



Akerman Senterfitt LLP
750 9th Street, N.W.
Suite 750
Washington, D.C. 20001
Tel: 202.393.6222
Fax: 202.393.5959

Memorandum

From: Jane Sargent, Mike Abrams, Rick Spees, Nick Falvo, and Jose Villalobos

To: Chairman Joe A. Martinez
Board of County Commissioners

CC: Joe Rasco

Date: June 1, 2012

Subject: May 2012 Monthly Report

FY2013 Justice Department Appropriations:

In May, we continued to keep the County informed of developments on the FY2013 appropriations bills, including the Commerce-Justice-Science (CJS) bill. On May 10, the House passed the FY2013 CJS bill. The bill totals \$51.1 billion, which is approximately \$1.6 billion less than FY2012. The Senate bill, approved by the Senate Appropriations Committee in April, totals \$51.9 billion, which is more than the House bill, but \$1 billion less than FY2012.

During the floor debate, the House adopted several controversial policy provisions, including one that prohibits funds from being used to defend the Affordable Care Act, to pursue lawsuits to overturn specific immigration laws in 8 states, or to take any action to contravene the Defense of Marriage Act (DOMA). Senate Democrats and the Obama Administration oppose these policy riders. The White House has already issued a veto threat against the bill because it provides less overall funding than agreed to in the debt limit law approved last August.

As we previously reported to the County, the House did approve several amendments to increase funding for State and Local law enforcement programs. The House Appropriations Committee originally provided \$1.8 billion for these programs. These amendments provided millions in additional funding, but the House bill is still less than the Senate version, which provides \$2.2 billion for State and Local Law Enforcement programs.

One key amendment adopted by the House would increase funding for COPS by \$126 million. The House had originally proposed \$72.5 million for this program, which was a substantial cut from FY2012. The amendment offered by Rep. Grimm (R-NY) increases funding for COPS to

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the current level of \$198.5 million. The Senate bill proposes \$247.5 million for COPS programs.

The House also adopted an amendment by Rep. Runyan (R-N.J.) that increases funding for the Edward Byrne Memorial Justice Assistance Grant (JAG) program by \$22.4 million. The original House bill included \$370 million for Byrne JAG programs, which is the same as the FY2012 enacted level. The amendment brings the House bill in line with the Senate bill, which includes \$392.4 million for Byrne JAG.

The House bill includes the following funding for other programs of interest to the County:

- \$165 million for SCAAP (\$75 million below FY2012);
- \$125 million for DNA analysis grants (same as FY2012);
- \$209.5 million for Juvenile Justice Programs (\$53 million below FY2012);
- \$415 million for Violence Against Women programs (\$2.5 million above FY2012)
- \$13.5 million for Victims of Trafficking Grants (\$3 million above FY2012).

The Senate Appropriations Committee approved its version of the FY2013 CJS Appropriations bill on April 19. The full Senate has not announced when it will debate the bill, but it will likely be considered in late June after the FY2013 Military Construction-Veterans Affairs bill.

FY2013 Homeland Security Appropriations Bill:

We also kept the County informed of developments with the Homeland Security (DHS) Appropriations bill. The Senate Appropriations Committee approved the FY2013 DHS bill on May 23.

One key development is that the Senate bill does not consolidate FEMA's State and Local grant programs as proposed in the President's FY2013 budget. The President's proposal would have consolidated 16 Homeland Security grant programs into one "National Preparedness Grant Program". Instead, the Senate bill includes language directing DHS to continue working with the Congressional authorizing committees and stakeholders on its grant reform proposal.

The Senate bill provides \$1.41 billion for the State and Local grant programs, a \$369 million increase above the FY2012 level. Included in this total is:

- \$415 million for State Homeland Security Grants;
- \$55 million for Operation Stonegarden;
- \$664 million for the Urban Area Security Initiative (UASI);
- \$13 million for Non-profit Security Grants;
- \$119 million for Transit and Rail Security Grants;
- \$13 million for Amtrak security; and
- \$132 million Port Security grants.

The bill also provides a total of \$675 million for firefighter grants – \$377.5 million for the fire equipment grants and \$337.5 million for firefighter hiring (SAFER) grants.

The bill also includes \$35 million for Predisaster Mitigation grants that can be used for disaster mitigation planning and mitigation projects prior to a disaster event. The Senate bill includes \$150 million for the Emergency Food and Shelter program that provides funding to public and private local social service organizations to help people in need of emergency assistance. The Senate bill also provides \$6.089 billion for FEMA's Disaster Relief Fund.

