



Office of the Governor

JIM GIBBONS
GOVERNOR

August 21, 2009

Catherine Cortez Masto
Nevada Attorney General
100 North Carson Street
Carson City, NV 89701

HAND DELIVERED

Confidential

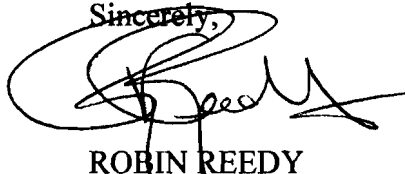
Dear Honorable Attorney General Cortez Masto:

The Controller's office performs a ministerial function in regard to processing work orders. Refusing to process approved work programs is tantamount to the Controller's office having veto power over the Legislative and Executive branches.

On August 17, 2009 Controller Kim Wallin refused to process Work Program #16245 and #15817 submitted on August 14, 2009 on our behalf (Attachment 1). On August 18th; in an effort to explain our authority to process, we sent correspondence citing the authority (Attachment 2). Controller Wallin has continued to refuse to process these programs. In a letter (Attachment 3) to the Interim Finance Committee (IFC) dated August 19, the Controller requested they approve the programs. At 8:30 am on August 19, the IFC scheduled said meeting for August 24, 2009; with the two work programs as action items.

Yesterday and today the Department of Administration, Budget has submitted additional work programs under the same authority. If this work stoppage is allowed to continue the stimulus funding will be brought to a standstill and future funds will be jeopardized. We would like you to inform her that her office must process approved work programs pursuant to NRS 353.220(5)(a) or that she must initiate whatever action under the law that she believes allows her to refuse to process.

Given the extreme urgency of this matter and the continual roadblocks since the executive order dated August 14th, we would appreciate a response and action by your office today. The timeframes mandated in the ARRA legislation require that the needed work programs can begin.

Sincerely,

ROBIN REEDY
Chief of Staff

Attachments

cc: The Honorable Governor Jim Gibbons,
The Honorable Controller Kim Wallin
Jim Spencer, Chief of Staff, Nevada Attorney General's Office
Wayne Howle, Solicitor General, Attorney General's Office

ATTACHMENT #1



DEPARTMENT OF ADMINISTRATION
209 E. Musser Street, Room 200
Carson City, Nevada 89701-4298
Fax (775) 684-0260
(775) 684-0222
<http://www.budget.state.nv.us>

MEMORANDUM

August 14, 2009

TO: Kim Wallin, Controller

FROM: Andrew K. Clinger, Director
Department of Administration

SUBJECT: Approved Work Programs

The following work programs have been approved by the budget office:

- ☐ C15817 - HOUSING DIVISION - B&I - WEATHERIZATION - FY 10
- ☐ C16245 - GOVERNOR'S OFFICE - OFFICE OF THE GOVERNOR - FY 10

State of Nevada Work Program

WP Number: C15817

FY 2010

☐ Add Original Work Program

☒ XXX Modify Work Program

BUDGET DIVISION USE ONLY

DATE 08/14/09

APPROVED ON BEHALF OF

THE GOVERNOR BY

cwatson

DATE	FUND	AGENCY	BUDGET	DEPT/DIV/BUDGET NAME
07/14/09	101	744	4865	B&I - WEATHERIZATION

Funds Available

Budgetary GLs (2501 - 2599)	Description	WP Amount	Revenue GLs (3000 - 4999)	Description	WP Amount	Current Authority	Revised Authority
			3501	FEDERAL RECEIPTS-A	10,466,951	3,728,193	14,195,144
Subtotal Budgetary General Ledgers		0	Subtotal Revenue General Legers(RB)		10,466,951		14,195,144
Total Budgetary & Revenue GLs					10,466,951		

Expenditures

CAT	Amount	CAT	Amount
10	556,763		
11	(250,000)		
12	1,844,304		
13	(2,500,000)		
17	10,815,884		

Sub Total Category Expenditures

10,466,951

Total Budgetary General Ledgers and Category Expenditures (AP)

10,466,951

Remarks

Addition of \$10,466,951 in Federal funds from the American Recovery and Reinvestment Act of 2009 to provide weatherization assistance to eligible households in FY 2010.

wmaier

Authorized Signature

07/14/09

Date

Controller's Office Approval

Does not require Interim Finance approval since pursuant to the August 14, 2009 Executive Order by the Governor and the American Recovery and Reinvestment Act of 2009

