

# Tribal Input on Inflation Reduction Act

*NOAA Executive Summary and Response*

**June 5, 2023**



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## I. Background

### Inflation Reduction Act

On August 16, 2022, President Biden signed the Inflation Reduction Act (IRA, H.R. 5376, PL 117-169) into law. The IRA is a historic, federal government-wide investment that furthers the National Oceanic and Atmospheric Administration's (NOAA) efforts to build a Climate-Ready Nation. The IRA builds on the foundational climate and clean energy actions already taken by the Biden-Harris Administration and the investments already secured in the Bipartisan Infrastructure Law (BIL), signed in November of 2021.

Section 40001 of the IRA provided NOAA \$2.6 billion in funds to invest in coastal communities and climate resilience. Specifically, IRA directs NOAA to further these purposes: "the conservation, restoration, and protection of coastal and marine habitats, resources, Pacific Salmon and other marine fisheries, to enable coastal communities to prepare for extreme storms and other changing climate conditions, and for projects that support natural resources that sustain coastal and marine resource dependent communities, marine fishery and marine mammal stock assessments." These purposes overlap in many instances with tribal interests and priorities.

### Tribal Consultation

Tribal governments, as defined by the statute, are eligible for IRA funding. To obtain tribal input on this funding, we requested input from tribal leaders on the important opportunities and decisions that this funding provides and will continue to engage interested tribal governments in a sustained dialogue about this funding.

NOAA distributed a letter on March 1, 2023, inviting federally recognized tribes and Alaska Native Corporations (ANCs) to provide verbal input at two sessions in March 2023 and written input during a 30-day comment period. Each invitation letter also contained framing questions highlighting key topics for tribal input. These questions included:

1. What are your top priorities in NOAA's implementation of this funding package?
2. What role does your tribal government play, and what resources are necessary, in conserving, restoring, and protecting coastal and marine habitats, resources, Pacific Salmon, and other marine fisheries?
3. What role does your tribal government play, and what resources are necessary, in preparing for extreme storms and other changing climate conditions?
4. What types of projects would you like to see to support natural resources that sustain coastal and marine-resource dependent communities, marine fishery and marine mammal stock assessments?

NOAA hosted the consultations on a GoToWebinar format. Dr. Richard W. Spinrad, Under

Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator, welcomed the tribal representatives and participated on each call. Representatives from 43 tribes and their affiliates (i.e., commissions) attended the consultations. Additional meetings occurred in March, between tribal representatives and staff of the Department of Commerce. Additionally, NOAA received 24 written submissions (four of the written comments were received from non-federally recognized tribes). After the consultations, participants were sent the webinar recording and given contact information for NOAA's Tribal Resources webpage for more information. NOAA then followed up separately on non-IRA funding related questions and requests with individuals.

Although this request focused on Section 40001 of the IRA, NOAA welcomed verbal and written input on other NOAA programs and priorities. Comments not relevant to Section 40001 are not captured in this summary, and have been shared with appropriate NOAA offices depending on the topic.

This document summarizes verbal and written tribal input NOAA received during the consultation and comment period. NOAA considered all the input we received, whether it was provided verbally or in written comments, or both. We define the commenters, whether a tribal nation, ANC, tribal consortium, or tribal organization, as a 'tribal representative' for simplicity in this document.

## **II. Summary of Comments & NOAA Response**

NOAA recognizes that the aims of IRA Section 40001 are strongly linked to the cultural, spiritual, and economic livelihoods of tribal communities. Following tribal consultation, NOAA has incorporated the feedback received from tribes into our IRA program plans. **NOAA has allocated \$390M, or 15%, of the \$2.6B appropriated in IRA Section 40001, to tribal priorities. This decision incorporates input received during consultation, including on funding mechanisms, as described below.**

This document is organized into three sections, following the types of comments received from tribes: Administration Aspects of the Funding, Priority Requests for Funding – Fisheries Conservation and Restoration; and Requests for Funding – Other Topics. Each section summarizes the tribal input received and provides a NOAA response.

### **Comments on the Administrative Aspects of the Funding**

NOAA received numerous general comments about how IRA funding might be distributed to tribes. These comments included:

- **Strong preference for tribal set asides over open competitions for funding**

*Most tribal representatives requested funding be set aside for tribes. Within this request, comments emphasized:*

■ **The importance of non-competitive funding**

*Many tribal representatives who participated in the consultation asked that NOAA set aside specific funding for tribes, rather than force tribes to compete with other non-tribal entities or states for funding. Several tribal representatives commented on the lack of capacity within many tribal communities to successfully compete for funds. Tribes also emphasized that tribal sovereignty and treaty rights justify set asides and should guide how funds are distributed among tribes.*

■ **A preference for NOAA to transfer funds to the Bureau of Indian Affairs (BIA) for distribution to tribes**

*Tribal representatives also explained that the funding mechanisms and systems used by BIA are more familiar to them and easier to access than NOAA's systems. In order to reduce the administrative burdens on tribes, they requested that NOAA transfer funds to BIA for distribution through Indian Self-Determination and Education Assistance Act Section 638 contracts.*

