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October 14, 2022

The Honorable Judge Wendy Getty
Solano Superior Court
600 Union Avenue
Fairfield, CA 94533

RE: Response to 2021-2022 Grand Jury Report Entitled: "Solano County Emergency Rental Assistance Program: A Case Study"

Dear Honorable Judge Getty:

Pursuant to Penal Code sections 933 (c) and 933.05, the Solano County Administrator's Office (CAO) is responding to the following findings and recommendations contained in the subject Grand Jury Report that pertain to matters related to the County Administrator's Office.

Finding 1

After the county selected option C in February 2021 as the method for Solano County residents to access state and federal emergency rental assistance, the county neglected to sufficiently support that decision with adequate staff and timely resources.

Response to Finding 1

The Solano County Administrator partially disagrees with this finding.

The County contracted with Catholic Charities of Yolo-Solano ("CCYS") to administer the County's federally funded Emergency Rental Assistance Program (ERAP) on the County's behalf. Based on their response to the County-issued Request for Proposals, the County believed it had acquired sufficient resources to ensure proper and timely program implementation. However, CCYS experienced challenges in staffing the program, and the implementation of the partnership with the Family Resource Centers was delayed.

As complexities of the program became clearer and the need to augment work being handled by the contractor became evident, the County hired additional temporary staff to assist with administering the program. Ultimately, all federal deadlines for committing Treasury funds were met.

Recommendation 1A

Before accepting responsibility from the state for a new, time-limited program, the BOS confirm that realistic, adequate and knowledgeable internal and contracted staffing will be provided along with support plans to ensure program success.

Response to Recommendation 1A

This recommendation has been and will be implemented.

The County learned lessons from the roll out of these programs. In the future, the County will ensure that the RFP process will be conducted to bring in a qualified contractor consistent with this recommendation. If an unprecedented program were to come forward in the future, provision of sufficient internal staffing would be a priority from the onset of the program.

Recommendation 1B

Solano County carefully consider the implications of a divided state/county program when they take on a support program. Among other requirements, choose programs aligned at all government levels in qualifications, timelines, and benefits.

Response to Recommendation 1B

This recommendation has been and will be implemented.

Staff did carefully consider the implications of a divided state/county program when it recommended to the Board of Supervisors that the County choose "Option C" to administer the federal ERAP 1 funding locally. Following the requirements of State Senate Bill 91 would have had a negative impact on both tenants and landlords. Landlords willing to participate in ERAP could only receive a maximum of 80% of past rent due, and many landlords who only have a few rental units, often as a means to supplement retirement income, would be hurt by having to waive 20% of rent due to them, possibly leading to foreclosure. Additionally, tenants whose landlords did not want to participate were limited to receiving only 25% of past due rent and likely had no other means to pay the remainder of their outstanding debt. The County had an obligation to assist its residents to the greatest extent possible during a time of great financial hardship due to the COVID-19 pandemic. When ERAP 2 was initiated, the State program was modified to cover the full amount of past due rent. At that point, the County determined it appropriate for the State to administer the County's federal allocation as well as the State's allocation to the County.

Finding 2

During the first six months of Solano County ERAP, two critical county staff transitions occurred without sufficient transfer of legacy information from the exiting employee to the new person.

Response to Finding 2

The Solano County Administrator disagrees with this finding.

The first critical staff transition outlined in the Report correctly states that the Analyst who worked directly with CCYS on the CARES Rental Assistance Program (RAP) did leave at the transition from the CARES RAP and the beginning of ERAP. It is unclear from the report how this is believed to have impacted ERAP. There were common electronic files in place containing critical information to facilitate the transition. There were also internal meetings with key staff to facilitate the necessary information transfer as the transition took place.

The second critical staff transition outlined in the Report also correctly states that the DoIT employee who had worked with the Crowe software contract left before the software went "live." However, there was another DoIT employee working on the project prior to the departure of said employee, and who continued on as the primary contact for both County staff and CCYS throughout the duration of ERAP.

