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TRANSYLVANIA COUNTY NONPROFIT AGENCY FUNDING APPLICATION POLICIES

General Instructions

The online application will be linked along with this document. Before completing the application, please review all 20 questions and collect the information you will need, including a copy of your organization's current and upcoming budgets and IRS Form 990 (or IRS postcard).

Accountability Requirements for Certain Entities that Receive Appropriations from Local Governments

In North Carolina, local government units have broad authority to appropriate monies to private entities (including nonprofits, corporations, associations, and individuals). The monies, however, must be expended by the private entities only on projects, services, or activities that the local government could have supported directly.

If a municipality or county has statutory authority to finance a particular program, service, or activity, then it may give public monies to a private entity to fund that program, service, or activity. This is the public purpose test - Transylvania County cannot fund grant projects unless it is a service that Transylvania County Government could provide. If Transylvania County provides your organization with a grant to provide services under this process, those services must be available to the public.

For a complete list of authorities, please see NC G.S. 153A-149.

For a list of services that Transylvania County is interested in partnering with private entities to provide, please see Appendix B (Partnership Services for Transylvania County.)

The General Assembly also requires certain entities that receive public funds-namely nonprofit corporations to comply with specified transparency requirements.

S.L. 2012-169 requires a nonprofit corporation that receives over \$5,000 of public funds (from a local government, the State, or the federal government) within a fiscal year in grants, loans, or in-kind contributions, to provide the following information upon written request from any member of the public:

- (1) The nonprofit's latest financial statements. The financial statements must include a balance sheet as of the end of the fiscal year and statement of operations for that year. They also must contain "details about the amount of public funds received and how those funds were used."
- (2) The nonprofit's most recently filed Internal Revenue Service (IRS) Form 990, Form 990-EZ or a copy of its Form 990-N submittal confirmation. A nonprofit may redact information not required for public disclosure pursuant to 26 U.S.C. § 6104(d)(3). Alternatively, a nonprofit may satisfy this requirement if it posts this information on its website or if another entity posts the information as part of a database of similar documents. The information must be accessible by the general public without charge. Also, if another entity maintains the information, the nonprofits must include a link to the other entity's website on its own website.

Partnership Services for Transylvania County

1. Agricultural Extension. - To provide for the county's share of the cost of maintaining and administering programs and services offered to agriculture by or through the Agricultural Extension Service or other agencies.
2. Arts Programs and Museums. - To provide for arts programs and museums as authorized in G.S. 160A-488.
3. Auditoriums, coliseums, convention and civic centers. - To provide public auditoriums, coliseums, and convention and civic centers (if the county is co-purchasing, leasing or otherwise using the space.)
4. Health. - To provide for the county's share of maintaining and administering services offered by or through the local health department.
5. Historic Preservation. - To undertake historic preservation programs and projects.
6. Hospitals. - To establish, support and maintain public hospitals and clinics, and other related health programs and facilities, or to aid any private, nonprofit hospital, clinic, related facility, or other health program or facility.
7. Housing. - To undertake housing programs for low- and moderate-income persons as provided in G.S. 153A-378.
8. Human Relations. - To undertake human relations programs.
9. Libraries. - To establish and maintain public libraries.
10. Mental Health. - To provide for the county's share of the cost of maintaining and administering services offered by or through the area mental health, developmental disabilities, and substance abuse authority.
11. Parks and Recreation. - To establish, support and maintain public parks and programs of supervised recreation.
12. Public Transportation. - To provide public transportation by rail, motor vehicle, or another means of conveyance other than a ferry, including any facility or equipment needed to provide the public transportation. This subdivision does not authorize a county to provide public roads in the county in violation of G.S. 136-51.
13. Schools. - To provide for the county's share of the cost of kindergarten, elementary, secondary, and post-secondary public education.
14. Social Services (a) - To provide for public assistance required by Chapters 108A and 111 of the General Statutes.
15. Social Services (b) - To provide for the public welfare through the maintenance and administration of public assistance programs not required by Chapters 108A and 111 of the General Statutes, and by establishing and maintaining a county home.

Services for K-12 Students Receiving Public Education

During prior appropriation cycles for nonprofit entities, Transylvania County staff have been asked to respond to applications requesting appropriations to organizations that provide services to students enrolled in Transylvania County Schools. This appendix serves to clarify that information.

