



HUMAN RESOURCES, FINANCE, & PROPERTY COMMITTEE MEETING AGENDA WITH MINUTES

Date & Time of Meeting: **Wednesday October 12, 2022, 3:00 P.M.**

Meeting Location: **WebEx/ Courthouse Assembly Room, 500 Forest Street, Wausau, WI**

John Robinson, Chair	Present
Alyson Leahy, Vice-Chair	Present
Kurt Gibbs	Present
Gayle Marshall	Present
Kody Hart	Present
Ann Lemmer	Present
Yee Leng Xiong	WebEx

Staff Present – Lance Leonhard, Chris Holman, Mike Puerner, Kim Trueblood, Kristi Palmer

Others Present – David Baker, Gary Gisselman

1. **Call Meeting to Order**
2. **Pledge of Allegiance**
3. **Public Comment - None**
4. **Approval of the September 27, 2022 Human Resources, Finance, & Property Committee meeting minutes**
Motion by Leahy, Second by Lemmer to approve the minutes. Motion carried on a voice vote unanimously.
5. **Educational Presentations and Committee Discussion**
 - A. Update on 1611 Chellis Street – Corp Counsel Mike Puerner updated the committee on the appraisal and sales process for this parcel.
 - B. Administrator’s Proposed 2023 Annual Budget and 2023 Capital and Special Project Funding Plan
 1. Administrator’s Budget Message – Administrator Leonhard presented the 2023 budget. Full details can be found in the packet and on the [County website](#).
 2. 5-Year Departmental and Support for Other Agency Comparison - Finance Director Kristi Palmer went through the departmental and other agency comparisons.
 3. Resolution 2023 Budget and Property Tax Levy – Chair John Robinson stated the process going forward. The committee will be asked to accept the budget at this meeting, then there will be an additional meeting on October 17 before the finance director needs to publish the budget in the paper per statutory requirements. Discussion was had and questions were asked and answered. Committee members were reminded that if they have amendments, please provide those to staff so they can be formatted appropriately.
6. **Policy Issues Discussion and Potential Committee Determination: None**
7. **Operational Functions required by Statute, Ordinance, or Resolution:**
 - A. Discussion and Possible Action by Committee
 1. Approval of October 2022 Claims and Questioned Costs – Motion by Hart, Second by Gibbs to approve the claims and question costs as presented. Motion carried on a voice vote unanimously.
 2. Approval of Tax Deed Parcel Sale to the Village of Edgar – Corp Counsel Mike Puerner presented the proposed sales agreement that is in the packet. Provided the Village Board approves the terms, the sale will be processed. Motion by Leahy, Second by Gibbs to approve the sale of the tax deed parcel to the Village of Edgar. Motion carried on a voice vote unanimously.
 - B. Discussion and Possible Action by HRFC to Forward to County Board for Consideration
 1. 2022 Intergovernmental Budget Transfers – Finance Director Kristi Palmer explained that there are two sets of budget transfers – one for the ADRC and one for the County – Sheriff’s Dept and Social Services. The committee is requested to accept the ADRC transfers and approve the county transfers. Motion by Lemmer, Second by Leahy to accept the ADRC budget transfers. Motion carried on a voice

vote unanimously.

There was a request to divide the question and deal with the departments separately.

Motion by Gibbs, Second by Leahy to approve the Social Services budget transfers. Discussion was had and questions were asked and answered. Motion carried on a voice vote unanimously.

Motion by Gibbs, Second by Leahy to approve the Sheriff's Department budget transfers. Motion carried on a voice vote unanimously.

2. Resolution to Approve and Authorize the Implementation of the Class Compensation Plan Created by McGrath Consulting Group, Inc. – Chair Robinson suggested adding an additional “Whereas” to provide some background as to why the class compensation study was necessary. Administrator Leonhard pointed to the study in the meeting packet and stated that there are two modifications from the original presentation. One modification was a housekeeping error. The other modification was a reclassification of the Justice Services Coordinator in the Administrator's office. Discussion was had and questions were asked and answered.