Finally, the Report states that the perceived lack of an established DoIT contact person created problems for CCYS and the County. It is unclear from the report what problems resulted from the

transition. There were many complexities and challenges in implementing the program, but transfer of responsibilities was not a significant issue from the County's perspective.

Recommendation 2A

County Departments develop written and oral communication system that include supervisors when a program manager is replaced. Human Resources should confirm these systems.

Response to Recommendation 2A

This recommendation will not be implemented as it is not warranted.

These systems are already in place. The County typically has plans for a transition of duties between an outgoing staff person and the person assuming those duties. There were managers in place that oversaw this transition.

The County's Human Resources Department does not address internal departments' programmatic or operational systems; their function is to provide personnel services, employee benefits, recruitments, and risk management. They do not typically become involved in department reviews or technical compliance.

Recommendation 2B

Before an employee who is part of a special project leaves the county or project, have the computer "shared drive" information reviewed to see if there are unclear or incomplete files before the transition occurs.

Response to Recommendation 2B

This recommendation has been implemented.

There was a meeting between the outgoing Analyst and the incoming Analyst to transition the workload. Document transfers were fully completed.

Finding 3

Technology continued to be a problem through ERAP implementation, delaying needed assistance.

Response to Finding 3

The Solano County Administrator partially agrees with this finding.

ERAP was a new program at the time of software acquisition and there were not many ERAP-specific software choices available at the time of implementation. As it was a new product, there were bugs to be worked out.

The decision to acquire the Crowe software was not made independently by the County; there was a virtual demonstration of the software, and the Executive Director of CCYS participated in that demonstration (their in-house IT support staff person did not participate). The contractor did not express any concerns about utilizing the Crowe software to administer ERAP and agreed with using it to administer ERAP. The report states that the County selected the Crowe software but should be clarified that it was a mutual decision between the County and CCYS.

The County requested clarification regarding the Grand Jury's statement that the program "did not meet the needs of the users, specifically: 1) the applicant requesting assistance; 2) the landlord requesting assistance; 3) the contractor's need to collect documents; or 4) the reporting and data migration needs of the contractor." Specifically, the County requested clarification of numbers one and two and disputed numbers three and four. The report does not state how the software does not meet the needs of applicants or landlords requesting assistance.

The statement that the software does not meet the contractor's need to collect documents is not supported by facts. The software allows applicants, whether tenant or landlord, to attach documents directly to their application. CCYS and the Family Resource Centers were contractually obligated to assist all applicants with completing the application process, including submitting documents as needed. This information is not reflected in this Grand Jury report.

Regarding the fourth item on the list of how the software did not meet the needs of the users, the statement that the software does not meet the reporting and data migration needs of the contract also needs clarification. The Crowe software does have the capability of producing all reports required of CCYS; however, this information was not acknowledged in the report.

Recommendation 3A

All technology issues be addressed and resolved by stakeholders before program implementation.

Response to Recommendation 3A

This recommendation will not be implemented as it is not warranted.

The County is aware that technology issues should be addressed prior to program implementation whenever possible. However, ERAP was an emergency program where funds needed to be accurately and efficiently paid out on behalf of eligible tenants as quickly as possible. With a contract executed on April 6, 2021, and just under \$8.7 million required to be obligated by September 30, 2021, there was inadequate time to ensure all technology issues were addressed prior to beginning program implementation. As the program evolved, most issues were addressed, and funds were fully issued in accordance with the Treasury guidelines.

Recommendation 3B

When choosing software for a task, the county understands the needs of the program being implemented before selecting a software vendor.

Response to Recommendation 3B

This recommendation has been and will continue to be implemented.

The County fully understood the needs of the program as the County's Program Manager has over 22 years' experience working with similar rental assistance programs. As noted above, there were few options available for ERAP-specific software and the Crowe software had a fraud detection component that was critical. Additionally, the County did not unilaterally choose the software; the contractor also participated in the demonstration and agreed with the acquisition.