The bill will be referred to the full Senate for consideration. The Senate has not announced when the DHS Appropriations bill will be debated on the Senate floor, but it will likely be considered after the Military-Construction/VA and Commerce-Justice-Science bills.

The House Appropriations Committee passed its version of the FY2013 Homeland Security Appropriations bill on May 16. The House is expected to debate the bill on the House floor the week of June 4th. Like the Senate bill, the House bill does not consolidate the homeland security grants into one National Preparedness Grant Program as proposed by the Administration. The House Committee also rejected the proposal because it lacked Congressional authorization and the necessary details to start a new grant program. It encourages DHS to work with the authorizing Committee on its proposal.

The House bill provides \$1.8 billion for State and Local Grants, which is more than the Senate bill. However, it does not provide specific funding amounts for each of the grant programs – similar to the FY2012 bill. It simply provides an overall amount and sets aside \$55 million for Operation Stonegarden and \$150 million for "areas at the highest threat of terrorist attack."

The House bill provides \$670 million, same as the President's budget request, for firefighter assistance grants.

The House bill includes \$120 million for the Emergency Food and Shelter program, which is less than the Senate, but \$20 million more than the budget request. The House bill includes the same as the Senate – \$6.089 billion – for FEMA's Disaster Relief Fund.

We have also reported to the County on Customs & Border Protection (CBP) provisions in the Homeland Security Appropriations bills. Like other airports around the state and across the country, we understand that the airport is concerned about CBP staffing levels, which can impact passenger processing and wait times.

The House and Senate Homeland Security Appropriations bills include less than the President requested for CBP Salaries and Expenses for FY2013. The President's requested \$9 billion and the Senate bill includes \$8.8 billion – \$240 million less than the request and \$89 million less than FY2012. The House bill includes \$8.37 billion for CBP Salaries and Expenses, which is \$644 million less than the request and \$314 million below FY2012.

However, the Senate bill includes a provision (Sec. 555) requested by the Obama Administration that would authorize CBP to enter into reimbursable fee agreements for the provision of CBP services. Current law limits the CBP's authority to receive outside funding, except in narrowly defined instances, so they asked Congress to authorize CBP to receive reimbursement from private sector and international, state, and local partners for its services. The language in the Senate bill would allow CBP to provide services for full reimbursement at

domestic or international airports, seaports, and land border crossings (other than user fee facilities, which can already pay CBP for its services). The Committee report states that it "expects this provision to be used on a limited basis."

CBP must also report to Congress twice a year on each request received, the reasons for its approval or denial, the anticipated and actual revenue received, and the service provided, including number of CBP officers funded. The bill includes language prohibiting the CBP Commissioner from entering into an agreement if it would negatively impact or alter services at an existing facility.

The House bill does not include similar language so this issue will have to be resolved when the bill finally goes to a House-Senate conference. It is our understanding that airports are continuing to work with the Senate Appropriations Committee on the language to address their concerns with the bill. However, for many airports, paying for CBP services may not be an option and does not solve the immediate CBP staffing problems that airports are experiencing – particularly in Florida with the increasing number of tourists. We will continue to work with the County on this issue as requested.

Commissioner Diaz Letter on U.S.-Korea Trade:

In May, we prepared a draft letter for Commissioner Diaz to the Korean Ambassador to the United States, Choi Young-jin, regarding the U.S.-Korea free trade agreement and the increasing opportunities for bilateral trade between the two countries. Specifically, the letter suggested that the Korean government consider opening a trade office in Miami to promote business relationships and bilateral trade between the U.S. and Korea. Because the new trade agreement will lead to increased trade opportunities for both Florida and Korean businesses, establishing a permanent presence in Miami Dade County will help to promote trade and foster key relationships. We forwarded the draft letter to the OIA for their review. We remain available to assist with this effort.