Motion by Gibbs, Second by Hart to approve the resolution with the addition of the resolution due to changing economic times and to stay competitive for recruitment due to a 17% vacancy in allocated positions. Motion carried on a voice vote unanimously.

3. Acceptance of the County Administrator's Proposed 2023 Annual Budget and 2023 Capital and Special Project Funding Plan – Motion by Gibbs, Second by Leahy to accept the Administrator's Proposed 2023 Annual Budget and 2023 Capital and Special Project Funding Plan. This action transfers the budget from the administrator to the committee. Motion carried on a voice vote unanimously.

8. Next Meeting Time, Location, Announcements and Agenda Items:

- A. Committee members are asked to bring ideas for future discussion
- B. Next Scheduled Meeting October 17, 2022 at 8:00 a.m.

9. **Adjournment** – Motion by Gibbs, Second by Lemmer to adjourn. Motion carried on a voice vote unanimously. Meeting adjourned at 6:08 p.m.

Minutes prepared by Kim Trueblood, Marathon County Clerk

RESOLUTION #R-__-22
Budget and Property Tax Levy Resolution

WHEREAS, the Wisconsin Department of Revenue has made available the Statistical Report on Equalized Value of Marathon County for 2022 which sets the Equalized Value of Marathon County for taxing purposes at \$13,074,169,600; and,

WHEREAS, for purposes of satisfying the requirements of the state imposed Tax Rate Freeze formula, this budget is in compliance with Wis. Statute 59.605; and,

WHEREAS, the County Board of Supervisors and the Human Resources, Finance and Property Committee have occasional requests to provide funding for the community including allowable expenditures under various Wisconsin Statutes; and,

WHEREAS, the County is interested in a method of having the Human Resources and Finance and Property Committee review these requests on a timely basis; and,

NOW, THEREFORE, BE IT RESOLVED for the budget year 2023 that the sum of \$50,000 be authorized from the Contingent Fund and placed into a separate expenditure line item to be used by the Committee on a discretionary basis using a standard application process; and

BE IT FURTHER RESOLVED that any amendments subsequent to budget publications have resulted in the following changes and/or corrections to be incorporated as amendments into the proposed 2023 budget for the fiscal year beginning January 1, 2023:

<u>Budget Changes to Tax Levy</u>	<u>Original</u>	<u>Will Be</u>	<u>Tax Levy Change</u>	<u>Tax Rate Change</u>
I. Operating Levy	50,160,484			
II. Special Purpose Levy-bridge aid	612,500			
II. Special Purpose Levy-library	3,389,685			
III. Debt Levy	4,284,562			

Budget Changes to Capital Improvement Plan

Budget Changes from Separate Resolutions

Budget Changes to non-tax Levy Department

Special Education (School fiscal period July 1, 2022 through June 30, 2023)	
Revenues	\$ 10,113,922
Expenditures	\$ 10,113,922

AND, BE IT FURTHER RESOLVED that the Marathon County Board of Supervisors does hereby adopt the 2023 Marathon County Budget of \$215,678,022 including departmental appropriations, revenues and use of fund equity as proposed by the Human Resources and Finance and Property Committee during a series of budget meetings in October and as set forth in the attached document entitled, (BDGT1) Adopted Budget - Orgn 1 excluding Fund 998, and that the same budget passed and approved by appropriation unit and allocated from its present form and format as established by the Uniform Chart of Accounts for Wisconsin Counties as developed by the Wisconsin Departments of Revenue and Transportation, in programmatic format; and

BE IT FURTHER RESOLVED that the Marathon County Board of Supervisors does hereby authorize a property tax levy in the amount of \$58,447,231 in support of the 2023 budget and that the County Clerk is hereby directed to levy the required taxes against all the taxable property in Marathon County for every appropriation named therein except as otherwise provided and to levy special assessments and charges against the respective municipalities as provided by law; and

BE IT FURTHER RESOLVED that for the purpose of clarity the above referenced property tax levy includes:

A tax in the amount of \$612,500 for county bridge tax as set forth in Wis. Statute 81.38 to be levied against the taxable property of Marathon County, excepting the Cities of Abbotsford and Colby, and the Villages of Birnamwood, Dorchester, Elderon, Rothschild, Spencer, Unity and Weston; and

A tax in the amount of \$3,286,685 for County library operations budget and \$103,000 for County library building maintenance tax as set forth in Wis. Statute 43.64(1) to be levied against the taxable property of Marathon County, excepting the Cities of Abbotsford, Colby, Marshfield and the Town of McMillan.

BE IT FURTHER RESOLVED AND UNDERSTOOD that the budget includes an appropriation of \$ 4,781,203 for North Central Health Care Facility (NCHCF); and

BE IT FURTHER RESOLVED that the County Board of Supervisors hereby authorizes and directs the Marathon County Clerk to issue checks pursuant to this resolution and the Marathon County Treasurer to honor said checks in payment of specific items included in this budget as provided by law and at the request of any organization for which appropriations have been made.

DATED: November 10, 2022.

HUMAN RESOURCES, FINANCE AND PROPERTY COMMITTEE

_____	_____
_____	_____
_____	_____
_____	_____

Fiscal Impact: This sets the 2023 Budget.



2023 ANNUAL BUDGET

**Please click the link below to access the
Administrator's 2023 Budget Message.**

<https://www.co.marathon.wi.us/Portals/0/Departments/CAD/Documents/2023-Administrators%20Budget-FINAL-111222-red.pdf>

2023



Approved Projects*	Projected Cost	Encumbered Amount	Cost (Actual)	Amount Returned for Reallocation
PTO Balance Liability Reduction	\$500,000.00	\$500,000	\$159,836.68	\$340,163.32
Uniquely Wisconsin Tourism Campaign	\$60,000.00	\$60,000	\$50,000	\$10,000.00
Lease of Space Within Community Partners Campus	\$42,900.00	\$42,900	\$42,900	\$0.00
Courtroom and Jail Audio/Video Enhancements	\$630,000.00	\$630,000	\$630,000	
Broadband Expansion	\$3,950,835.00	\$3,950,835	\$1,087,010	\$2,863,825.00
Regional Forensic Science Center Project	\$2,000,000.00	\$2,000,000.00		
North Central Health Care Addition and Remodel	\$3,115,010.00	\$3,115,010.00	\$3,115,010.00	\$0.00
Highway Department - 4 year Transportation Plan Enhancements	\$10,337,879.00	\$10,337,879.00		\$10,337,879.00
Dancy Tower Replacement project	\$371,860.00	\$371,860.00	\$371,860.00	\$0.00
Marathon Park Water System Replacement Design	\$74,400.00	\$74,400.00	\$74,400	\$0.00
Pending Projects				
1st Round continuing				
Digital Forensics Lab Faraday Enclosure and Mobile Device Forensic Tools Upgrade	\$341,000.00			
Marathon County Fire Department Communication/Alerting Infrastructure Upgrade	\$30,000.00			
Library 3rd Floor Employment Assistance and Multimedia Training Area	\$750,000.00			
Sheriff's Office - Taser Replacement	\$77,231.70			
Big Eau Pleine Shower/Restroom Facility Enhancements	\$750,000.00			
Dells of Eau Claire Restroom/Shower Facility, Lift Station and Camper Cabins	\$675,000.00			
Nine Mile Chalet Renovation Including Water and Sewer Infrastructure Enhancements	\$850,000.00			
Sheriff's Office Training and Resource Center Replacement	\$3,200,000.00			
2023 Budget Projects				
DA Office Staffing (1.0 LTE Victim Witness Specialist for two years)	\$90,064.00	\$90,064.00		
Utility Inflation	\$404,200.00	\$404,200.00		
Marathon Park Water System Replacement	\$950,000.00	\$950,000.00		
2nd Round Submissions				
Homme Heights elevator replacement	\$300,000.00			
Mosinee Library exterior renovation	\$75,000.00			
Sunnyvale RC park renovation	\$133,387.00			
Taste N Glow Balloon Fest Property Purchase request	\$1,000,000.00			
Mosinee Fire District - Fire Truck request	\$250,000.00			
Mosinee Fire District - PPE funding request	\$150,000.00			
KATS - 2023 staffing funding request	\$432,000.00			
NCHC - funding to offset operational losses (replaced initial \$6.3 million request)	\$1,850,000.00			
Wausau/Central WI Convention & Visitors Bureau - Travel Center request	\$600,000.00			
Pending Projects Total	\$12,907,883	\$1,444,264	\$0	
Approved Allocation Total	\$20,636,624	\$5,183,735	\$5,531,017	

