

Federal Permitting Improvement Steering Council
Executive Director (ED)
Environmental Review Improvement Fund
Tribal Assistance Program (ERIF TAP)
Frequently Asked Questions (FAQs)

11/2/2023

Please note: The FAQs will be updated bi-weekly if new questions are received. New FAQs will be identified with the date they are added.

1. Q: If my Tribe’s application is approved will the funding be distributed in full at one time?

A: No, the funding will be provided incrementally. The application should be submitted with work proposed in phases. After the application is accepted, the ED will work with applicants to finalize phases for incremental funding. Funding increments will be based on project review progress and reporting requirements.

2. Q: What if my Tribe starts to consult on more FAST-41 covered projects after initial application?

A: If a Tribe engages in additional FAST-41 covered projects after approval of the initial application, the Tribe may apply for additional funding. However, the collective awarded amount cannot exceed the maximum funding available for the number of FAST-41 covered projects with which the Tribe is engaged.

If the Executive Director has not notified you that the initial application has been approved for funding, you may withdraw that application and submit a new one with an updated request.

3. Q: The permitting process for the FAST-41 project is complete but my tribe is engaged in other activities related to construction and operation of the project. Is my Tribe still eligible for funding?

A: The FAST-41 ERIF authorizes transfers to Tribal governments for the purpose of making the federal environmental review and authorization process for FAST-41 projects more timely and efficient. Once the environmental review and authorization process for the project is complete, the possibility for FAST-41 ERIF funding ends. Accordingly, eligibility for ERIF TAP funding requires the project to be “in progress” on the federal Permitting Dashboard, which signifies that the federal environmental review and authorization for that project is ongoing and active. If the project is marked “complete” on the Permitting Dashboard, that means the federal environmental review and authorization process for that project is complete, and is no longer eligible for ERIF funding.

4. Q: Can ERIF TAP funds be used to reimburse the Tribe for work performed prior to receiving ERIF TAP funds?

A: No, the ERIF only authorizes transfers to Tribal governments for the purpose of making the federal environmental review and authorization process for FAST-41 projects more timely and efficient. Accordingly, activities that already have taken place and resources expended prior to receipt of ERIF TAP funds are not eligible expenses.

5. Q: The environmental review and authorization process for a FAST-41 project is ongoing, but my Tribe's involvement in that process is complete. Can we request funding?

A: The FAST-41 statute requires that transfers of funding to Tribes must facilitate timely and efficient environmental reviews of FAST-41 projects. If the activities in which the Tribe is involved for a covered project, such as consultation under NHPA section 106, is already complete, funding under the ERIF TAP will not be available.

6. Q: If the FAST-41 project my Tribe is engaged in reviewing is still "in progress" on the dashboard but the environmental review and authorization process is nearing completion. Can my Tribes still apply for funding?

A: Possibly. The FAST-41 statute requires that transfers of funding to Tribes must facilitate timely and efficient environmental reviews of FAST-41 projects. The application must describe how the funding will be used by the Tribe to facilitate more timely and efficient environmental review and authorization for the FAST-41 project that is "in progress" on the federal Permitting Dashboard .

7. Q: My Tribe consulted with Federal agencies on one FAST-41 project that is about to go into "complete" status on the dashboard, and is consulting on another FAST-41 project that is currently "in progress". Does that mean I can request the amount of funding for consulting on two projects or just one project?

A: Under the ERIF TAP, the applicant may apply for funding based on the number of FAST-41 projects in which it is involved that are marked "in progress" on the federal Permitting Dashboard at the time of application submission. However, the amount of the funding request must be based on the resources the Tribal government needs to make the environmental review and authorization process for those "in progress" projects more timely and efficient, as described in the ERIF TAP funding application.

8. Q: Is this funding available only for the National Environmental Policy Act (NEPA) process (i.e., from Notice of Intent to Record of Decision) for FAST-41 projects?

A: The ERIF TAP funding is not limited to the NEPA process, because the FAST-41 environmental review and authorization process is not limited to NEPA. A FAST-41 project permitting timetable must include not only all federal environmental reviews (i.e., NEPA

reviews), but also all “authorizations,” which includes any license, permit, approval, finding, determination, or other administrative decision issued by a federal agency, and any interagency consultation that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a FAST-41 project. Accordingly, many FAST-41 permitting timetables on the Permitting Dashboard begin before the Notice of Intent, and end after a Record of Decision is issued. Funding will be available to facilitate timely and efficient environmental reviews and authorizations for FAST-41 projects until the permitting timetable is marked “complete” on the Permitting Dashboard.