■ **An emphasis on providing flexible funding under the broad aims of Section 40001**

*Several tribal representatives explained that, as co-managers of natural resources, tribes would prefer to decide how the set aside funds will be used to best meet their needs and to accomplish their conservation and restoration goals.*

● **Preference for broad and long-term funding for staff capacity and general support**

- *Many tribal representatives requested that funding be available to support capacity needs, such as staff and training, research and planning activities, legal support and compliance, technical assistance, and funding to participate in existing intergovernmental partnerships, rather than just project funding. Multi-year funding was also expressed as being essential for retaining and building quality staff.*

● **NOAA also received several general comments on the administration of Section 40001 funds, including:**

- *A couple of questions on the eligibility for non-coastal tribes, intertribal fish consortiums, and Alaska non-profit intertribal consortiums.*

- *A couple of comments expressed concerns that NOAA discussed a plan for IRA funding with Congressional offices and would release an implementation plan before the end of the consultation period.*
- *One comment requested more protocols and guidelines for how these funds will be distributed to tribes.*
- *One comment requested that environmental compliance requirements be streamlined for tribal projects.*
- *One comment recommended that administrative burdens in the competitive funding process be reduced.*
- *One comment highlighted the importance of incorporating and recognizing Indigenous Knowledge in this funding opportunity, specifically recommending that scientific investigation, including Indigenous knowledge, should be an eligible activity under this funding.*

## **NOAA Response to Administrative Comments**

In response to the comments requesting that funding be provided through the Bureau of Indian Affairs where possible, NOAA has initiated a process with the BIA to facilitate a transfer of \$240M so that it can be distributed through 638 contracts for specific priorities discussed further below. Using this preferred process was mentioned by nearly every participating tribe. NOAA and BIA will begin a targeted tribal consultation process related to this \$240M in early summer.

Tribal representatives also very frequently mentioned that general support for tribal staff and other capacity is needed along with funding for projects or construction. We will endeavor to provide holistic funding, consistent with other legal requirements. To respond directly to these comments, NOAA will provide dedicated tribal funding of \$20M within the Coastal Habitat Restoration and Resilience Grants for Tribes and Underserved Communities Notice of Funding Opportunity. This competitive funding opportunity will be administered by the National Marine Fisheries Service (NMFS) and be announced this summer.

In response to the questions about eligibility, NOAA is bound to follow the statutory requirements of the IRA. Tribal consortia are, in most cases, eligible recipients under the statute, and NOAA will make that clear in application materials and program descriptions as appropriate. Non-coastal projects are unlikely to be eligible because Section 40001 makes clear that NOAA funding is intended for the conservation, restoration, and protection of coastal, including Great Lakes, and marine habitats, resources, and marine fisheries.

Where additional funding is provided through competitive processes, NOAA will work with

tribes to address administrative burdens. Technical assistance is available to assist tribes.

To address the other concerns raised, NOAA will work with tribal nations to expedite tribal access to funding, reduce administrative burdens associated with applications, as well as to streamline environmental compliance and to incorporate Indigenous knowledge, where feasible.

## **Comments on Priority Requests for Funding – Fisheries Conservation and Restoration**

Tribal representatives provided comments on the priorities and project types that should be considered for funding. The majority of these comments focused on marine fisheries conservation and restoration work, with an emphasis on Pacific Salmon. These comments are summarized below:

- **Many of the tribes or tribal organizations participating in the consultation recommended funding for the recovery of Pacific Salmon and other related species in the Pacific Northwest and Alaska. In particular, tribes requested funding to support:**

- Salmon hatcheries

*Many tribal representatives requested funding for the operation, maintenance and expansion of salmon hatcheries. Tribes emphasized that hatcheries are critical to preventing the extinction of Pacific Salmon, which is important for tribal livelihoods and identity.*

- Habitat restoration

*Of the comments focused on Pacific Salmon, most emphasized the need for resources to support habitat restoration generally. These included explanations of the critical role habitat restoration plays in supporting the recovery of Pacific Salmon as well as specific project needs related to removing barriers to allow fish passage, construction of engineered log jams, and broad restoration projects such as increasing stream and coastal marine habitat complexity. A couple of comments identified increasing the Pacific Coastal Salmon Recovery Fund allocation as one funding mechanism.*

- Habitat protection and land acquisition

*Several comments requested funding to support habitat protection, including through land acquisitions, to protect important habitats for Pacific Salmon, as well as to protect watersheds and water quality.*

- Science Support – Research, evaluation, and monitoring

*Several comments requested funding for science support, such as increased surveys and data collection on Pacific Salmon, survival analysis, genetic analysis, stock assessments, lifecycle research, research on climate impacts, and evaluation of restoration projects, as well as funds for monitoring environmental compliance for permit requirements.*

- Recovery planning and coordination

*A few comments requested funding to support salmon recovery planning, assessment, and coordination efforts.*

- **Several tribal representatives also requested funding for the management of Great Lakes fisheries**

- *Tribal representatives provided comments on the need for funding fisheries recovery efforts in the Great Lakes. These requests primarily focused on a specific habitat restoration project that would benefit fisheries. A couple of tribal representatives requested that non-coastal, upstream projects be eligible for funding as well.*

## **NOAA Response to Comments on Priority Requests – Fisheries Conservation and Restoration**

NOAA reviewed the statutory requirements of the IRA, priorities identified by participating tribal representatives, and other mission needs to make funding allocations. NOAA's funding decisions provide meaningful support for tribal priorities, but we acknowledge that significant need remains.