Total Approved & Pending \$33,544,507

Total ARPA Allocation to Marathon County	Received Total to Date
\$26,316,628	\$26,316,628

GUIDANCE FOR THE LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND

U.S. Department of the Treasury
July 2022

INTRODUCTION

The U.S. Department of the Treasury (Treasury) is issuing this guidance regarding the Local Assistance and Tribal Consistency Fund (LATCF), established by Section 605 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021 (American Rescue Plan). This guidance provides a summary of the structure and terms of the program, including information about eligible uses of funds, program administration, and other requirements under the LATCF program. This guidance may be updated, revised, or modified, and Treasury may waive these standards to the extent permitted by law.

The American Rescue Plan appropriated \$2 billion to Treasury across fiscal years 2022 and 2023 to provide payments to eligible revenue sharing counties and eligible Tribal governments for use on any governmental purpose except for a lobbying activity. Eligible recipients must submit a request for funding in the Treasury Submission Portal to receive their payments, and further instructions can be found on the Treasury website. There is no pre-approval process for projects funded by the program. Recipients must submit periodic reports to Treasury on their expenditures.

The purpose of the LATCF program is to serve as a general revenue enhancement program. Many eligible revenue sharing counties and eligible Tribal governments have historically experienced fluctuations in their revenues, and this program is designed, in part, to supplement existing federal programs that augment and stabilize revenues for these communities. In providing support to these communities, allocations under this program consider the economic conditions of recipients.

Under this program, recipients have broad discretion on uses of funds, similar to the ways in which they may use funds generated from their own local revenue sources. Specifically, recipients may use these funds on any governmental purpose other than a lobbying activity. Recipients may maintain or expand public services – such as health, educational, housing, and public safety services – to their communities with these funds. Recipients may also invest in infrastructure – from roads and bridges to water infrastructure – to facilitate economic development, improve health outcomes, or transition their communities to clean energy. Recipients may also invest in restoring and bolstering government capacity, such as increasing the size of their government workforce or investing in improvements in service delivery, like technology infrastructure and data analysis resources, that will improve delivery of services to their communities for years to come.

I. PROGRAMMATIC TERMS OF THE ASSISTANCE

This section describes the programmatic terms of the program, including key information on eligible applicants, allocations, eligible and ineligible uses of funds, eligible and ineligible costs, and the availability of funds. Recipients are subject to the terms of the award agreement that they must enter into in order to receive funding.

A. ELIGIBLE APPLICANTS

The American Rescue Plan identifies eligible revenue sharing counties and eligible Tribal governments as the governments eligible to request payment of their allocation of the program and defines eligibility as follows:

- An *eligible revenue sharing county* is a county, parish, or borough that is independent of any other unit of local government; and that, as determined by the Secretary of the Treasury, is the principal provider of government services for the area within its jurisdiction; and for which, as determined by the Secretary, there is a negative revenue impact due to implementation of a Federal program or changes to such program. In addition, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands are eligible revenue sharing counties.
- An *eligible Tribal government* is the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of the American Rescue Plan pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 1531).