Board of County Commissioners Resolutions:

The County is preparing to consider some resolutions. In preparation for the BCC's consideration, we provided updates to the County on the resolutions assigned to us, including:

Ban on Candy-Flavored Tobacco Products Resolution: Under the Family Smoking Prevention and Tobacco Control Act (Public Law 111-31), the ban on flavored cigarettes took effect on September 22, 2009. Since then, the FDA has also issued a "Parental Advisory" on flavored tobacco products and the Obama Administration has launched a "National Tobacco Control Strategy" to reduce tobacco use. However, there does not appear to be any legislation currently pending before Congress that would extend a similar ban to candy-flavored tobacco products and tobacco products that resemble candy, mints and breath strips. Legislation has been introduced in the Congress – the Candy Tobacco Tax Parity Act of 2011 (H.R. 65) and the Tobacco Tax Equity Act of 2012 (S. 3081) that would equalize the tax rates on tobacco products, including smokeless tobacco products, which will help to reduce tobacco use, especially among young people, but we are not aware of any currently pending legislation to

ban the products outright. We will continue to track this issue and report on any developments to the County.

Passage of the End Racial Profiling Act (S. 1670/H.R. 3618) Resolution: Senator Cardin (D-MD) introduced S. 1670 on October 6, 2011. The bill has been referred to the Senate Judiciary Committee. The Constitution, Civil Rights and Human Rights Subcommittee held hearings on the bill on April 17, 2012. The House companion bill (H.R. 3618) was introduced by Rep. John Conyers on January 6, 2012. It is currently pending before the House Judiciary Committee. The "End Racial Profiling Act" has been introduced in every session of Congress since 2001, but neither the Senate nor House have marked up or voted on the legislation. We will track the legislation for any further action during this session.

Ban on "Pink Slime" Resolution: On March 30, 2012, Representative Chellie Pingree (D-ME) introduced the "Requiring Easy and Accurate Labeling of Beef Act" (the "REAL Beef Act"; H.R. 4346). The legislation would require that packages of beef include a label stating whether the product contains "lean finely textured beef" (also known as "pink slime"). H.R. 4346 is currently pending before the House Agriculture Committee.

While the USDA considers "lean finely textured beef" (LFTB) to be safe, on April 2, the USDA confirmed that some companies have asked to include LFTB labels on ground beef, and USDA indicated that it would approve the requests. Adding the LFTB claim label would be voluntary. USDA will certify that the labels are correct. We will keep you posted on any further Congressional or USDA action on this issue.

Fire Rescue/USDA Property Acquisition:

We have been working with the County on the legislation to permit the County to purchase property from the U.S. Department of Agriculture to build a new fire station to serve Pinecrest, Palmetto Bay, Cutler Bay and surrounding communities. Legislation (H.R. 3175/S. 3050) was introduced in the previous Congress to permit the transfer. Representative Ros-Lehtinen re-introduced the bill (H.R. 2825) in August 2011. The bill has been co-sponsored by Representatives Diaz-Balart, Rivera, Wasserman Schultz, and Wilson.

In the latest developments with the legislation, it appears that the measure may be included as a provision in the House version of the farm bill. The House Agriculture Committee is expected to mark up the farm bill in mid-June.

The County has been working with Florida's Senators on the legislation as well. Senator Nelson introduced the Senate version of the bill (S. 3050) during the 111th Congress and we believe will re-introduce the bill again this session. We will continue to work with the County on this issue.

Violence Against Women Act:

In May, we reported to the County on the recent developments with the Violence Against Women Act (VAWA). VAWA was originally passed in 1994 (Public Law 103-322) to help prevent and prosecute domestic and sexual violence as well as offer assistance to victims. The

act was re-authorized in 2000 and 2005 with broad bipartisan support. However, the renewal this year has been controversial and there are significant differences between the House and Senate versions of the bill.

On April 26, the Senate passed its five-year reauthorization of the VAWA (S. 1925). The bill passed the Senate by a vote of 68-31. Senator Nelson voted for the bill. Senator Rubio voted against it. The Senate version expands VAWA and includes some politically controversial provisions, including granting more visas to undocumented immigrants who are victims of domestic abuse, preventing shelters from discriminating against domestic violence victims who are gay, lesbian, bisexual or transgender, and expanding VAWA's reach to give American Indian authorities jurisdiction over non-Indians accused of abusing American Indian women.

On May 16, the House passed its version of the VAWA reauthorization (H.R. 4970), which is a more limited version of the Senate bill, by a vote of 222-205. Twenty-three Republicans opposed the bill, while only six Democrats supported it. Representatives Ros-Lehtinen, Rivera, Diaz-Balart, Wilson and Ros-Lehtinen all voted against the bill. The White House has also issued a veto threat against the House bill.