It is important to begin by stating that local governments in North Carolina are not able to operate the way charitable foundations do when they offer funding. The two most important ways that a local government in North Carolina differs from a charitable foundation are the following:

1. Local governments may only contract with any person, association, or corporation to carry out a public purpose (it cannot offer funding as a grant, something must be received in return).
2. If a local government chooses to contract out this service, it must be something that the county is authorized by law to engage in (counties can only do what counties can do, and cities can only do what cities can do).

Transylvania County's process for funding projects for nonprofit entities is not designed with the intent of providing assistance to projects that narrowly or exclusively benefit students at Transylvania County Schools.

The County Government is only allowed to fund projects which it could directly operate if it chose to do so as a county government. County governments are not authorized to directly provide education, rather they pay a share of the cost to the defined local government entities responsible for education: the Transylvania County Schools System.

If you are a private entity with a project proposal that disproportionately benefits students of Transylvania County, your first point of contact should be the Transylvania County Schools system (TCS) and the Transylvania County Board of Education (TCBOE.)

This is not to say that the Transylvania County Board of County Commissioners or Transylvania County Government cannot or will not appropriate public funds for your project, but rather that state law vests in the local school system the responsibility for planning and executing services for individuals enrolled in a public school in our community. As a result, it is reasonable that they should have the right to review and prioritize any requests that might affect that mandate.

Addendum Regarding Requests for Capital Projects

During prior appropriation cycles for nonprofit entities, Transylvania County staff have been asked to respond to applications requesting appropriations to organizations that provide services to students enrolled in Transylvania County Schools. This appendix serves to clarify and address questions about this issue.

It is important to begin by stating that local governments in North Carolina are not able to operate the way charitable foundations do when they offer funding. The two most important ways that a local government in North Carolina differs from a charitable foundation are the following:

1. Local governments may only contract with any person, association, or corporation to carry out a public purpose (it cannot offer funding as a grant, something must be received in return)
2. If a local government chooses to contract out this service, it must be something that the county is authorized by law to engage in. (counties can only do what counties can do, and cities can only do what cities can do)

With that in mind, there are complications that arise in evaluating requests for capital projects. A county cannot explicitly appropriate funding to a capital project unless that capital project is providing some public function or service to the county's citizens. In this case, that means that the building or land has to serve a purpose outlined by the relevant state law for county functions. If the county could not build the structure, then it cannot fund the construction of your structure. Furthermore, it must consider what services will be provided at that structure – a county government, for example, cannot build or operate a school as the laws of North Carolina lay out that constructing and operating public schools is a task left to the local school system.

Providing this service will require the execution of a contract between your organization and Transylvania County Government. If you apply for funding to meet a capital need for your nonprofit organization, as noted earlier, Transylvania County must translate that request into a contract. When the application is formalized as a contract, the County must be able to define what it is receiving in return for the funding.

In return for public funding for a capital project, organizations will be asked to commit in a contract to a certain amount of time during the grant period where the facility will be able to serve a public purpose once the capital funds have been expended and the project completed. Given the nature of the service, the contract conveys a real estate interest. In these special circumstances, the contract will be a lease between the County that secures the right of the public to access to the facility.

It is preferable that your organization, when making the request, determine in advance what hours your facility will be freely available to the public. Failing to identify this as a part of your grant request will require that Transylvania County staff negotiate those hours, which may delay consideration of your request.

Transylvania County Policy and Procedures for Nonprofit Funding

Transylvania County is committed to providing citizens with both transparency and accountability for the use of public funds. This commitment is evident as County government moves towards data driven decision-making including implementation of the County Strategic Plan and tracking effectiveness of County funds through performance management and regularly reporting on outcomes. Sometimes the County works with nonprofits to accomplish community goals or to provide needed services that the nonprofit sector can provide more efficiently in complement to services provided by the County. This policy is intended to insure that in these cases, the same transparency and accountability for public funds that are being implemented internally apply. In any given year, +/- 75% of the County expenditures are required directly by mandate or required in order to accomplish mandates. Nonprofit funding is considered in the context of the remaining 25% along with non-mandated services.