B. ALLOCATIONS

Section 605(b) provides for a total of \$2 billion for Treasury to make payments to eligible revenue sharing counties and eligible Tribal governments over fiscal years 2022 and 2023. The provision directs the Secretary to reserve \$750 million to allocate and pay to eligible revenue sharing counties for each of fiscal years 2022 and 2023, taking into account economic conditions of each eligible revenue sharing county, using measurements of poverty rates, household income, land values, and unemployment rates, as well as other economic indicators, over the 20-year period ending with September 30, 2021. Separately, the provision directs the Secretary to reserve \$250 million to allocate and pay to eligible Tribal governments for each of fiscal years 2022 and 2023, taking into account economic conditions of each eligible Tribe.

Eligible Tribal governments may log in to the Treasury Submission Portal to review their specific allocations under the program. Eligible revenue sharing counties may review their allocations on the Treasury website once the \$1.5 billion Local Assistance Fund for eligible revenue sharing counties has been launched.

C. ELIGIBLE AND INELIGIBLE USES OF FUNDS

a) Eligible Uses

Section 605(c) provides flexible support for eligible revenue sharing counties and eligible Tribal governments to meet their jurisdictions' needs. Specifically, the statute directs that recipients may use funds for any governmental purpose other than a lobbying activity.

As a general matter, recipients may treat these funds in a similar manner to how they treat funds generated from their own local revenue. Programs, services, and capital expenditures that are traditionally undertaken by a government are considered to fulfill a "governmental purpose." For Tribal governments, investing in activities undertaken by Tribal enterprises, such as operating or capital expenditures for businesses that are owned or controlled by a Tribal government, are considered a governmental purpose. However, the LATCF funds may not be used for lobbying activities.

A non-exhaustive list of example activities that fulfill a governmental purpose include, but are not limited to:

- Provision of health services, educational services, court services, police, fire, emergency medical, and other public safety services, utilities or sanitation services, and direct assistance to households (including cash assistance);
- Capital expenditures on core facilities and equipment, including in housing and community development (e.g., schools, hospitals, childcare facilities, and parks and recreation facilities), public safety facilities and equipment (e.g., police vehicles), and government administration buildings;
- Infrastructure investments, including roads, bridges, water and sewer systems, utility systems, airports, public transit, and technology infrastructure;
- Long-term economic development activities, including affordable housing development, workforce development and other programs to strengthen local communities undergoing economic transitions;
- General government operations, such as general government administration, personnel costs, administrative facilities, record keeping, tax assessments, or election administration; and
- Meeting another federal program's non-federal match or cost-sharing requirements, unless barred by statute or other applicable law (as detailed further in this guidance).

Federal Davis-Bacon Act prevailing wage rate requirements do not apply to projects funded solely by the LATCF except for LATCF-funded construction projects undertaken by the District of Columbia.¹ Further, generally, receipt of LATCF funding does not trigger the National

¹ Neither the Davis-Bacon Act nor Davis-Bacon Act related provisions requirements apply to projects funded solely with award funds from the LATCF, except for LATCF-funded construction projects undertaken by the District of Columbia. The Davis-Bacon Act specifically applies to the District of Columbia when it uses federal funds to enter into contracts over \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Recipients may be subject to the requirements of the Davis-Bacon Act, when LATCF funds are used on a construction project in conjunction with funds from another federal program that requires enforcement of

Environmental Policy Act (NEPA),² although recipients must ensure compliance with all applicable federal environmental laws.

b) Ineligible Uses

Recipients may not use federal funds to directly or indirectly 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. Amounts that are used in violation of the lobbying restriction set forth in this guidance may be subject to recoupment.

c) Compliance with financial management, procurement, and conflicts of interest standards

Recipients must expend and account for the LATCF funds in accordance with the financial management, procurement, and conflicts of interest standards, laws, policies, and procedures applicable to their expenditure of and accounting for their own funds. Treasury will monitor violations of this requirement through reporting and other sources. Recipients should also review the Buy America domestic content procurement preference requirements, below.

