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April 30, 2020

Commissioner Gregory M. Hanley
Plymouth County Commissioners Office
44 Obery Street
Plymouth, MA 02360

Re: Request for Assistance

Dear Commissioner Hanley:

Thank you for your recent request for assistance “regarding Grant administration guidelines for member communities of Plymouth County who qualify to apply to funds that the County has applied for under Congress’[sic] America Cares Act.” As you know, my Office has unique statutory authority to “act to prevent and detect fraud, waste and abuse in the expenditure of public funds, whether state, federal, or local,” *see* M.G.L. c. 12A, § 7, and always stands ready to assist local government officials.

I recommend you forego the responsibility of administering these funds and assign them to the Commonwealth of Massachusetts for the following reasons.

First, simply put, Plymouth County does not have the infrastructure or expertise to properly manage, distribute and account for these federal funds. In contrast to the other local government recipient in Massachusetts – the City of Boston – Plymouth County has no public health department, no school administration and no police force. The state distributes federal funds to local communities every day, and therefore it already has staff, systems and expertise in place to manage funds from the CARES Act. As stated in Secretary Heffernan’s letter, the Commonwealth is “better positioned to manage multiple federal funding streams as [it] maximize[s] resources for the residents of Plymouth County and the Commonwealth. Having the Commonwealth administer the funds would also result in improved coordination among federal, state and municipal governments.”¹

¹ Letter from Secretary Heffernan to Plymouth County Commissioners, April 27, 2020.

Second, Plymouth County does not have expertise in COVID-19, public health or public administration. It is not suited to evaluate competing needs or to properly allocate the crisis funds to Plymouth County communities and businesses.

Indeed, I am concerned by your reference to “Grant administration” because the CARES Act is not a grant program at all. As you know, the CARES Act requires that state, tribal and local governments

shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that --

- (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
- (2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and
- (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

42 U.S.C. § 801(d). According to the guidance from the Department of the Treasury, which oversees the use of these funds,

expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, April 22, 2020.

While providing economic support due to business interruptions is a “second-order effect of the emergency” anticipated by the Treasury, such economic support is listed last in the Treasury’s list of eligible examples, after medical expenses, public health expenses, payroll expenses for public health and safety employees and expenses of actions to facilitate compliance with social distancing measures, none of which have been incurred by Plymouth County.² Nevertheless, the funds received by Plymouth County represent the total allotment of such relief to the residents of Plymouth County for these costs.

² The Commissioners “have authority to represent their county, and to have the care of its property and the management of its business and affairs in cases where not otherwise expressly provided[.]” M.G.L. c. 34, § 14.

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For all of these reasons, I urge you to assign the funds received to the Commonwealth of Massachusetts.

Sincerely,

A handwritten signature in blue ink, appearing to read "Glenn A. Cunha".

Glenn A. Cunha

cc: Plymouth County Commissioners
Sec. Michael Heffernan