Recommendation 3C

When working with a software vendor to implement a new program, confirm with all stakeholders using the product that necessary components of the software are available. All previous

information needed for future reference by the program user be seamlessly migrated to the new system.

Response to Recommendation 3C

This recommendation will be implemented.

As stated above, due to the emergency nature of ERAP and funds needing to be accurately and efficiently paid out on behalf of eligible tenants as quickly as possible, accelerated processes had to be utilized. In the case of ERAP, having the applications submitted via the software Formstack, the method CCYS utilized prior to the implementation of Crowe, migrated to Crowe was not identified as a problem until implementation began.

Recommendation 3D

When a new software system is required to implement a program with a flexible start date, allow sufficient time for complete field testing and training of all potential users before “going live”.

Response to Recommendation 3D

This Recommendation will be implemented when reasonable timelines are available.

As noted in the response to Recommendation 3C, due to the emergency nature of ERAP and funds needing to be accurately and efficiently paid out on behalf of eligible tenants as quickly as possible, while the “go live” date was flexible, there was a very limited amount of time available to process applications and any delays reduced that available time.

In general, when implementing new software, the County does make every effort to begin the process soon enough to allow for sufficient time for field testing and training.

Recommendation 3E

The county value the contractor’s researched request for a specific software product.

Response to Recommendation 3E

This recommendation has been and will be implemented.

In the case of ERAP, there was a virtual demonstration of the Crowe software, and the contractor participated in that demonstration (their in-house IT support staff person did not participate). The contractor did not express any concerns about utilizing the Crowe software to administer ERAP. If they had, their concerns would have been given further consideration before a final selection was made.

Recommendation 3F

DoIT be consistently involved with users of new software.

Response to Recommendation 3F

This recommendation will be implemented when feasible.

In the case of ERAP, the initial DoIT staff person assigned to the project was very responsive and partnered with both the County Administrator's Office and Catholic Charities of Yolo-Solano every step of the way. The departure of this individual did result in temporary challenges due to overall DoIT staff shortages in general which is an ongoing challenge that the County is attempting to address.

Finding 4

ERAP program materials, including software forms, were not initially translated into Tagalog as mandated by the contract.

Response to Finding 4

The Solano County Administrator agrees with this finding.

Initially the County was unaware of this problem. It was subsequently rectified.

Recommendation 4A

Ensure that all required translation materials are in place by the start of a program.

Response to Recommendation 4A

This recommendation will be implemented for future programs.

As noted above, CCYS was contractually obligated to provide these translations. Efforts were made by the County to assist them when we became aware that they were having issues in meeting this obligation. When the County is required to provide translations, it has a number of other resources available to do so.

Recommendation 4B

During program implementation, ensure all materials, including software forms, are available in languages and formats to meet access needs.

Response to Recommendation 4B

This recommendation will be implemented.

See response to 4A above.

Finding 5

Solano County's agreement with Catholic Charities about the scope of work changed without mutually acceptable written amendments or modifications.

Response to Finding 5

The Solano County Administrator partially agrees with this finding.

Changes to the contract were discussed over a number of meetings between CCYS' Executive Director and two members of their Board, including the Chair, and representatives from the County Administrator's Office, as well as County Counsel. The two amendments to the contract were negotiated and required the CCYS team to take the amendments back to their full Board.

Due to the emergency nature of ERAP and the urgency to get payments to landlords on behalf of eligible program applicants, time did not allow for the amendments to be fully executed prior to implementing the changes. Additionally, the changes resulted in a reduction of required services and not an increase.

Recommendation 5

When a contract with an outside agency is signed, any future modifications about deadlines and service changes should be negotiated and signed before implementation of the modification. This could require a review by the county of its contract process.

Response to Recommendation 5

This Recommendation will be implemented.