D. ELIGIBLE AND INELIGIBLE COSTS

As a general matter, recipients may use funds to cover costs incurred on any eligible use, including costs incurred from March 15, 2021. Recipients may use funds to cover costs of administering the LATCF program, including costs of consultants to support effective management and oversight as well as compliance with legal, regulatory, and other requirements.

E. TRANSFERS

Recipients may transfer to and pool LATCF funds with other entities for projects, provided that recipients are able to track use of the funds in line with the reporting and compliance requirements of the LATCF. As an example, neighboring counties may pool funds in order to invest in a regional infrastructure project. Further, recipients may fund a project with both LATCF funds and other sources of funding, provided that the project is an eligible use under each source program and recipients are compliant with all other related statutory and regulatory requirements and policies.

Transfers under this program do not give rise to subrecipient relationships given the purpose of the award. As a result, recipients do not need to comply with subrecipient monitoring or oversight requirements outlined in the Uniform Guidance at 2 C.F.R. § 200.331 through § 200.332. Further, no subrecipient reporting under 2 C.F.R. Part 170 will be required for this program, although

the Davis-Bacon Act. Additionally, corollary state prevailing-wage-in-construction laws (commonly known as “baby Davis-Bacon Acts”) may apply to projects.

² Projects supported with payments from LATCF may still be subject to NEPA review if they are also funded by or otherwise involve actions from other federal programs or agencies.

recipients meeting the applicable thresholds will still be required to report on executive compensation pursuant to 2 C.F.R. Part 170.

F. NON-FEDERAL MATCH OR COST-SHARE REQUIREMENTS

As a general principle, federal funds that constitute revenue sharing to state and local governments may generally be used to meet the non-federal match or cost-share requirements of another program.³

Given the LATCF's purpose as a general revenue enhancement program and the broad eligible uses of LATCF funds, Treasury has determined that funds available under the LATCF program constitute revenue sharing. Therefore, funds under the program may be used to meet the non-federal cost-share or matching requirements of other federal programs. Pursuant to 2 C.F.R. § 200.306(b), if funds are legally available to meet the match or cost-share requirements of an agency's federal program, such awarding agency is required to accept such funds for the purpose of that program's match or cost-share requirements except in the circumstances enumerated in that section. If a recipient seeks to use LATCF funds to satisfy match or cost-share requirements for a federal grant program, it should first confirm with the relevant awarding agency that no waiver has been granted for that program, that no other circumstances enumerated under 2 C.F.R. § 200.306(b) would limit the use of LATCF funds to meet the match or cost-share requirement, and that there is no other statutory or regulatory impediment to using the LATCF funds for the match or cost-share requirement. Additional guidance specific to Medicaid and CHIP is forthcoming.

Recipients using LATCF funds to meet non-federal match or cost-share requirements of another federal program must ensure that the costs are eligible costs under the other federal program and are compliant with the statutory, regulatory, and program requirements of the LATCF and the other federal program.

G. AVAILABILITY OF FUNDS

All funds are available to recipients until expended or returned to Treasury.

³ See U.S. Government Accountability Office, *Principles of Federal Appropriations Law, Third Edition, Volume II*, p. 10-99, GAO-06-382SP (February 2006), <https://www.gao.gov/assets/gao-06-382sp.pdf>

II. OPERATIONAL TERMS OF THE ASSISTANCE

This section provides a summary of operational terms of the program, including payments, reporting, and compliance. Treasury expects to release reporting and compliance guidance for the LATCF program at a later date.

A. PAYMENTS

Recipients may request payment of their allocation through the Treasury Submission Portal by following the instructions on Treasury's website. Eligible applicants will be required to complete payment information and sign an award agreement. Tribal governments will be required to complete a certification regarding economic conditions.

B. REPORTING

All recipients will be responsible for submitting an annual Project and Expenditure report to Treasury, which is expected to require data on obligations and expenditures by category of use and certification that funds have not been used to fund lobbying activities. Treasury will release detailed reporting guidance soon.

