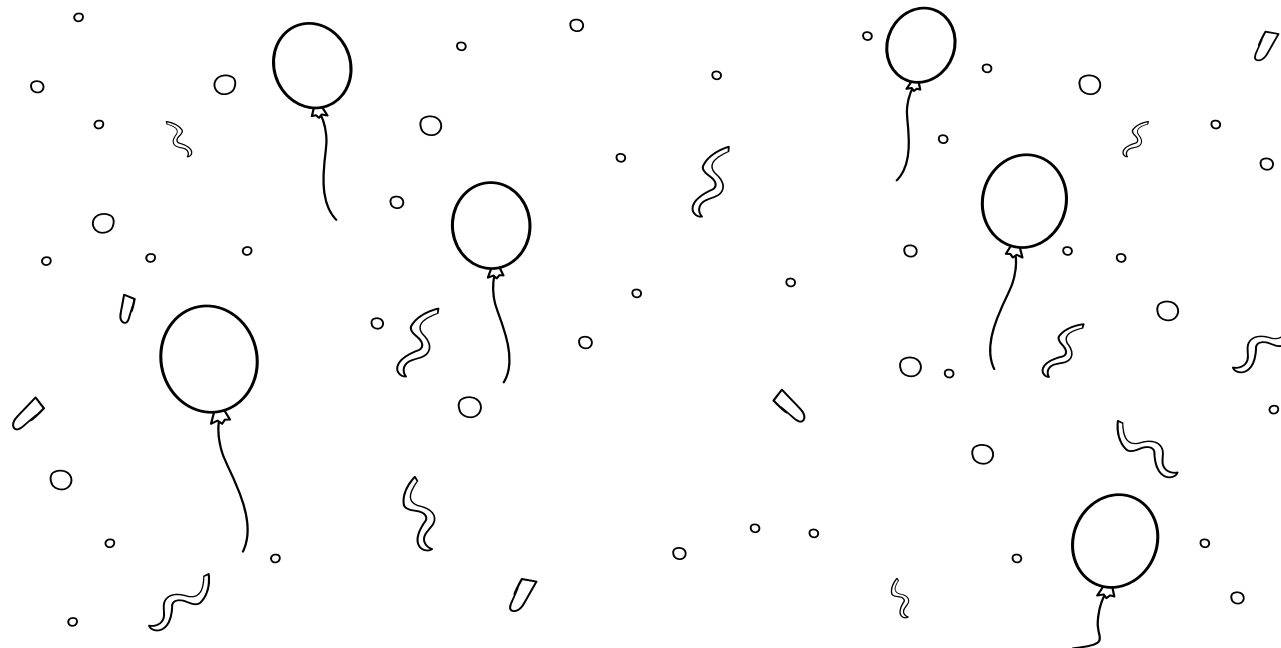
**RECIPIENTS' OWN BUDGET, APPROPRIATION, OR ALLOCATION PROCESSES ARE NOT OBLIGATIONS UNDER THE RULE'S DEFINITION!**

Treasury acknowledged broad support for this in comments but rejected it as too variable.

# Overview of SFRF Obligation Guidance

**SUBRECIPIENTS AND CONTRACTORS ARE NOT SUBJECT TO THE OBLIGATION DEADLINE ONCE THE SUBAWARD IS IN PLACE!**

**(YAY)**



# Overview of SFRF Obligation Guidance

## **2025-2026+ ADMINISTRATIVE COSTS ARE "OBLIGATIONS"**

A recipient may use SLFRF funds to cover costs related to:

1. Reporting and compliance requirements, including subrecipient monitoring
2. Single Audit costs
3. Record retention and internal control requirements
4. Property standards
5. Environmental compliance requirements
6. Civil rights and nondiscrimination requirements



# Overview of SFRF Obligation Guidance

## **CONTRACTS OR SUBAWARDS MAY BE REPLACED AFTER DECEMBER 31, 2024 ONLY IF:**

1. Recipient determines the subawardee or contractor is in default, out of business, or unable to perform
2. Mutual agreement to terminate for convenience
3. Recipient determines in good faith that there was ineligibility, impropriety, or defective process

Note: change orders after 2024 are not allowed.

[Obligation Interim Final Rule Quick Reference Guide 2023.pdf](#)  
[\(treasury.gov\)](#)

# Impacts on State Agencies

## Some unanswered questions:

1. Are state administrative compliance costs eligible obligations in 2025-26, especially for revenue replacement projects with reduced federal regulatory compliance requirements?
2. At what point are revenue replacement projects (for "government services") obligated, when they are not federal subawards? Guidance refers specifically to "subrecipients" and "contractors" but are these "similar transactions that require payment?"
3. Is there a way to structure project documentation to allow for 2025-26 adjustments, for variations in cost and performance? Does the termination for convenience guidance open this door?

