



MEMORANDUM

Date: August 8, 2019

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **August 6, 2019 Board of Supervisors Meeting Addendum Item 1 Placed by Supervisor Ally Miller Regarding Humanitarian Aid for Asylum Seekers and the Use of Indirect Grant Reimbursement Expenses for this Purpose**

Background

At the Board of Supervisors Meeting Public Hearing on August 6, 2019 Supervisor Miller requested the County Attorney investigate whether there had been a violation of the Open Meeting Law regarding my July 11, 2019 letter to Arizona Department of Homeland Security's Assistant Director and Strategic Planner requesting humanitarian aid assistance for legal asylum seekers.

Supervisor Miller is under the mistaken belief that the indirect expenses of the County that may be eligible for from the Operation Stonegarden Grant (OPSG) cannot or in her opinion should not be used for humanitarian aid.

The purpose of this memorandum is to provide the Board with additional factual information regarding Supervisor Miller's allegation as well as to provide information upon which the County Attorney can express an opinion regarding any violation of the Open Meeting Law. Further, I am sure the County Attorney would defer to the Arizona Attorney General if requested by the Board or if they thought there would be a conflict in their response to the request.

History of Indirect Expense Grant Reimbursement from Operation Stonegarden

The County has been receiving OPSG funding for some time at least 10 years. In a letter to Governor Ducey from members of the Arizona Border Counties Coalition dated February 14, 2019¹, a number of issues with Operation Stonegarden funding was raised. Among the

¹ February 14, 2019 Letter to The Honorable Douglas Ducey, Governor from Arizona Border Counties Coalition RE: Federal Operation Stonegarden Grant Modifications. Signed by Pima County Representative Sharon Bronson, Pat Call Cochise Representative, Bruce Bracker Santa Cruz County Representative and Tony Reyes Yuma County Representative.

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issues raised was why there was no indirect cost reimbursement in this Federal grant. Gilbert Orrantia the Director of the Arizona Department of Homeland Security responded for the Governor on March 12, 2019 and stated:

“ Given the Fact that OPSG is formula-based, award amounts for each county are determined by CBP. Although as a state we can request any amount we desire, each county receives a finite aware amount. As a general practice, OPSG subrecipients have not requested indirect costs (IDS) because the inclusion of indirect costs in grant awards made to OPSG subrecipients would greatly reduce the amount of funds left for the intended purpose of the grant such as overtime, mileage and equipment for each participating agency. Less funding due to larger amounts of funding going to IDC would have negative effects.”

Clearly, the County had been eligible to receive OPSG indirect expense reimbursement all along. However, agencies who divvied up grant funds, to primarily law enforcement agencies, simply excluded the County from receiving any indirect expense consideration. This is evident from the ADHS Director’s response and was reaffirmed in a meeting between the Arizona Border County officials, ADHS and US Border Patrol official in a pre-meeting before the Arizona Border Counties Coalition meeting of April 11, 2019². During the pre-meeting, it was admitted Pima County was eligible to receive indirect expenses from the OPSG grant and in the 2019 grant cycle, indirect expenses would be included as a line item on the grant application. Hence, through our own due diligence, we were able to establish the County was not only eligible for indirect expense reimbursement for the OPSG grant activities, but would receive a direct line item appropriation for these funds in any 2019 OPSG grant cycle, which is larger than the 2018 grant cycle approved by the Board of Supervisors on May 7, 2019.

History of Humanitarian Aid Eligibility from Operation Stonegarden Funding

On April 23, 2019³ the County first discovered that we were eligible for humanitarian aid when US Department of Homeland Security/Federal Emergency Management Agency Information Bulletin No. 436 indicated the use of OPSG funds for humanitarian aid was an allowable expense pursuant to official grant guidelines. On this same day I communicated to the Board our intent to apply for Humanitarian Aid through the Stonegarden grant. This was documented in our letters to the Congressional delegation asking for assistance in

² April 11, 2019 Meeting sign-in sheet to include representatives from US Border Patrol, Cochise County, Santa Cruz County, Arizona Department of Homeland Security, Pima County, and Yuma County.