Procedures

County staff will issue a call for applications for nonprofit funding annually including required forms and instructions. This call will have a specified deadline and is open for organizations recognized as nonprofits as evidenced by 501(c)(3) status. Applications submitted after this call will not be considered. Applications must be submitted complete and failure to complete the application will result in disqualification for consideration. Information such as annual reports or materials submitted at times other than application submittal will not be considered in determining whether an application is complete. Outcomes anticipated as a result of funding being approved are to be included in addition to a clear statement of how funding the request connects to the County Strategic Plan, as indicated on the application.

A funding agreement is required for agencies that receive funding and must be signed by an authorizing official for the nonprofit. This agreement has requirements for both financial and outcome reporting that must be adhered to in order to remain eligible for future funding. Failure to comply with the reporting requirements shall result in disqualification for funding in the following year.

After all applications are submitted, a review committee will be convened. Membership may include up to two Commissioners, the County Manager, County Finance Director, a County community development services representative and a County human services representative. Complete applications will be evaluated and prioritized based on the following criteria:

- Ability to provide services that supplement or enhance existing County services
- Demonstration of how expected outcomes are in support of the County Strategic Plan
- Scale of outcomes expected versus funding requested
- Demonstrated history of achieving projected outcomes from prior County funding received

A final recommendation will be made in the manager's recommended budget presented by June 1 in compliance with state law. The recommendation will be made based on the committee evaluation and prioritization, projected revenues for the coming budget year and weighing internal needs for resources. Final approval is subject to County Commission approval of the budget. Following approval, funding recipients will be notified and funding agreements will be issued for signature.

Sample Non-Profit Contract with Transylvania County

This AGREEMENT made and entered into this 1st day of July 20xx, by and between Transylvania County, North Carolina, hereinafter referred to as the "COUNTY", and Sample Non-Profit, a not-for-profit corporation, hereinafter referred to as the "AGENCY".

WITNESSETH:

WHEREAS, funds will be used to Sample Description of Each Non-Profit

WHEREAS, the AGENCY has requested certain funds from the COUNTY to help with providing access to these services for the residents of Transylvania County.

WHEREAS, in response to such request, the Board of County Commissioners found that the provision of these programs and services by this Agency would serve a public purpose and has appropriated the sum of Amount Requested for the period July 1, 20xx through June 30, 20xx to support this purpose; said sum being derived from County funds, pass through grant funds or both; and,

WHEREAS it is desirable and necessary to enter into this AGREEMENT in order to set forth the terms and conditions for receiving said funds from the COUNTY.

NOW THEREFORE, in consideration of the following, the parties hereto do mutually agree as follows:

1. The AGENCY agrees to use the funds appropriated by the COUNTY in the manner and for the purposes as stated on the Grant applications submitted to the COUNTY or as otherwise approved by the COUNTY.
2. In consideration for the performance by the AGENCY of the services outlined on its Grant applications, the COUNTY agrees to pay the AGENCY the aforementioned appropriation authorized in the Transylvania County Budget Ordinance for the grant period. The COUNTY upon execution of this agreement shall make payment of such amount and after receipt of all necessary documentation from the AGENCY including financial or audit reports for the prior year as required by state law or local policy.
3. If the AGENCY fails to perform its obligations under this AGREEMENT, or if the AGENCY violates any of the provisions of this AGREEMENT, the COUNTY shall have the right to terminate this Agreement by giving written notice to the AGENCY of such termination. In such event, all unspent funds paid to the AGENCY for that quarter shall be refunded to the COUNTY within thirty (30) days of the close of the fiscal year. The AGENCY shall be fully liable to the COUNTY for all improperly expended funds. Funds may not be used for capital under any circumstances unless expressly stated in the application. Any use of funds for capital purchases must be used such that they provide access to the public for use. Excess funds that are not spent for the services, purposes and intents expressly stated in the grant application may not be approved for other uses without approval from the COUNTY in writing. All funds must be spent for services and purposes that the COUNTY is authorized to provide under State law. The COUNTY may additionally terminate this AGREEMENT without cause upon thirty (30) days advance notice to the AGENCY.
- 3a. If the AGREEMENT terminated by the COUNTY involves funds related to a pass-through grant(s); all unexpended funds at the time of such termination shall be properly repaid to the COUNTY within thirty (30) days of the termination date. The AGENCY shall be fully liable to the COUNTY for all improperly expended funds in the same amount, as the COUNTY is found liable for repayment by the granting AGENCY.

