

FILED
Court Administrator

STATE OF MINNESOTA

JUL 5 2011

DISTRICT COURT

COUNTY OF RAMSEY

By BH Deputy

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
Special Master Kathleen Blatz

**REQUEST OF KAREN
ORGANIZATION OF
MINNESOTA FOR ACTION BY
THE SPECIAL MASTER**

Requested Action

Karen Organization of Minnesota ("KOM"), a Minnesota nonprofit corporation, requests that the Special Master order DHS and/or MMB to reimburse it (and similarly situated service providers) for services delivered through September 30, 2011, under contracts with DHS funded by the federal government through the Refugee Act of 1980 (Public Law 92-212, 97-363, 98-473, 99-605 and amendments thereto. Catalog of Federal Domestic Assistance (CFDA) No. 93.566), on one or more of the following grounds:

Request

(1) These federal funds must be paid to service providers in the ordinary course of contract performance because the contracts have been approved by the state as being in accordance with federal requirements, and the funds have already been appropriated by statute (Minn. Stat. §§4.07, subd. 3, 3.3005); or

(2) These federal funds must be paid to service providers in the ordinary course of contract performance because the refugee services are core governmental functions covered by Judge Gearin's Order as described at item 4 below; or

(3) If neither of the foregoing criteria is met, these federal funds must be paid to service providers after the shutdown is over because the state is obligated by federal law to use them for the purpose designated by the federal government; payment would be pursuant to contracts meeting that purpose which are under way; and they are not part of the state budget dispute.

Background and Support for Requested Action

1. The Department of Human Services Resettlement Programs Office ("RPO") is funded annually by the federal government as described above. RPO has stated that its federal funding for the federal year ending September 30, 2011, is roughly \$6,000,000. Future years are not yet at issue.

2. RPO negotiates and signs contracts with providers, including nonprofits and local governmental agencies, to provide services to refugees. Most such contracts are with

consortia of providers with one lead provider and one or more subcontractors. Some are with a single provider. KOM is one of roughly 92 providers.

3. KOM's contracts and the average monthly amounts being paid under them are:

<u>Contract</u>	<u>KOM Avg Mo'ly Amt</u>
Refugee Employment Services ("RES")	\$9,033.28
Refugee Social Services ("RSS")	7,693.67
Refugee Student Grant – Roseville Area Schools ("RAS")	7,675.04
Refugee Student Grant – Saint Paul Public Schools ("SPPS")	<u>7,167.24</u>
Total	\$31,569.23

The SPPS contract is direct with DHS. KOM is a sub to a lead contractor on the other three – Southeast Asian Refugee Community Home (SEARCH) on RES; World Relief – Minnesota on RSS; and Roseville Area Schools on RAS. The normal practice is to pay monthly in arrears based on invoices submitted. There are performance standards which are audited after the fact, and it would not be a substantial risk to postpone audits until after the shutdown. Each of these contracts is federally funded. KOM also had a state funded contract, Eliminating Health Disparities Initiative with Vietnamese Social Services the lead contractor, funded through MDH which paid an average of \$2,328.27 per month. It ended June 30, 2011 without opportunity for renewal due to the budgetary uncertainty.

4. Refugees are assigned to Minnesota by the U.S. State Department and resettlement services are provided for three months by designated nonprofit organizations. Thereafter, DHS's RPO and providers like KOM help refugees, many of whom speak little or no English, survive. If these services end, the refugees will be substantially abandoned and at serious risk. See 8 U.S.C. §1522(a)(6) for conditions a State must meet to obtain federal funds for domestic resettlement of and assistance to refugees, which would be violated by refusing to make payments under these contracts.

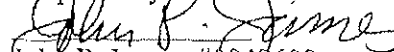
5. KOM has negotiated a loan that will let it survive through September, or October if July expenses are reimbursed by October, but would then need immediate full reimbursement to stay viable. Without a loan, KOM would have to stop performing under the foregoing contracts on which it is obligated before the end of August. The requested action would either make such loans unnecessary, make it more likely that they could be obtained by KOM and similarly situated service providers, or be larger and last longer due to the assurance of reimbursement.

Dated: July 1, 2011

Also Appearing:

Chong Bee Vang, KOM Executive Director
Eh Taw Dwe, KOM Vice Board Chair

Respectfully submitted,


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