

STATE OF MINNESOTA
COUNTY OF RAMSEY

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DISTRICT COURT
SECOND JUDICIAL DISTRICT
CASE TYPE: CIVIL

In re Temporary Funding of Core Functions
of the Executive Branch of the State of
Minnesota

Court File No. 62-CV-11-5203
Judge Kathleen R. Gearin

**AMICUS CURIAE MEMORANDUM
OF MINNESOTA COMMUNITY
ACTION PARTNERSHIP**

INTRODUCTION

The Minnesota Community Action Partnership (“MinnCAP”) is an association of Minnesota’s community action agencies and the largest social service network across that State.¹ In 2010, MinnCAP’s members administered programs utilizing more than \$500 million and served more than 500,000 people. MinnCAP submits this memorandum in support of the position of the Minnesota Workforce Council Association (“MWCA”) as set forth in its June 21, 2011 Response and Memorandum. A substantial portion of the funds supporting the work of MinnCAP’s members is provided by the federal government and, like the federal funds supporting the operations of MWCA’s members, simply pass-through state agencies en route to MinnCAP’s members. As *amicus curiae*, MinnCAP encourages this Court to ensure that all pass-through federal funds which have been appropriated pursuant to Minnesota Statutes, Section 3.3005 will continue to be available in the event of a State government shutdown.

¹ No counsel for a party authored this memorandum in whole or in part, and no person other than *amicus curiae* and its counsel has made a monetary contribution toward its preparation or submission.

BACKGROUND

Minnesota's community action agencies are designated under the auspices of the federal Community Services Block Grant and are charged with the mission of eliminating poverty and ameliorating the effects of poverty. Minnesota has 27 private nonprofit, one public, and 11 tribal community action agencies. At least one-third of the board of each agency consists of low-income individuals.

The community action agencies are funded through a complex blend of federal, state, local and private resources. A typical community action agency administers between 60-70 different funding streams. In aggregate, Minnesota's community action agencies deliver more than 150 different programs to meet basic needs, support self-reliance and build communities. The community action agencies serve people of all ages throughout the entire state and include programs administered by Head Start, Energy Assistance, Low-Income Weatherization, Meals on Wheels, Senior Congregate Dining, and many others.

The community action agencies receive approximately half of their funding from the federal government. These funds are delivered through the Minnesota Department of Employment and Economic Development ("DEED"), Department of Human Services ("DHS"), Department of Health, Department of Education, and other State agencies. The agencies already are authorized to spend many of these federal funds for fiscal year 2012 and, through its participation as an *amicus curiae*, MinnCAP encourages the Court to ensure that, in addition to the funds addressed in MWCA's Response and Memorandum, these funds will continue to be delivered to the community action agencies notwithstanding a potential State government shutdown.

ARGUMENT

As is explained in the Response and Memorandum of the MWCA, no funds may be paid out of the State treasury except pursuant to an appropriation by law. Minnesota Constitution, Article XI, Section 1; *See also State ex rel. Nelson v. Iverson*, 145 N.W. 607, 608 (Minn. 1914) (purpose is to “prevent the expenditure of the people’s money without their consent first had and given.”); Minn. Stat. § 16A.57 (“Unless otherwise expressly provided by law, state money may not be spent or applied without an appropriation . . .”). Accordingly, funds may be expended during a State government shutdown only if they are the subject of a prior appropriation or, depending upon the Court’s resolution of the Petition of Attorney General Lori Swanson, if they are necessary to fulfill a core government service pursuant to the Governor’s executive authority under the Constitution.

Federal funds received by State agencies are appropriated pursuant to Minnesota Statutes, Section 3.3005, which provides that the Legislature must review requests to spend such funds. Pursuant to this statute, the Governor must submit to the Legislature an agency’s request to spend federal funds as part of a budget request. Minn. Stat. § 3.3005, subd. 2. Such requests must be submitted at least 20 days before the legislative deadlines for committee action on fiscal bills. *Id.* Once the request has been submitted, the Legislature has 20 days to complete its review of the request. Minn. Stat. § 3.3005, subd. 3. After the 20-day review period is complete, the state agency may spend the federal funds unless a member of the Legislative Advisory Commission requested further review of the federal funds spending request.² *Id.* If a request for further review is submitted, the agency may not spend the federal funds “until the request has

² If the federal funds require a State match, the Commissioner of Management and Budget must submit a request to members of the Legislative Advisory Commission for their review. Minn. Stat. § 3.3005, subd. 5. After such review, the Commissioner may approve or disapprove the spending request. *Id.*

been satisfied or withdrawn, the expenditure is approved in law, or the regular session of the legislature is adjourned for the year.” Id.

