

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** October 19, 2022

**SUBJECT:** Resolution to Accept LATCF Funding

**PRESENTER:** Samantha R. Reynolds, Finance Director

**ATTACHMENTS:** Yes

1. Funding Offer and Acceptance
2. Award Terms and Conditions

#### **SUMMARY OF REQUEST:**

The attached Funding Offer and Acceptance and Award Terms and Conditions, prepared by the US Department of the Treasury, offers Local Assistance and Tribal Consistency Fund (LATCF) funding in the amount of \$100,000. The award funds may be used to cover any cost incurred on or after March 15, 2021 for any governmental purpose other than a lobbying activity. Additionally, funds expended must meet applicable federal law and guidance for ARP funds. Funds will not be disbursed to Henderson County unless this offer is accepted.

#### **BOARD ACTION REQUESTED:**

Staff requests that the Board adopt the resolution and direct staff to execute the Funding Offer.

#### ***Suggested Motion:***

*I move that the Board of Commissioners adopt the resolution and direct staff to execute the Funding Offer.*

OMB Approved No. 1505-0276  
Expiration Date: March 31, 2023

U.S. DEPARTMENT OF THE TREASURY  
LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND

Recipient name and address: Henderson County 113 North Main Street Hendersonville, North Carolina 28792	UEI Number: EXFKXBHH7EG7 Taxpayer Identification Number: 566000307
Amount of Federal Funds Obligated (Total of Fiscal Year 2022 and Fiscal Year 2023 Tranches): \$ 100000.00 Total Amount of Federal Funds Obligated: \$ 100000.00 The Federal Award Date is the date of the Recipient's signature below, provided that all other conditions of the award have been met.	Assistance Listing Number: 21.032 Assistance Listing Title: Local Assistance and Tribal Consistency Fund

Section 605(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorizes the Department of the Treasury (Treasury) to make payments to certain recipients from the Local Assistance and Tribal Consistency Fund.

Recipient hereby agrees, as a condition to receiving such payment(s) from Treasury, to the terms and conditions attached hereto.

Recipient: Henderson County

---

Authorized Representative: Samantha Reynolds  
Title: Finance Director  
Date signed:

OMB Approved No. 1505-0276  
Expiration Date: March 31, 2023

U.S. DEPARTMENT OF THE TREASURY  
LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND  
AWARD TERMS AND CONDITIONS FOR ELIGIBLE REVENUE SHARING COUNTY  
GOVERNMENTS

1. Payment of Funds.

- a. Recipient understands that the Department of the Treasury (Treasury) will disburse funds under this award (the award funds) in two tranches, subject to any remedial actions taken pursuant to section 7 or any offsets imposed to satisfy any debt owed pursuant to section 9 of these award terms and conditions.
- b. In addition to the limitations provided in paragraph (a), payments under this award will be subject to the availability of funding, and, should the provisions of section 605 of the Social Security Act (42 U.S.C. § 805) addressing allocations or recipient eligibility be amended or the amount of the appropriation for implementation of such section be reduced, Treasury may reallocate the amount of the appropriation that remains available and adjust Recipient's total award amount accordingly. In the event Recipient's total award amount is reduced, the amount of a second tranche payment may be reduced to account for the receipt of amounts disbursed in the first tranche.
- c. If eligible revenue sharing county governments other than Recipient decline or do not claim the amounts allocated to them by Treasury from the Local Assistance and Tribal Consistency Fund, Treasury may supplement this award with an additional allocation to Recipient. The amount of this additional allocation will be determined by Treasury in its discretion as provided in section 605 of the Act and will be subject to the limitations provided in paragraphs a and b.
- d. Any change in an allocation will be deemed an amendment to this award to increase or decrease the total award amount, as applicable, unless, in the case of an increased allocation, Recipient declines the increased total award amount.

2. Use of Funds.

- a. The award funds may be used to cover any cost incurred on or after March 15, 2021, for any governmental purpose other than a lobbying activity, as provided in paragraph b.
- b. Recipients may not use the award funds directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification,

policy, or appropriation.

- c. Recipient must expend and account for the funds in accordance with the financial management, procurement, and conflicts of interest standards, laws, policies, and procedures applicable to Recipient's expenditure of and accounting for its own funds.
3. Reporting. Recipient agrees to submit an annual project and expenditure report to Treasury for this award in the form provided by Treasury. Recipient acknowledges total award and expenditure amounts may be publicly disclosed.
  4. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
  5. Compliance with Applicable Law and Regulations.
    - a. Recipient agrees to comply with the requirements of section 605 of the Act and guidance issued by Treasury regarding the Local Assistance and Tribal Consistency Fund program. Recipient acknowledges that the funds constitute federal financial assistance and are subject to federal law applicable to federal financial assistance. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders in the course of its use of the award funds.
    - b. Federal regulations applicable to this award include, without limitation, the following:
      - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
      - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
      - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
      - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance;
      - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto;

- vi. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §§ 200.100-110, 203, and 303, and Subpart F (Audit Requirements).
- vii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, Subparts A, B, and D, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- viii. The provisions of Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170 applicable to executive compensation but not to subawards, pursuant to which the subsections of the award term set forth in Appendix A to 2 C.F.R. Part 170 applicable to executive compensation are hereby incorporated by reference.
- ix. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- x. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- xi. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- xii. Generally applicable federal environmental laws and regulations.

6. Maintenance of and Access to Records.

- a. Recipient will maintain records and financial documents sufficient to evidence compliance with section 605 of the Act, this award agreement, and implementing guidance issued by Treasury for a period of five (5) years after all funds have been expended or returned to Treasury.
- b. Recipient acknowledges that Treasury, including the Treasury Office of Inspector General, and the Government Accountability Office or their authorized representatives will have the right of access to records of Recipient in order to conduct audits or other investigations.

7. Remedial Actions. In the event of Recipient's noncompliance with section 605 of the Act, these terms and conditions, other applicable laws, guidance, or any reporting or other program requirements, Treasury may take any of the following remedies:

- a. Impose additional conditions on the receipt of the second tranche of the award;
- b. Temporarily withhold the second tranche of the award in whole or in part;

- c. Require recoupment of payments under this award;
  - d. Terminate the Federal award;
  - e. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. part 180 and Treasury regulations; and
  - f. Take other remedies that may be legally available.
8. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
9. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; or (2) that are determined by Treasury to be subject to a repayment obligation and have not been repaid by Recipient shall constitute a debt to the federal government.
  - b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph (a). Treasury will take any actions available to it to collect such a debt.
10. Disclaimer.
- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
  - b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.
11. Amendments.
- a. The terms of this award may be amended with the written approval of Recipient and Treasury.
  - b. In addition, Treasury reserves the right to amend the terms of this award if required by U.S. law or regulation without the consent of Recipient.

- c. Notwithstanding the above, Treasury may, upon reasonable notice to Recipient, unilaterally amend this agreement for the sole purpose of making ministerial or administrative changes or correcting scrivener's errors.

**PAPERWORK REDUCTION ACT NOTICE**

The estimated burden associated with the collection of information provided for in section 6 of the terms and conditions is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.