NOAA is allocating \$390M to tribal priorities, including:

- A set-aside for salmon hatcheries for tribal governments, which will be made available through a process with the Bureau of Indian Affairs and distributed through 638 contracts **(\$240M)**. A plan for tribal consultation on this funding will be shared in early summer.
- Funding for Mitchell Act Hatcheries, which will be made available through the existing Mitchell Act distribution process, administered by NMFS. The Mitchell Act, passed by Congress in 1938, supports the establishment, operation, and maintenance of hatchery facilities to mitigate Columbia River dams, water diversions, and other habitat impacts **(\$60M)**.
- A set-aside for habitat restoration and fish passage for tribal governments, including Great Lakes tribes, which will be made available through the *Restoring*



*Tribal Priority Fish Passage through Barrier Removal* Notice of Funding Opportunity administered by NMFS, expected this summer (**\$70M**). The \$70M in IRA funding will be added to BIL funding, for total funding available through this funding opportunity of \$84.3M.

- A set-aside for capacity building and science support for tribal governments, including Great Lakes tribes, made available through the *Coastal Habitat Restoration and Resilience Grants for Tribes and Underserved Communities* Notice of Funding Opportunity, which will be administered by NMFS, expected this summer (**\$20M**).

In addition to the \$390M carved out for tribal priorities, NOAA is incorporating tribal input into other policy decisions related to IRA. Specifically, NOAA will make clear, wherever allowable under statute, that tribal consortia are eligible recipients of funding. NOAA will include language in other funding opportunities to encourage and prioritize tribal participation.

As described above, a significant amount of funding for the tribal priorities identified in this consultation will be focused on marine fisheries in the Pacific, particularly salmon fisheries, reflecting the directive included in the statute, tribal comments, and NOAA's programmatic responsibilities in this area.

Numerous tribes also discussed the importance of funding for habitat work. In response, NOAA's tribal fish passage program, a tribal set aside which is available for all coastal and Great Lakes tribes, will receive significantly increased funding from the IRA. Tribes are also eligible to compete for funding from NOAA's *Transformational Habitat Restoration and Coastal Resilience* funding opportunity, which will be funded in part by IRA funds and encourage projects that reflect tribal priorities.

Recognizing the large number of comments that requested general support funding, such as technical assistance, science support, and staff and training dollars, NOAA is also providing a tribal set aside of \$20M in the *Coastal Habitat Restoration and Resilience Grants for Tribes and Underserved Communities* Notice of Funding Opportunity, expected this summer.

### **Comments on Requests for Funding – Other topics**

NOAA also received a small number of individual comments from tribal representatives recommending that NOAA consider additional priorities with the IRA funding, including climate resilience projects, invasive species control, marine debris removal, education-related projects, and offshore wind development and its impacts on fisheries and whales.

A few organizations that do not represent federally recognized tribes, including the Office of Hawaiian Affairs, requested that funds be used for community-based expansion of the

National Marine Sanctuary System.

### **NOAA Response to Comments on Other topics**

NOAA has already responded to some of the individual requests or inquiries made by tribal representatives during the consultation process that are not specific to Section 40001 of the IRA. For example, tribal representatives that inquired about education projects and funds have been connected to NOAA's Office of Education. Funding for marine debris removal projects is available from the National Ocean Service using funding provided through the BIL. The BIA received significant funding through the BIL and IRA for tribal coastal resilience projects and tribes will be eligible for coastal resilience opportunities through NOAA's IRA funds. Questions about offshore wind issues have been referred to NMFS. Significant funding for National Marine Sanctuaries is included elsewhere in the IRA.

While every identified priority cannot be funded, NOAA greatly appreciated the input and recommendations received from each tribal representative.

### **III. Conclusion & Next Steps**

NOAA appreciates the thoughtful comments and feedback received from tribal governments and their affiliated organizations. The comments we received greatly helped NOAA direct the implementation of IRA Section 40001 to better meet the needs of tribal communities. Furthermore, the feedback received will help us improve the implementation of other programs beyond the IRA, as well as our overall engagement strategy with tribes.

Further information on particular funding programs will be posted on NOAA's Tribal Resources website [here](#) and NOAA IRA website [here noaa.gov/inflation-reduction-act](https://noaa.gov/inflation-reduction-act) when available. Additional tribal consultation opportunities related to funding for fish hatcheries will be initiated in early summer.

NOAA will continue to engage and keep tribes updated as IRA funding is implemented. NOAA remains committed to fulfilling the federal trust responsibility to federally recognized tribes. We look forward to a productive relationship between our agency and tribal sovereign governments.