³ April 23, 2019 email from Sheriff Mark Napier Providing County Administrator Grant Programs Directorate Information Bulletin No. 436 dated November 28, 2018.

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Humanitarian Aid. These guidelines were clear and the County followed up with the ADHS to request reallocation in my letter dated May 2, 2019⁴. The Arizona Department of Homeland responded on May 7, 2019⁵ concurred that Information Bulletin (IB) 436 expanded the use of Stonegarden funds for humanitarian aid. The ADHS then issued an OPSG Humanitarian Aid Modification request on Thursday June 27, 2019⁶ that indicated ADHS would review a request for OPSG funding reallocation for humanitarian aid and the request needed to conform with Information Bulletin No. 436. The request was to be completed and submitted no later than 5:00 p.m. on Thursday, July 11, 2019. This is the source of my July 11, 2019 letter attached to Supervisor Miller's Addendum Item. Please note that the Pima County code 2.12.060 (M) states:

"M. The county administrator is authorized to sign federal, state and public grant applications, agreements, assurances and other pertinent grant documents prepared or received by all county departments."

It is under this authority the grant application for full funding for humanitarian aid was made.

Since this action, the US Congress passed House Resolution 3401, which allowed \$30 million to be distributed to the States for the purpose of providing humanitarian aid relief to non-governmental organizations and local governments and to US Border communities experiencing financial burdens in providing humanitarian relief to legal asylum seekers. In addition to our humanitarian aid request related to OPSG funding, the County has made a request of approximately \$1.5 million for humanitarian aid from this specific funding source.

Intent of the May 7, 2019 Operation Stonegarden Grant Award by the Board of Supervisors

Prior to the May 7, 2019 OPSG grant award approved by the Board of Supervisors, I provided the Board with an extensive memorandum regarding the background of OPSG, including a specific recommendation regarding the uses of funds from OPSG. This memorandum was issued on April 17, 2019 long before the actual meeting. Specific recommendations can be found on Page 9 of my (May 7, 2019) Board of Supervisors transmittal memorandum.

⁴ May 2, 2019 letter to Gilbert Orrianta, Director State of Arizona Department of Homeland Security Regarding Federal Fiscal Year 2018 Operations Stonegarden Grant for Pima County.

⁵ May 7, 2019 Letter from Mr. Gilbert Orrantia , Director State of Arizona Department of Homeland Security Regarding Federal Fiscal Year 2018 Operation Stonegarden Grant for Pima County

⁶ Email from Susan Dzbanko, Assistant Director – Planning and Preparedness Arizona Department of Homeland Security Regarding OPSG – Humanitarian Aid Modification Request

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While Supervisor Miller has questioned the use of indirect expenses for humanitarian aid in her August 6, 2019 Addendum Item discussion, clearly the May 7, 2019 Board transmittal memorandum contemplates using all of the \$330,000 of estimated indirect expenses for humanitarian purposes.

For your information, below, I have inserted Recommendation a, 1) and 2) of my May 7, 2019 memorandum:

- a) the County receives indirect cost reimbursement at the rate of 28.58 percent as applied to the personnel component (wages, salaries, fringe) of the Operation Stonegarden Overtime grant; this will generate approximately \$330,000, which will reduce the allowable overtime and fringe cost component to approximately \$825,866. It is further recommended:
 - 1) the recovered indirect cost monies be used to reimburse our public health agency for expenses now being incurred and anticipated to be incurred through the end of February 2020 for public health services related to migrant families and asylum seekers. Such cost is estimated to be near \$150,000. These costs have not been budgeted within the public health budget; resultantly, unless reimbursed, the public health budget will have to be curtailed in other key public health service areas to County residents; and
 - 2) the balance of the indirect cost recovery received by the County will be allocated to the County's Outside Agency Review Committee in the approximate amount of \$180,000 to increase funding for established service nonprofits with the primary purpose of said funds to strengthen the social service safety net within the County.

Reimbursing County public health expenditures for those expenses incurred by providing medical assistance to asylum seekers using humanitarian aid is covered in Item a. 1, Page 9.