State of Nevada Work Program

WP Number: C16245

FY 2010

cwatson

DATE	FUND	AGENCY	BUDGET	DEPT/DIV/BUDGET NAME
08/14/09	101	010	1000	OFFICE OF THE GOVERNOR

Funds Available

Budgetary GLs (2501 - 2599)	Description	WP Amount	Revenue GLs (3000 - 4999)	Description	WP Amount	Current Authority	Revised Authority
			4611	TRANSFER IN FED ARRA	257,709	0	257,709
Subtotal Budgetary General Ledgers		0	Subtotal Revenue General Legers(RB)		257,709		257,709
Total Budgetary & Revenue GLs					257,709		

Expenditures

[illegible]

Sub Total Category Expenditures

257,709

[illegible]

This is a request to establish two positions focused on ARRA reporting requirements. The two positions include an ARRA Reporting Officer and an Executive Assistant. The ARRA Reporting Officer will be responsible for organizing the State's ARRA reporting. Also included in this request is authority to contract for ARRA reporting system development services.

Total Budgetary General Ledgers and Category Expenditures (AP)

257,709

cjreed

Authorized Signature

08/14/09

Date _____

Controller's Office Approval

Does not require Interim Finance approval since pursuant to the August 14, 2009 Executive Order by the Governor and the American Recovery and Reinvestment Act of 2009

ATTACHMENT #2



Office of the Governor

JIM GIBBONS
GOVERNOR

August 17, 2009

Kim R. Wallin
Office of the State Controller
101 North Carson Street, Suite 5
Carson City, NV 89701-4786

HAND DELIVERED

Dear Controller Wallin:

The American Reinvestment and Recovery Act of 2009 (ARRA) will infuse more than \$2.2 billion into Nevada's economy. The federal government has imposed a strict schedule requiring the State of Nevada to expeditiously put the stimulus funds into Nevada communities and to submit frequent reports on our progress. Failure to show substantial progress in distributing stimulus funds and/or noncompliance with the ARRA reporting requirements may place additional federal stimulus funds to the State of Nevada at risk.

NRS 353.220 provides, in part:

5. If a request for the revision of a work program requires additional approval as provided in subsection 4 and:

(a) Is necessary because of an emergency as defined in NRS 353.263 or for the protection of life or property, the Governor shall take reasonable and proper action to approve it and shall report the action, and his reasons for determining that immediate action was necessary, to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes approval of the revision, and other provisions of this chapter requiring approval before encumbering money for the revision do not apply.

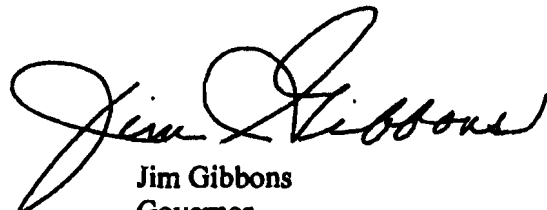
(emphasis added)

Pursuant to the Executive Order I issued relating to ARRA on August 14, 2009, and under the authority of NRS 353.220(5)(a), last Friday the Budget Division submitted two work programs relating to ARRA, work programs C15817 and C16245. These work programs are consistent with the provisions of Nevada Attorney General Opinion No. 2008-04, and are necessary "for the protection of life or property" in the form of the substantial federal stimulus dollars on the line for Nevadans.

Office of the State Controller
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August 17, 2009

Thank you for your assistance in processing these work programs to ensure the stimulus funds reach Nevadans in short order.

Sincerely,



Jim Gibbons
Governor

cc: ✓ Andrew Clinger, Director, Department of Administration

Enc. Executive Order issued August 14, 2009

ATTACHMENT #3



RECEIVED

AUG 20 2009

DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

State of Nevada
Office of State Controller
Carson City, Nevada 89701-4786

Kim R. Wallin, CMA, CFM, CPA
State Controller

Office: (775) 684-5777
Fax: (775) 684-5696

August 19, 2009

Lorne J. Malkiewich, Secretary
Interim Finance Committee
401 S. Carson Street
Carson City, NV 89701-4747

Dear Mr. Malkiewich:

I am forwarding these two work programs to you for review by the Interim Finance Committee. Governor Gibbons sent them to me without review by the Interim Finance Committee as required by subsections 4 and 5 of NRS 353.220.

There have been various theories proffered regarding the necessity of the review of these work program revisions by the Interim Finance Committee. Rather than risk losing critical funding for the state, I am requesting that the Interim Finance Committee review these work program revisions as soon as possible to remove any question as to the authority for processing them.

Sincerely,

Kim Wallin, CMA, CFM, CPA
State Controller

Enclosures

cc: Governor Jim Gibbons
Andrew Clinger
Senator Bernice Mathews
Senator Steven Horsford
Assemblyman Morse Arberry Jr.
Assemblywoman Barbara E. Buckley
Assemblyman John Ocegüera
Senator William J. Raggio
Assemblywoman Heidi Gansert