

AGENDA MATERIAL

DATE 4/19/22 ITEM NO. RA 10

Corrie Cotugno

From: JoAnn diFilippo [REDACTED]
Sent: Monday, April 18, 2022 2:35 PM
To: COB_mail
Cc: District1; DIST2; District3; District4; District5; Jan Leshner
Subject: Comment Letter to BOS 4/19/22 Meeting: Agenda Item #10

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Clerk of the Board: please add the following comments to Agenda Item #10

Approval Process for Modifications to Line Items for American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds

Supervisors:

This agenda item and accompanying memo from Ms. Leshner is requesting you approve the process for budget modifications to line items for projects detailed in the county's American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds. Before you vote on any actions and especially in view of the recent acknowledgement of supervisors not being informed about certain activities, please consider the following before you take any action to approve this budget modification process. Are you not aware that the proposed budget modification process establishing a 10% threshold has been in place for years by the federal government, as it pertains to federally funded projects? What's interesting is how this memo is attempting to make us believe the \$203 million in ARPA funds will be transparent and accountable with measures in place for safeguarding project funds properly under the current administration. There are two issues conflated in this memo: first, the budget modification process as it relates to federal grant funds regulated under 2 CFR Part 200, et. seq.; and second, the incorporation of a Pima County procurement code layered over the federal budget modification regulation. Let's look at these two issues:

Issue 1: 2 CFR Part 200, et. seq. and Federal Grant Awards: eCFR :: 2 CFR Part 200 -- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

This federal regulation has been in existence since 1945 (refer to the link above). It is updated and expanded regularly. Every time the supervisors accept a federal grant award, they agree to abide by the regulations set forth in 2 CFR Part 200, et. seq. This requirement is usually stipulated to in the grant terms and conditions (the rules by which you must adhere to for that specific funding) and/or in the grant award documents. The budget modification process pertaining to the 10% threshold is already included in 2 CFR Part 200 (seeking approval from the federal agency for budget modifications exceeding the 10% mod factor). In fact, you already agreed to abide by these regulations when you voted to accept the ARPA funds last year (or any federal grant award). Ask yourself: Why are you being asked to approve this already regulated process when you agreed to abide by the regulations last year when you accepted the federal award? Now, let's look at the second section of the proposed budget modification process.

Issue 2: Incorporation of Pima County Procurement Code with 2 CFR Part 200 Budget Modification Process:

Pima County maintains a procurement code which allows for certain thresholds of budget modifications to be approved by county administration, thereby, by-passing any approval and/or notification process to the supervisors. Surely you were aware of this code? The code specifically states the County Administrator can approve budget modifications not exceeding \$500,000—without presenting the modification to the supervisors. And the Procurement Director can approve similar budget modifications not exceeding \$250,000—again, without notification and/or approval of the supervisors.

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Why is this important? Because the likelihood that supervisors and/or taxpayers will ever be presented with a budget modification for any of these ARPA projects is almost nil or non-existent. Modifications will likely be kept below the \$500,000 threshold to allow the county administrator and/or procurement director to initiate these modifications without public notice to the supervisors and subsequently to the taxpayers. In those cases where the budget modification exceeds the \$500,000 threshold a simple operating transfer bringing “cash” into the project can cover any overages and the project will never show expenditures exceeding the original federally approved budget. Remember, there can be a difference between the “total project costs” and the “federally approved budget costs.”

Here’s an example: the federal grant allows for \$100,000 in total federal funds to be allocated to the project. When Grants Management processes the invoices for federal reimbursement, they discover the total project costs (not federal costs) amount to \$150,000. Because the project costs exceed the \$100,000 federally approved award and the overages are below the \$500,000 threshold, county administration can rectify this \$50,000 overage by initiating an operating transfer bringing cash into the project to cover the \$50,000 overage in expenses. Or the overage expenses can be transferred to some other funding mechanism. Do you follow the narrative I’m explaining? Neither you nor the taxpayers will likely ever see a budget modification, nor will you likely see the true cost of the project as it relates to the total project cost and/or the federal funds budgeted toward the total project cost. Given the recent concerns of information not presented to the board, what makes you think any ARPA budget modifications will be brought to the board?

Recommendations: to prevent any issues surrounding budget modifications for ARPA projects, I suggest you consider the following three recommendations:

1. Reject the proposed budget modification process and request a new approval process be established that incorporates recommendations from items numbers 2, 3, and 4 below;
2. Prohibit any operating transfers that move cash into the project to cover overage expenditures and/or the re-allocation of overage project expenses to another funding mechanism. If project expenditures exceed the federally approved budget and/or budget modifications are requested in **any amount**, require each project be brought before the board (and taxpayers) for review and approval of the budget modification. This recommendation would ensure compliance with 2 CFR Part 200, as well as ensure taxpayers no budget modification of any amount is processed without the supervisors’ and/or taxpayers’ knowledge;
3. Transfer the budgeted \$3 million in ARPA funds for Grants Management & Innovation (GMI) “compliance” staff to the Finance Department. The current configuration of maintaining compliance operations within the GMI is akin to having the “fox in the chicken coop.” GMI prepares and/or monitors the department’s federal reimbursement requests submitted to the federal agency for the specific project. However, no one monitors GMI’s ability to adhere to 2 CFR Part 200 as it relates to total project costs (yes, expenditure reports such as BQ38LV3 and Proj reports are available, but these are sometimes viewed as problematic in stating compliance issues). The Finance Department should monitor GMI’s activity related to total project costs and federal award allocations, just like GMI monitors the department’s activity related to federal award reimbursements and subrecipient subawards. You need this separation of powers to have a balanced compliance process. It’s an effective way of balancing the powers while not overburdening any one department with sole compliance authority; and
4. Require staff to present a quarterly report of all projects “approved” on the ARPA list and include the following information on the report: total budget, expenses ITD, variance/differential, available funding,

and encumbrances—at a minimum. This report could also be uploaded to the Pimarecovers.gov website available to the public for review and inspection.

Do the right thing. I believe Ms. Leshner will try to adhere to government accounting principles, but she needs your help. Safeguard your constituents' rights to know how county funds are spent. Please don't try to hoodwink us like you did with the \$7 million budgeted for the purchase and rehabilitation of the Golden Pins Bowling Alley only to find out it was leveled, demolished, and vaporized, so an additional \$36 million could be allocated to build a new Northwest Community Center. And, as previously reported by the county, presumably over \$4.7 million was already spent on the original Golden Pins Bowling Alley Project—that's \$4.7 million spent out of the reported total \$7 million funds originally allocated toward the project. It's not to state the Northwest Community Center is not a viable project, but rather how will supervisors ever gain the trust of taxpayers if transparency and accountability standards are not adhered to?

In closing, I'd like to refer to a quote stated by Supervisor Bronson (reiterating a quote from Mo Udall) at the April 5, 2022, Board of Supervisors meeting: "May your words be sweet, you may have to eat them."

Thank you for taking the time to consider my comments.

JoAnn di Filippo, PhD