As noted in the response to Finding 5, due to the emergency nature of ERAP and the urgency to get payments to landlords on behalf of eligible program applicants, time did not allow for the amendments to be fully executed prior to implementing the changes. The County does have a process in place for contract and amendments to be executed prior to implementation during typical times.

Finding 6

County mistakenly applied regulations and deadlines related to ERAP federal funding.

Response to Finding 6

The Solano County Administrator disagrees with this finding.

The information in the report is incomplete. The report states that in a response to a notice of default from the County, CCYS stated they disputed the obligation deadline of July 31, 2021 since the federal program had a September 30 obligation deadline. This statement requires clarification.

The County did not state that the requirement to obligate 65% of federal ERAP funds was due on any date other than September 30, 2021; however, the MOU between the State and the County clearly states that the County will stop accepting applications after July 31, 2021. In order to know if the full \$13.3 million in federal ERAP funds would be expended on the applications received by July 31, 2021, an initial review needed to be conducted of each application to determine if approval seemed likely and if so, the amount to be approved. Otherwise, the County might have had a surplus of funds subject to recapture which would deprive Solano County residents of much needed rental assistance.

The County disagrees that there was any mistaken application of regulations and deadlines related to federal ERAP funding by the County.

Recommendation 6

Staff responsible for a specific program be educated about all aspects of the program and continue to monitor and communicate changing regulations.

Response to Recommendation 6

This recommendation will not be implemented because it is unwarranted.

County staff responsible for programs strive to fully understand and accurately implement all aspects of programs, including, but not limited to, staying up to date with the latest regulatory and policy changes. As noted in the response to the finding, the County disagrees that there was a mistaken application of regulations and deadlines related to federal ERAP funding by the County.

Finding 7

After being informed by key community stakeholders (Legal Services of Northern California and Common Ground) of the need, county staff did not take a request to the BOS to modify ERAP priorities to allow tenants facing immediate eviction to be prioritized.

Response to Finding 7

The Solano County Administrator disagrees with this finding.

Federal regulations and guidance for ERAP at that time indicated that prioritization of applications was to be based on specific criteria listed in those regulations and guidelines, and pending eviction was not included. Additionally, the Solano County Board of Supervisors adopted an ordinance prohibiting evictions based on lack of payment due to the impacts of the COVID-19 pandemic. These protections are still in place as of the date of this response.

The County considered the concerns presented by Legal Services of Northern California and Common Ground. However, no data or specific numbers were provided to support their concerns, only verbal statements, which impacted the County's ability to appropriately analyze the issue. Given the information above, the County Administrator at the time determined that asking the Board of Supervisors to prioritize applications for tenants claiming pending evictions was unwarranted. Data from the Unlawful Detainer Program of the Superior Court showed that the total number of Unlawful Detainer cases filed between September 1, 2021 and March 16, 2022 was 387; not all of these cases are attributable to unpaid rent but may also be due to lease violations, etc., which are still allowable under the County's emergency rental protection ordinance.

Recommendation 7

When any community organization or individual with relevant expertise raises a valid concern and need to a county department, the authority investigate the legalities of the concern and act accordingly.

Response to Recommendation 7

This Recommendation has been and will be implemented.

The County takes pride in its partnerships with community organizations and always welcomes input and feedback. The County does its best to analyze and respond to concerns and does not make such decisions lightly. Decisions must be based on factual, verifiable information. In the case of the ERAP program, the County received comments and concerns throughout the process and made every effort to be responsive when intended to improve the program.

In conclusion, the County Administration wishes to thank the Grand Jury for their findings and recommendations on this program we were tasked to implement during the COVID-19 pandemic.

As is of the the case with such a challenging program, there were lessons to be learned. The County appreciates the Grand Jury's recommendations and will continue to evaluate how they can be implemented for future programs of this nature.

Sincerely,

A handwritten signature in blue ink that reads "Bill Emlen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bill Emlen
County Administrator