Q: Why can’t you fund early coordination and engagement before a project is covered under FAST-41?

A: The statutory authority to provide funds to Tribal governments states the funds must be used “to facilitate timely and efficient environmental reviews and authorizations for FAST-41 covered projects.” This means the project must be a FAST-41 project before we can fund activities related to the project. ERIF TAP funding can be used to support early coordination and engagement as long as the project is a FAST-41 covered project during that phase. If a project becomes a FAST-41 covered project after the early coordination and engagement phase, Tribes will not be able to use funding retroactively. FAST-41 coverage is initiated by project sponsors, not the ED.

9. Q: Why is the Permitting Council ED using the Department of Interior’s Indian Self-Determination and Education Assistance Act, PL 93-638 (ISDEAA) Title 1 Self-Determination Contracts or Title 4 Self-Governance Compacts to distribute funding?

A: We chose this method to be responsive to comments received in previous consultations, specifically that this method is preferred to using a grant mechanism. The ISDEAA method of transfer should result in faster fund allocation. Comments received during consultation stated a preference for the ISDEAA method because funding is provided up front or in a phased approach instead of reimbursed, providing the Tribes more flexibility. Another comment from Tribes during consultation was that the federal government distributes money too slowly, and with the ISDEAA Title 1 and 4, we understand that it will be much quicker. Please contact us at ERIF@fpisc.gov with any questions or concerns about this approach.

10. Q: What if I am not a Tribal government eligible for ISDEAA Title 1 or Title 4 and would like to apply for funding?

A: We are in the process of determining the best approach for Tribal governments that are not eligible for ISDEAA Title 1 or Title 4. If your Tribal government is not eligible, please email ERIF@fpisc.gov to let us know.

11. Q: Can direct payments be made to THPOs or other Tribal departments?

A: The funding will be distributed to the Tribal office receiving money through ISDEAA Title 1 or Title 4 mechanisms. Once the Tribe receives the funding, the Tribe may distribute the funding as it deems necessary.

12. Q: Why is a Tribal resolution required?

A: The FAST-41 statute allows the Permitting Council ED to transfer ERIF TAP funds to Tribal *governments*. Tribal Resolution is required to ensure that the Tribal Government is the applicant for the ERIF TAP funding. Tribal resolution is also required to ensure that the applicant understands and is committed to the reporting requirements of the ERIF TAP, which will distribute funds through an upfront non reimbursable method.

13. Q: Why is transportation vehicle or vessel rental an allowable cost but not purchase of a vehicle, boat, etc?

A: The Permitting Council ED will not award ERIF TAP funds for the purpose of purchasing transportation vehicles and vessels. However, ERIF TAP funds may be used to contract for vehicle transportation, long or short-term, for the purpose of carrying out project review and authorization-related activities.

14. Q: Why was the contract support cost maximum increased from 10% of the overall award to an additional 15% on top of the overall award?

A: The Permitting Council ED recognizes the importance of allowing contract support costs for applicants to administer the ERIF TAP, and as a result made the contract support costs supplemental to the overall award. Applicants may request up to an additional 15% of their overall award to support contract support costs. Contract support costs are any additional administrative or other expense[s] related to the overhead incurred by the Tribe in connection with the management of the ERIF TAP.

15. Q: Why is there no deadline for applications?

A: Due to the unpredictability of projects becoming a FAST-41 covered project, the Permitting Council ED determined it necessary to give flexibility for Tribes to apply to the ERIF TAP when a project the Tribe is consulting on becomes a FAST-41 covered project.

16. Q: Why does the ERIF TAP program require reporting beyond the Single Audit Act?

A: The ERIF TAP was not established pursuant to the ISDEAA. Therefore, receiving funds from the ERIF TAP will require reporting separate from the Single Audit Act. The Executive Director developed reporting requirements to collect the information necessary to report to Congress and the Office of Management and Budget that the funds are being utilized in accordance with the statutory requirements for FAST-41 transfers, and to determine the efficacy of the transfer program.

17. Q. When can I expect to hear whether my application has been accepted for funding?

A: The Executive Director will review the application and notify the applicant of next steps within 30 days of receiving the application.

18. Q. Where can I find assistance with completing my application or reporting?

A: The Permitting Council ED staff will be available to answer any questions regarding the application for funding or reporting requirements. If you need assistance please don't hesitate to contact ERIF@fpisc.gov. The Permitting Council ED staff may also host group technical assistance workshops on the application and reporting as requested.