Governor Dayton submitted his 2012-13 Biennial Budget to the Legislature on February 15, 2011 – more than 20 days before the March 25, 2011, deadline for committee action on fiscal bills. As is set forth in detail in the attached Exhibit A, this budget included the spending of more than \$1.4 billion of federal funds, disbursed through DEED, DHS, Department of Health, Department of Education and other State Agencies, for the programs administered, in part, by MinnCAP’s members.³ The federal funds identified in Exhibit A do not require a State match. MinnCAP is unaware of any member of the Legislative Advisory Commission requesting further review of federal spending requests included in Governor’s budget request within the 20-day review period. Because no member of the Legislative Advisory Council requested further review of these amounts – or, alternatively, because the regular legislative session closed on May 23, 2011, without any legislative action prohibiting such spending – the appropriate State agencies are authorized to disburse these funds to the recipient community action agencies so that they can continue to implement the social service programs notwithstanding the present budget impasse and potential State government shutdown.

CONCLUSION

The Legislature has “appropriated” the spending of federal funds included in Governor Dayton’s 2012-13 Biennial Budget submitted to the Legislature on February 15, 2011, pursuant to the procedures established in Minnesota Statutes, Section 3.3005. Accordingly, State agencies are authorized to spend, and must disburse, all such federal funds including but not limited to the

³ Exhibit A is a preliminary list of the federal funds utilized by MinnCAP’s members and approved for disbursement pursuant to Minnesota Statutes, Section 3.3005. There may be additional qualifying federal funds and MinnCAP respectfully requests that the appropriate State agencies be directed to disburse all such funds without regard as to whether they are specifically identified in Exhibit A.

funds addressed in the MWCA Response and Memorandum and the funds used to support the programs implemented by MinnCAP's members, notwithstanding the present budget impasse and potential State government shutdown.

Date: June 27, 2011

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

By:  _____

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MINNESOTA COMMUNITY ACTION
PARTNERSHIP**

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Exhibit A to the Amicus Memorandum of MinnCAP

Minnesota Department of Education

<i>Program</i>	<i>Fed. CFDA No.</i>	<i>Federal Agency</i>	<i>State Match</i>	<i>SFY 2012 Budget</i>
Child and Adult Care Food Program	10.558	Dept. of Agriculture	No	89,067,000
Summer Food Service Program for Children	10.559	Dept. of Agriculture	No	5,564,000
				94,631,000

Minnesota Department of Health

<i>Program</i>	<i>Fed. CFDA No.</i>	<i>Federal Agency</i>	<i>State Match</i>	<i>SFY 2012 Budget</i>
Special Supplemental Food Program for Women, Infants and Children	10.557	Dept. of Agriculture	No	268,474,000
				268,474,000

Minnesota Department of Human Services

<i>Program</i>	<i>Fed. CFDA No.</i>	<i>Federal Agency</i>	<i>State Match</i>	<i>SFY 2012 Budget</i>
Food Support Outreach	10.561	Dept. of Agriculture	No	707,966,000
Community Services Block Grant	93.569	Dept. of Health & Human Services	No	7,391,000
Refugee Connectors	93.566	Dept. of Health & Human Services	No	7,539,000
Emergency Food Shelter	97.024	Dept. of Health & Human Services	No	3,000
Supportive Housing Programs	14.235	Dept. of Housing & Urban Development	No	2,934,000
Homelessness Prevention & Rapid Re-Housing ARRA	14.257	Dept. of Housing & Urban Development	No	0
Small Cities Grant Program (HUD CDBG)	14.228	Dept. of Housing & Urban Development		61,834,000
Home Investment Partnerships Program	14.239	Dept. of Housing & Urban Development	No	21,000,000
				808,667,000

Minnesota Department of Employment and Economic Development

<i>Program</i>	<i>Fed. CFDA No.</i>	<i>Federal Agency</i>	<i>State Match</i>	<i>SFY 2012 Budget</i>
Migrant Education	84.011	Dept. of Education	No	6,626,000
Senior Community Service Employment Program	17.235	Dept. of Labor	No	3,329,000
WIA (Adult, Youth Dislocated Worker, Incentive Section 503, and National Emergency funds)	17.258	Dept. of Labor	No	69,497,000
				79,452,000

Minnesota Department of Commerce

<i>Program</i>	<i>Fed. CFDA No.</i>	<i>Federal Agency</i>	<i>State Match</i>	<i>SFY 2012 Budget</i>
Weatherization Assistance for Low-Income Persons	81.042	Dept. of Energy	No	165,000,000
Low-Income Home Energy Assistance	93.568	Dept. of Health & Human Services	No	21,743,000
				186,743,000

Minnesota Housing Finance Agency

<i>Program</i>	<i>Fed. CFDA No.</i>	<i>Federal Agency</i>	<i>State Match</i>	<i>SFY 2012 Budget</i>
National Foreclosure Mitigation Counseling	21	Dept. of Treasury	No	3,000,000
				3,000,000

Minnesota Department of Public Safety

<i>Program</i>	<i>Fed. CFDA No.</i>	<i>Federal Agency</i>	<i>State Match</i>	<i>SFY 2012 Budget</i>
Bryne Justice Assistance Grant	16.803	Dept. of Justice	No	4,622,000
				4,622,000

There may be additional federal revenue sources which qualify for continued disbursements pursuant to Minnesota Statutes, Section 3.3005 and MinnCAP does not waive the right to disbursement of such funds by failing to include them on this Exhibit A.