Information provided through annual reporting will be used to facilitate Treasury's compliance review for uses of funds that do not comply with program requirements, as well as to reduce the risk of waste, fraud, and abuse. Any eligible revenue sharing county that is determined to have failed to submit a report may be required to repay to Treasury an amount up to 5 percent of its total allocation, as authorized by Sections 605(d) and (e).

C. OVERSIGHT

Recipients will be subject to audit or review by the Treasury Inspector General and Government Accountability Office. Recipients are subject to the Single Audit Act and its implementing regulations at 2 C.F.R. Part 200 Subpart F.

D. COMPLIANCE

a) General

Treasury may recoup funds from any recipient in cases of misuse of LATCF funds. Separately, in case of a failure to report, Section 605(c) provides specifically that Treasury may also recoup funds from an eligible revenue sharing county of an amount that the Secretary determines appropriate but that does not exceed 5 percent of the recipient's total allocation.

Any amounts that Treasury has determined to recoup would be subject to generally applicable federal debt collection laws and procedures, including the provisions set forth in Chapter 37 of title 31 of the United States Code and the Federal Claims Collection Standards at 31 C.F.R. Parts 900 through 904.

Treasury expects to work with recipients to support the use of LATCF funds and the timely filing of annual reports to Treasury. Treasury may, for example, request additional information and work

with recipients to remedy the failure to timely file a report before initiating the recoupment process. Treasury may pursue additional remedies for noncompliance with applicable law or program requirements in conjunction with, or as an alternative to, recoupment, including imposing conditions on the receipt of additional LATCF funds by the recipient and/or terminating further payments from the LATCF.

b) Recoupment Process

Treasury will monitor recipients' compliance with legislative and program requirements through evaluation of information submitted by recipients through annual reporting as well as other sources. If Treasury identifies an instance of potential non-compliance, Treasury expects to provide the recipient with a notice of the proposed non-compliance. Treasury expects the notice of proposed non-compliance to set forth a process consistent with the award terms and conditions and applicable law. Recipients that receive a final determination of non-compliance from Treasury will be required to repay any amounts in accordance with the process set forth in the final determination of non-compliance.

Treasury retains the discretion to provide additional guidance on the process set forth above in accordance with and as permitted by Chapter 37 of title 31 of the United States Code and the Federal Claims Collection Standards at 31 C.F.R. Part 900.

E. APPLICATION OF FEDERAL FINANCIAL ASSISTANCE REQUIREMENTS

The LATCF is considered federal financial assistance and recipients are generally subject to laws and regulations applicable to federal financial assistance.

a) Financial Assistance Award Management Requirements

LATCF recipients are subject to the following provisions of 2 C.F.R. Part 200 (the Uniform Guidance):

- 2 C.F.R. Subpart A (Acronyms);
- 2 C.F.R. 200.100-110 (certain General Provisions);
- 2 C.F.R. 200.203 (public notice of Federal financial assistance programs);
- 2 C.F.R. 200.303 (internal controls); and
- Single Audit Act and its implementing regulations at 2 C.F.R. Part 200 Subpart F.

Per 2 C.F.R. § 200.101(b), the program is not subject to other Uniform Guidance provisions beyond those detailed above, such as the provisions regarding program income, interest advances, equipment and real property management, procurement requirements, or subrecipient monitoring and reporting requirements. Therefore, capital assets acquired using LATCF funds are not subject to the Uniform Guidance's use and disposition instructions, and program income is income to the recipient government and not subject to program restrictions.

No subrecipient reporting under 2 C.F.R. Part 170 (implementing the Federal Funding Accountability and Transparency Act of 2006) will be required for this program, although recipients meeting the applicable thresholds will still be required to report on executive

compensation pursuant to 2 C.F.R. Part 170. Treasury’s regulations at 31 C.F.R. Part 19 (implementing OMB’s Guidelines to Agencies on Governmentwide Debarment and Suspension at 2 C.F.R. Part 180) are applicable to the program. Recipients are required to comply with the System for Award Management (SAM) requirements in 2 C.F.R. Part 25.⁴

There are no matching, level of effort, or earmarking compliance responsibilities associated with the LATCF program.

b) Buy America Domestic Content Procurement Preference

The Build America, Buy America Act establishes domestic content procurement preference requirements for federal financial assistance programs for infrastructure.⁵ These requirements apply to the LATCF. As such, expenditures for iron, steel, manufactured products, and construction materials used in an infrastructure project funded using a LATCF award generally must be produced in the United States. These requirements do not apply to non-infrastructure projects or to infrastructure projects undertaken in response to the COVID-19 public health emergency.

