

## Memorandum

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From: Rick Spees, Jane Sargent and Jose Villalobos

To: Board of County Commissioners

CC: Phillip Drujak

Date: October 4, 2022

Subject: September 2022 Monthly Report

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In September, Rick Spees and Jane Sargent met virtually with Alina Gonzalez and Phillip Drujak from the Office of Intergovernmental Affairs (OIA). We discussed a number of the County's federal issues and legislative priorities, including the status of the appropriations bills currently pending before Congress. We also discussed the legislative outlook for the remainder of this year and beginning of next year as well as the upcoming elections and potential impact on the County.

### **Appropriations Update:**

The Federal Fiscal Year 2023 started at midnight on October 1<sup>st</sup>. But as in the last few years, the federal budget was not in place and Congress had to resort to passing a Continuing Resolution (CR) to keep the government running and to avoid a shutdown. The idea is that Congress will be able to take the additional time it gave itself with the CR to enact all the necessary budget bills. The CR runs until December 16<sup>th</sup>.

We have been reporting on this situation all year. When the President sent his proposed budget for FY 2023 up to Congress earlier this year, it greatly expanded funding for domestic programs. It proposed some increases for defense spending, but at a much smaller rate. When his budget got to Congress, the Democrats generally supported the domestic spending increases. Some Democrats wanted to spend more for defense than the President requested, while others wanted to freeze or reduce defense spending. On the other hand the Republicans opposed the increases

for domestic programs while at the same time they wanted more for defense. All year the two parties have pushed their respective positions even as time ran out to get the appropriations bills done. It became clear that the two parties had no real intent to work out their respective differences. Instead the bills became political issues for the election. As reported many times in the past, there are twelve appropriations bills that, taken together, make up the federal budget. The House passed their versions of the bills with the additional domestic spending and some additional defense spending, and the Democrats on the Senate Appropriations Committee also released their versions of the twelve bills that reflected similar priorities. The Republicans stayed away from the process. The Democrats are telling the voters that their versions of the bills are how they would govern if they win the elections. The Republicans are telling the voters that the Democrats are spending too much in their bills for domestic programs and not enough for defense. The budget became a way of messaging to voters.

Added to this reality is the fact that the Republicans think they will probably win control of the House in the elections and have a decent shot of winning the Senate. Assuming this happens, they have no real incentive in working out their differences with the Democrats on the bills. They are better off waiting to pass the bills next year when they are in charge of at least one chamber. So in the best case, they will control the whole budget process next year. In the absolute worst case, the Democrats will maintain control of the both the House and the Senate and the Republicans are in the same position they are today.

So the budget bills did not get done by the end of FY 2022 and we have a CR in place until December 16<sup>th</sup>. Obviously this is not a good way to run the government. By December 16<sup>th</sup> it will already be ten weeks into the fiscal year. Agencies will have to put on hold important initiatives.

So what happens next? If either the House or the Senate flips to the Republicans in the election, we believe they will push off finishing the bills until next year. They will make no progress on the appropriations bills in December and they will pass another CR that will run until late February 2023. On the other hand, if the Democrats keep control of both Houses, both parties will push to wrap up the budget bills before the end of the year.

### **Lame Duck Preview:**

Congress has a large number of important bills that have yet to pass this year. When the Congress adjourns for the final time this year all the pending legislation will die and the bills will need to be introduced again next year to be considered. Many of the bills have been worked on this year with hearings and markups and even passage in either the House or the Senate. Members of Congress and the public would like to see them finally enacted.

The House has recessed for the election. The Senate is scheduled to be in session for one day in October to handle some procedural matters, but there will be no real work done as the Senate

Majority Leader, Senator Schumer, has announced there will be no votes until November 14<sup>th</sup>. Then the Senate will also will be out for the next six weeks.

Whenever Congress reconvenes for a post-election session, it is called a lame duck session. According to the internet—and we all know that if something is on the internet it has to be true—the expression lame duck originally applied in 18th century Britain to a bankrupt businessman who was considered lame—with his powers impaired and vulnerable to being taken over. In the US political system a lame duck refers to a politician that has either announced he or she will not run for re-election or has been defeated in an election. A lame duck politician is still a voting member of the House or Senate, but has receding political power.

In November the House and Senate will be full of lame ducks. There will be dozens of members of the House that are leaving, some because they are retiring and some because they were defeated. In the Senate, there will probably be at least ten lame ducks.

Will the Congress get much done in the lame duck session? History says not much will get done. Why is this? Once elections are over, members that are leaving focus on their next job. Their staffs also leave. They lose their offices so that the House administrators can get ready for the next set of members. Literally, they get a cubicle in a cafeteria to work out of. Many never even come back to DC. It is hard to get them motivated to vote on bills.