# Discussion

- What concerns do you have with this new guidance?
- What impacts do you think it may have on your SFRF allocations?
- Any other information NCPRO needs to know for public comments?

# Public Comment

- State agencies can submit public comments to US Treasury through December 20, 2023
- Send comments by Friday December 15 to [jon.williams@osbm.nc.gov](mailto:jon.williams@osbm.nc.gov) for consolidation



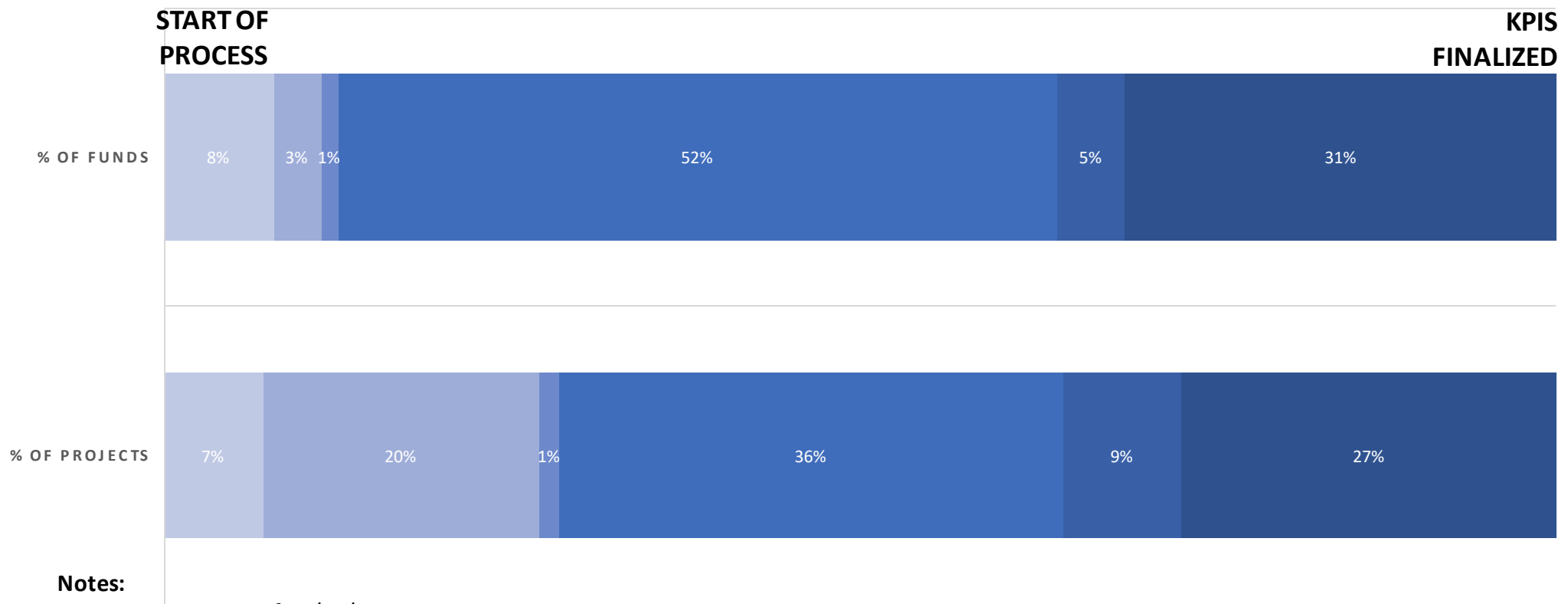
# Performance Measures Update

*Natalie Garrett & Andy MacCracken*



# Performance Measures

## Progress Update:



**Notes:**

- Data current as of 11/30/23
- Top chart reflects progress as percentage of total funds represented by projects at various stages in the KPI review and finalization process.
- Bottom chart reflects progress as percentage of projects at various stages in KPI review and finalization process.
- Does not account for subset of beneficiary programs, for which performance measurement is being conducted through beneficiary surveys.



# Performance Measures

## Process Reminders

**KPI's can only be finalized with your input.**

*\*Please provide any KPI follow-up information as soon as you are able.\**

**Once project's KPIs are finalized, you will receive an initial data request to capture data related to activities that occurred before this point.**

**Ongoing data collection will begin in early 2024 based on reporting intervals and schedules agreed to in KPI finalization process.**



# NCPRO Next Steps

*Stephanie McGarrah*





# CRF Desk Review

- NCPRO and state agencies will discuss requirements of the CRF Desk Review that has been underway since September 1
- Lessons learned

# Office Hours

NCPRO will answer questions from state agencies