Item a. 2 is directly related to using the remaining funds from indirect overhead for the purpose of "strengthen the social service safety net within the County." This is also humanitarian aid.

In my opinion, the entire \$330,000 of possible indirect expenses from a Federal grant for OPSG was intended by the Board of Supervisors for humanitarian purposes at the May 7, 2019 Board of Supervisors Meeting. Clearly this is one of the key considerations by the Board in approving the grant.

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Additional Notice to the Board of Supervisors that Funding from Operation Stonegarden, Including Indirect Overhead Expenses Would be Used for Humanitarian Aid is Clear Throughout the Communications to the Board Leading Up to and Including Materials Provided to the Board for the July 22, 2019 Special Meeting

Unfortunately, Supervisor Miller attended the July 22, 2019 Special Board Meeting by telephone. It is apparent Ms. Miller may have not read all the background material provided for the agenda item, which included many of the communications I previously provided the Board regarding humanitarian funding using OPSG funding. The full record of these materials are available from the Clerk of the Board. I will highlight the pertinent documents that discuss full and complete disclosure to the Board regarding humanitarian aid for asylum seekers and the use of OPSG funding for this purpose.

First, the July 22, 2019 agenda cover memorandum states:

“At present, several applications have been made for humanitarian aid as now provided by several homeland security grant programs.

I am confident the County will receive one or more of these grants to fully offset the facility’s operating and maintenance costs.”

The grant was modified to fully cover the expected cost of humanitarian aid. This grant modification was requested through the Modification Request opportunity provided by the ADHS dated June 27, 2019. In addition, in a July 19, 2019 memorandum attached as the supporting material to the July 22, 2019 Agenda material, Item 4c, I discussed in detail a humanitarian aid request that had been made to federal agencies to reimburse both non-governmental organizations as well as local governments when providing emergency shelter services. I clearly referenced, Bulletin 436 and our proposal to use ADHS funding for humanitarian aid, which includes OPSG funding. In the July 16, 2019 memorandum to the Board I reiterate the requirements associated with our humanitarian aid request, specifically the request submitted on July 11, 2019 for a total of \$530,347 in humanitarian aid. This response was only made at the request of the State agency for reprogramming of OPSG Federal Fiscal Year 2018 grant funds. In this same communication I stated:

“Please note, the requested amount exceeds the \$200,000 originally earmarked for humanitarian services related to OPSG. The increase is caused by the fact that a County facility will now be used to provide sheltering, food and laundry services in cooperation with Catholic Community Services (CCS).”

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As I explained, this request exceeded the initial \$200,000 humanitarian aid request by the Board of Supervisors, only because the request now involving County facilities and the combination of indirect cost expense and humanitarian aid request would cover the anticipated cost. Also, please note, it is clear the Board previously authorized the use of indirect expenses and potentially all of the funding for the County through the May 7, 2019 approval of OPSG for essentially, humanitarian aid. See recommendation a) 1 and 2 on page 9 of the May 7, 2019 agenda item transmittal. It is very clear the Board intended to use any funding available for humanitarian aid.

Conclusion

Clearly, there is overwhelming evidence and documentation that the County and Board of Supervisors had always contemplated the funding from OPSG whether it be for humanitarian aid or indirect expense reimbursement was to be used for any humanitarian aid expenses to ensure these expenses are fully covered by Federal grants funds and do not fall on local taxpayers. This was true in Operation Stonegarden grant approval on May 7, 2019 and reinforced by the Board in their Special Meeting on July 22, 2019. The documentation I have provided indicates the direction of the Board of Supervisors and any inference that the Board or County Administration acted to the contrary is false.

The County Attorney's Office has been copied on this memorandum for their review and analysis to determine if there were any Open Meeting Law violations regarding this matter. I will also provide such to the Attorney General if they take any interest in this specific issue.

CHH/mp

c: Andrew Flagg, Chief Civil Deputy County Attorney
Jan Leshner, Chief Deputy County Administrator
Francisco Garcia, Assistant County Administrator for Community and Health Services