Board Agenda Item 39

DATE:	November 5, 2024
TO:	Board of Supervisors
SUBMITTED BY:	Paul Nerland, County Administrative Officer
SUBJECT:	Amendment to State and Local Fiscal Recovery Funds Subrecipient Agreement with Court Appointed Special Advocates of Fresno and Madera Counties

RECOMMENDED ACTION(S):

1. **Approve and authorize the Chairman to execute a First Amendment to Subrecipient Agreement No. 23-197 with Court Appointed Special Advocates of Fresno and Madera Counties (Subrecipient) for provision of American Rescue Plan Act - State and Local Fiscal Recovery Funds (ARPA-SLFRF), which will address the administrative burden to implement the program by revising the expenditure plan and the modification clause, with no increase to the maximum compensation ($250,000); and**
2. **Authorize the County Administrative Officer or designee to approve and execute written changes to the items in the project budget, which, when added together during the term of the Agreement, do not exceed ten percent (10%) of the total maximum compensation payable to Subrecipient, and which do not result in any change to the maximum compensation amount payable to Subrecipient.**

There is no Net County Cost associated with the recommended actions, which will revise the expenditure plan, and update the modification clause in the County's agreement with the Subrecipient. The recommended amendment will add language to the modification clause, which will allow the County's Administrative Officer or designee to consider and approve written requests for budget revisions that do not exceed a maximum 10% of the maximum compensation under the agreement, as amended. Recommended action two will delegate limited signature authority to the County Administrative Officer or designee to make the previously described revisions to the agreement's budget, if requested. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended actions are not approved, the maximum allocation of ARPA-SLFRF would not become available to the Subrecipient to fund the implementation of the approved program. Alternatively, your Board may determine to approve the recommended amendment without delegating authority to the County Administrative Officer or designee to make changes to the budget; in this event, if budget shifts are needed, staff will need to bring another amendment to your Board for review and approval.

FISCAL IMPACT:

There is no increase to Net County Cost associated with the recommended actions. The program is fully funded with ARPA-SLFRF. Sufficient appropriations are included in the FY 2024-25 Adopted Budget for the Auditor-Controller/Treasurer-Tax Collector Org. 1033 - Disaster Claiming, Fund 0026, Subclass 91021, Account 7845.

DISCUSSION:

In May 2021, the U.S. Department of Treasury (Treasury) published Title 31, Code of Federal Regulations Part 35 Coronavirus State and Local Fiscal Recovery Funds 2021 Interim Final Rule ("Interim Final Rule") (for expenditures before April 1, 2022) and the 2022 Final Rule ("Final Rule"), which establish a framework for determining the types of programs and services that are eligible to receive the SLFRF under ARPA. The Final Rule became effective on April 1, 2022.

On December 23, 2022, with Congress' approval of the Consolidated Appropriations Act 2023 the ARPA-SLFRF legislation was revised to include new flexibilities to use funding to provide relief from natural disasters or address the negative economic impacts of natural disasters, to fund certain surface transportation projects, and fund Title I projects under the Housing and Community Development Act of 1974. On September 20, 2023, Treasury published the 2023 Interim Final Rule (IFR) for the new eligible uses in the SLFRF program which became effective upon publication. On November 20, 2023, Treasury published the Obligation IFR which amended the definition of "Obligations" and included additional flexibility for recipients with respect to the ARPA-SLFRF program. The implementation of the ARPA-SLFRF program is regulated by the following: 2021 IFR, 2022 Final Rule, 2023 IFR, and the Obligation IFR.

SLFRF may be used for eligible activities under seven general categories:

A. Respond to the COVID-19 public health emergency or its negative economic impacts;
B. Provide premium pay for essential workers;
C. Replace public sector revenue loss, subject to certain limitations;
D. Make necessary investments in infrastructure such as water, sewer, and broadband;
E. Emergency Relief from Natural Disasters;
F. Surface Transportation Projects; and
G. Title I Projects.

Treasury's guidance permits SLFRF to be used to cover costs for eligible activities within those seven general categories for the period that begins March 3, 2021, and ends on December 31, 2024. Recipients, such as the County, must return any funds to the Treasury which are not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026. For Surface Transportation and Title I Projects, Treasury requires that SLFRF under these two categories must be expended by September 30, 2026. Under Section 602(c)(3) of the ARPA, the County may transfer SLFRF to non-profits for eligible uses for the purpose of meeting ARPA's goals. The Subrecipient is a private, nonprofit 501(c)(3) organization.

On April 25, 2023, your Board approved Agreement No. 23-197 with the Subrecipient. Since then, the Subrecipient represents that the expenditure plan found in Exhibit B, Table 1-1 of Agreement requires that the Subrecipient present to the County a precise 3% Cost of Living Adjustment (COLA) increase with supporting evidence according to U.S Treasury's Uniform Guidance. The Subrecipient represents that under the current budget, it has been difficult to demonstrate how the 3% increase in COLA was applied for personnel under its employee retention incentive effort, as distinguished from newly hired employees who are brought on board at the adjusted pay that incorporates the 3% COLA adjustment. Additionally, Subrecipient represents that the precisely worded line-item descriptions have created an undue hardship in the administration of the grant, which limit the Subrecipient's ability to recover actual expenses that are necessary to implement the program. The Subrecipient represents that the recommended amendment will also correct an unforeseen calculation error in the Subrecipient's previous methodology to estimate Indirect Costs intended to cover administrative costs to manage the award.

Approval of the recommended action will revise the Subrecipient's expenditure plan, which will provide needed flexibility to ensure the maximum limits of the grants can be reached. Your Board's approval will also add language in the agreement's modification clause that will allow the County's Administrative Officer or designee to consider and approve future written requests for budget revisions up to 10% of the maximum compensation, with no change to the maximum compensation.

REFERENCE MATERIAL:

BAI #24, April 25, 2023
BAI #7, June 21, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Amendment No. 1 to Agreement 23-197 with CASA

CAO ANALYST:

John Toepfer