Recipients should review the details of these domestic content procurement requirements as provided in the terms and conditions of the LATCF award, which follow the guidance provided by the Office of Management and Budget (OMB).⁶ The definition of infrastructure as provided by the Build America, Buy America Act and OMB guidance is broad and includes the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. An infrastructure project includes the construction, alteration, maintenance, or repair of infrastructure.

Treasury plans to propose a waiver from the Build America, Buy America Act requirements for awards made under the LATCF program. Treasury will post the proposed waiver and its terms, including its duration, on the Treasury website, and will also provide an update after the public comment period has closed. Should a waiver be issued, infrastructure projects undertaken under awards issued after the waiver is effective will not be subject to Build America, Buy America Act requirements.

An eligible Tribal government may request funding and receive an award before a waiver is issued and becomes effective. However, typically, only awards issued after the waiver is issued and becomes effective are excluded from the requirements of the Buy America, Build America Act. If

⁴ 2 C.F.R. Part 25, Subpart C, is inapplicable to this program as transfers under this program do not give rise to subrecipient relationships.

⁵ See section 70914(a) of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (IIJA). The Buy America, Build America Act was included as sections 70901-27 of the IIJA.

⁶ OMB’s guidance is provided in OMB Memorandum M-22-11, “Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure” (April 18, 2022), *available at* <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>.

a Tribal government receives an award prior to the date any waiver becomes effective, then the award may still be subject to the requirements of the Buy America, Build America Act. Treasury will provide more details on the waiver's effective date on its website.

The Buy America, Build America Act requirements do not apply to expenditures using LATCF funds for infrastructure projects undertaken in response to the COVID-19 public health emergency or in response to or anticipation of other major disasters or emergencies declared by the President under the Stafford Act.⁷ Treasury recognizes that the public health emergency is impacting recipients in different ways and that recipients are impacted by a broad range of other types of major disasters and emergencies declared under the Stafford Act. Accordingly, recipients should make their own determinations as to what infrastructure projects they need to undertake to respond to the COVID-19 public health emergency or other Stafford Act disaster or emergency.

F. COMPLIANCE WITH OTHER APPLICABLE LAWS

Recipients are responsible for complying with all other applicable laws in the course of using the funds from their award, including all applicable environmental laws and all laws applicable to federal financial assistance (unless stated otherwise in this guidance or the award agreement). Applicable laws include but are not limited to those listed in the award agreement.

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 8, 1997) re: Increasing Seat Belt Use, Treasury encourages recipients to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles. Recipients should also encourage their contractors to adopt and enforce such policies.

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 1, 2009), re: Reducing Text Messaging While Driving, Treasury encourages recipients to encourage their employees and contractors to adopt and enforce policies that ban text messaging while driving, and recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

⁷ More specifically, as provided in OMB's guidance, the requirements of the Buy America, Build America Act do not apply to expenditures made in anticipation of or in response to an event or events that qualify as an "emergency" or "major disaster" within the meaning of the Stafford Act, 42 U.S.C. § 5122(1), (2). See OMB Memorandum M-22-11 at 3-4.

III. CONTACT INFORMATION

E-mail correspondence is preferred. Correspondence by mail may be subject to significant delays.

LATCF@treasury.gov

U.S. Department of the Treasury
Attn: **Local Assistance and Tribal Consistency Fund**
1500 Pennsylvania Ave NW
Washington, DC 20220

treasury.gov/LATCF