4. The AGENCY shall not assign any interest in this AGREEMENT and shall not transfer any interest in this AGREEMENT without prior written approval of the COUNTY.

5. In connection with the performance of this AGREEMENT, the AGENCY shall not discriminate against any employee, applicant for employment, or program participant because of race, religion, color, sex, age, handicap, or national origin.

6. The AGENCY shall maintain all accounts, books, ledgers, journals, and records in accordance with generally accepted accounting principles, practices and procedures and follow all relevant laws.

7. The AGENCY must establish and provide to the COUNTY for approval prior to the beginning of this agreement criteria that will be used in monitoring the accomplishment of established goals and objectives along with any performance measures.

8. The AGENCY shall submit to the Transylvania County Administration, a status report of all program activities including a summary of the accomplishment of stated goals and objectives on the six-month and end of year report provided by the COUNTY. Six Month Performance Reports are due by January 31st of the year within this budget ordinance and End of Year Reports by July 31st following the lapse of the budget ordinance referenced above. Annual organizational reports or other documentation and forms will not be accepted as having satisfied this provision.

9. Agency annual financial reporting:

a. The COUNTY shall be entitled to review the financial records and operations of the AGENCY at the COUNTY's discretion.

b. If COUNTY funding is \$1 to \$49,999 the agency shall provide documentation to support their expenditures to the County Finance Office. The Agency will provide an annual financial review accounting for COUNTY funds and their specific use under the grant application.

c. If COUNTY funding exceeds \$50,000 the AGENCY shall have an annual audit of its financial records and operations performed by an independent certified public accountant with a copy of such audit being submitted to the Transylvania County Finance Office.

d. Financial reports shall be approved by the AGENCY's Board of Directors.

e. The audit or financial report shall be submitted to the COUNTY no later than six months after the end of the AGENCY's fiscal year.

10. Sales taxes are not eligible for reimbursement or applied against any grant funds. As a non-profit agency you are responsible to file with the State of North Carolina for any sales taxes paid for which you are due a refund.

11. The COUNTY shall be entitled to conduct program evaluations of the AGENCY's activities particularly as it relates to the accomplishments of established goals and objectives and the quality and impact of services being delivered.

12. All books and records shall be maintained by the AGENCY for a period of at least three years from the date of the final payment under this AGREEMENT and shall be made available for audit or evaluation upon request during regular business hours of the AGENCY.

14. Meetings of the AGENCY's Board of Directors, Advisory Board or Governing Board must be open to the public. Notices of such meetings shall be provided to the Board of Commissioners and the County Clerk.

15. As a condition of receiving funds from Transylvania County, the AGENCY agrees to fully indemnify and hold harmless Transylvania County, its officers, agents and employees from and against any and all claims, demands, payments, suits, actions, costs, recoveries and judgments of every kind and description brought out of or occurring in connection with, directly or indirectly, activities funded in part or in whole with funds made available under this AGREEMENT.

16. The COUNTY is in no way responsible for the administration and supervision of the AGENCY's officers, employees, and agents, which persons it is agreed are not officers, employees, or agents of the COUNTY.

17. The appropriation of county funds lapses on June 30. Only expenditures occurring within the beginning date and ending date of the fiscal year of the Transylvania County Budget Ordinance are eligible for expenditure of COUNTY funds. Any excess funding at the end of the year shall be returned unless the COUNTY grants its express permission to roll funds into the next funding year for the same purposes as stated on the grant application.

18. The AGENCY agrees to notify the COUNTY immediately should its status as a not-for-profit organization change.

19. This AGREEMENT may only be amended by written amendments mutually agreed upon by and between the COUNTY and AGENCY.

20. This agreement shall be interpreted in accordance with North Carolina law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their names by their duly authorized officers, their seals to be hereto affixed the day and year first above written.

ATTEST:

TRANSYLVANIA COUNTY

County Manager

Chair, Board of County Commissioners

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

County Finance Director

ATTEST:

AGENCY: _____

Printed Name

Date

Signature

Authorized Agency Official