Opponents argue that the House bill rolls back the existing law and fails to protect some of the most vulnerable victims of domestic violence. In particular, the House bill does not include new protections for immigrants, American Indian and LGBT victims of domestic violence. The House bill would consolidate grant programs, require more audits and direct grant applicants to disclose all of their sources of federal funding to ensure greater accountability among grant recipients. The House bill also includes new visa application benchmarks for undocumented immigrant victims of violent crime who help law enforcement officials investigate and prosecute crimes.

With both the House and Senate passing their versions of the bill, the legislation was expected to be referred to a House-Senate conference committee to resolve the differences. However, House Republicans have objected to going to conference on the Senate-passed bill (S. 1925) because it contains a small revenue provision that raises fees on U visas that are issued to immigrant victims of domestic abuse. This creates what is known as a "blue-slip" problem. Under the Constitution, all revenue measures must originate in the House. Because of this revenue provision, the House is refusing to consider the Senate bill. The Senate could ask for a conference on the House-passed version. However, the Senate is strongly opposed to the House bill and does not want to negotiate the final version based on the more limited House bill. The two chambers remain at a standstill. This issue will need to be resolved before they can proceed. Should the County decide to weigh in on the legislation, we remain available to assist. In the meantime, we will keep the County updated on the developments with the bill.

CDBG/Census Bureau Data Issue:

On May 23, Jane Sargent participated in a meeting with the OIA and Annie Lord, Executive Director of the South Florida Community Development Coalition, to discuss the CDBG funding issue. As you are aware, Miami Dade County and other entitlement communities in South Florida took substantial cuts in their FY2012 CDBG allocation. There are concerns that the

Census data used in calculating this year's CDBG allocations is flawed, particularly the statistics on overcrowding which are based on the annual American Community Survey (ACS) that the Census Bureau conducts.

For Miami Dade County and other South Florida communities, the overcrowding number dropped significantly between last year and this year because of the new data the Census Bureau is using and it resulted in the dramatic cuts in their allocations. Several other cities in California, Nevada and other states were also negatively impacted by this data. Last year, the Census used 2000 statistics on overcrowding, but this year they used new data – which is based on an annual average of the American Community Survey between 2005-2009 – which resulted in a dramatic cut in the overcrowding number.

We met with Ms. Lord to discuss the issue and possible actions that can be taken by the County and other communities on this issue. In March, Akerman met with CDBG officials to discuss the issue of the Census data used by HUD in the CDBG formula allocation. They explained that HUD, by federal law, must use current Census data in calculating the CDBG formula and, therefore, HUD is not permitted to use another other source for the required data. Any questions or concerns about the data being incorrect, must be taken up directly with the Census Bureau since HUD has no discretion to use any other data in its formula calculations.

The Census Bureau has stated that there is no process for challenging the ACS data, but other affected communities have been trying to meet with the Census Bureau to discuss their concerns. A follow up call between Ms. Lord and the County to discuss the matter further is being scheduled. We will continue to work with them on this issue.

In the meantime, we have also informed the County of a Representative Webster amendment to the House version of the FY2013 Commerce-Justice-Science Appropriations bill. The CJS bill funds the Census Bureau, which is part of the Commerce Department. Representative Webster's amendment prohibits the use of funds to conduct the "American Community Survey". Rep. Webster offered the amendment because he believes that the ACS is unconstitutional. The House approved the amendment by a vote of 232 to 190 on a nearly party line vote. The House passed the CJS bill in May.

The full Senate has not taken up its version of the FY2013 CJS Appropriations bill yet. As the bill stands now, there is no similar language in the Senate version. Given the Administration's and Democrats' opposition to the amendment, it is unlikely to be included in the Senate bill so this issue will have to be resolved in conference.

Africa Trade Development Center Resolution

Earlier this year, the Board of County Commissioners adopted a resolution in support of the Africa Trade Development Center (ATDC) located in the Miami Free Trade Zone. The ATDC serves as a trade hub to the Americas. We continue to work with the County on their efforts to support the ATDC. In May, we provided the County and the Foundation for Democracy in Africa with a potential USAID grant opportunity for the Foundation to pursue. We have also followed

up with the OIA staff on their discussions with the Commerce Department. We will continue to assist the County with these efforts.

Activities for June:

The House will be out of session the week of June 11th. They will continue working on the FY2013 appropriations bills. The House and Senate will also continue negotiating on the surface transportation reauthorization bill, which expires at the end of June. We will also be following developments with the farm bill, VAWA, and legislation of interest to the County. In June, we will continue working with the County on the ATDC issue, the appropriations process, and our other assigned issues.