As discussed above, Congress will have to deal with the FY 2023 budget since the CR runs out on December 16<sup>th</sup>. While we are hopeful that the two parties will work out their differences, we are not optimistic. We believe they will pass another CR that will allow the government to run until late February. In a similar way, we are also doubtful that much else will get done. Only bills that have the support of both parties and the leadership of both Houses will get done. If there are any controversies on a bill, the leadership will not take the time to bring them up on the House or Senate floor.

On bills that we are working on we will be doing everything we can to work out any difficulties and to get the support needed to be one of the few bills to survive the lame duck session.

### **Department of Homeland Security Grants:**

In September, we participated in a Department of Homeland Security/FEMA presentation on the risk methodology that is used to determine grant funding for the State Homeland Security Program (SHSP) and Urban Area Security Initiative (UASI). The webinar information was shared with the County so they could participate as well.

FEMA is mandated by federal legislation to calculate the relative risk for States and the 100 most populous metropolitan statistical areas (MSAs) to rank and distribute the grant funding. Local governments, including Miami-Dade County, have previously had concerns about the methodology used to determine risk rankings.

FEMA has been going through a comprehensive review of its risk methodology. It did extensive outreach and has determined that there should be changes to better account for the evolving terrorism threat and to also simplify and add transparency to its model. The risk methodology was originally developed after the September 11<sup>th</sup> terrorist attacks, but there has been a recent surge in domestic terrorism and lone actors or small groups that now pose the most significant threats. There is also a consensus among stakeholders and experts that the threat is more diffuse with small scale attacks more likely the types of attacks committed on September 11<sup>th</sup>. Additionally, special events and visitors are likely to be more vulnerable so less weight should be given to population density as it has been in the past.

FEMA is proposing changes in the risk methodology for the FY 2023 grant cycle, including simplifying the risk calculations and vulnerability assessments, incorporating new data elements on community resilience and economic concentration, and making mathematical model changes to how they calculate threat, vulnerability and consequence. These changes could potentially lead to changes in the risk rankings for States and MSAs, which could impact the amount of grant funding they would receive in FY 2023. Therefore, they have been seeking feedback from stakeholders on the proposed changes before moving forward with the new methodology.

Additional information these grants programs is available at:

<https://www.fema.gov/grants/preparedness/homeland-security#programs>.

### **Public Safety & Policing Bills:**

In September, the House passed a package of public safety and policing bills that may be interest. The package included four bills:

- H.R. 4118, Break the Cycle of Violence Act, which creates new grant programs in the Department of Health and Human Services (HHS) and Department of Labor (DOL) to support community-based violence intervention initiatives, authorizing a total of a total of \$6.5 billion through FY 2029 for the programs. The bill passed by a vote of 220 to 207.
- H.R. 5768, Violent Incident Clearance & Technological Methods Act, which creates a new grant program within the Department of Justice's Office of Justice Programs to help police departments close open cases involving homicides, rapes, sexual assaults, kidnapping and nonfatal shootings, authorizing \$100 million a year through FY 2032 for the program. The bill passed by a vote of 250-178.
- H.R. 6448, Invest to Protect Act, which creates a new grant program for small police departments for police officer training and access to mental health resources as well as for improving recruitment and retention, authorizing \$60 million a year through FY 2027 for the program. The bill passed with overwhelmingly bipartisan support on a vote of 360 to 64.

- H.R. 8542, Mental Health Justice Act, which establishes a new HHS grant program to send mental health professionals instead of police officers to certain types of mental health emergencies, authorizing a total of \$250 million through FY 2027. The bill passed by a vote of 223 to 206.

The bills have been referred to the Senate for consideration. With the limited time remaining in the legislative session it is not clear if all or some of the bills will pass. The bills with broad bipartisan support are more likely to be considered. If they do not pass before the end of the session they will need to re-introduced next year.

### **Activities for October:**

The House and Senate are out of session for the mid-term elections and will reconvene on November 14<sup>th</sup>. They will only be in session for a few days before breaking again for the Thanksgiving recess. As we discussed above, the outcome of the elections will likely determine how productive the lame duck session will be. Any change in control will likely lead to Congress punting much of its legislative work until the next year when the new session of Congress begins in early January. The Continuing Resolution (CR) runs until December 16<sup>th</sup>. They will need to finalize the FY 2023 appropriations bills before then or will need to pass another CR until they can finish the bills. During the lame duck, Congress will also be trying to pass the annual national defense authorization bill, which is considered a must-pass bill each year. The Senate will likely be trying to move additional Presidential nominations especially if they lose control of the chamber in the mid-term elections. We will be tracking the election developments closely, including the Senate and House races in Florida and their potential impact on the County's legislative agenda. As always, we will continue to monitor and report on legislative and executive branch developments of interest to the County.