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Via Telecopy and Email

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Re: Nevada AFL-CIO v. Nevada Housing Division
Case no. A-09-597800-W

Dear Mr. Kahn:

The State of Nevada, Department of Business & Industry, Housing Division ("Housing") is in receipt of a copy of your Petition for Writ of Mandate; Complaint for Declaratory and Injunctive Relief in the above referenced matter. I would like to bring a few matters to your attention.

Housing has not yet formally awarded the Grant Awards for the Low Income Weatherization Assistance Program to any sub grantee – including HELP of Southern Nevada. The formal grant award requires that the sub grantee agree to the Financial Assurances and Program Assurances attached to the Notice of Grant Award. Those Assurances are being finalized but require the sub grantee to comply with Senate Bill 152. Specifically the draft language states:

- 24. Sub-grantee is to ensure that all employees of the Contractors are paid state prevailing wage rates or comply with the Davis-Bacon Act wages, whichever is applicable.
- 25. Sub-grantee and their Contractors are to comply with the requirements stated in Senate Bill 152 applicable to the state administered Weatherization Program.

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26. Sub-grantee is to ensure each Contractor must offer health care benefits to each employee working on the project as well as their dependents. The health care offered must be in the same manner as a policy of insurance pursuant to Chapters 689a and 689b on NRS or the Employee Retirement Income Security Act of 1974.
27. Sub-grantee is to ensure that at least 50% of the employees hired by their Contractor to weatherize homes are comprised of workers who have been certified through the Nonprofit Training Collaborative or, if there are not available a sufficient number of such trained workers, employ those who have been trained through an apprentice program that is registered and approved by the State Apprenticeship Council pursuant to Chapter 610 of NRS.

I will provide you a copy of the Notice of Grant Award and attached Assurances as soon as they are finalized which is expected to be within the next day or two.

Further, I have reviewed the material you sent me from HELP and provided such to Housing personnel. Housing informs me that HELP sent out the request for letters of interest on their own initiative. HELP neither sought nor received Housing's approval prior to publishing their request.

With respect to medical coverage, the final version of Senate Bill 152 does not require employers to provide health care insurance but rather offer such insurance. When Senate Bill 152 was first introduced, it did require that the employers provide health care insurance, but if you review Senate Amendment 77 to Senate Bill 152¹ dated February 19, 2009, you will see that the language was changed - ~~providing~~ was deleted and replaced with *offering*. The Senate Committee on Energy, Infrastructure and Transportation discussed this change on March 20, 2009.² On page 25 of those minutes, Senator Steven A. Horsford discusses the change and states:

From a private-industry perspective, health-care programs are different for different entities. The intent is that employers and contractors that get this work should provide health-care insurance to the employees they hire. To what extent the employee has to share in the expense, figure it out. The goal of the language is that a health insurance plan will be offered.

So, in accordance with Senate Bill 152 and its legislative history, Housing is requiring that sub grantees ensure that contractors offer health care insurance to their employees.

Housing is committed to getting the Low Income Weatherization Assistance Program up and running. They are requiring their sub grantees to comply with Senate Bill 152. Housing has been working diligently on getting these funds out

¹ Amendment available at http://leg.state.nv.us/75th2009/Bills/Amendments/A_SB152_77.pdf.

² Minutes available at <http://leg.state.nv.us/75th2009/Minutes/Senate/TRN/Final/667.pdf>.

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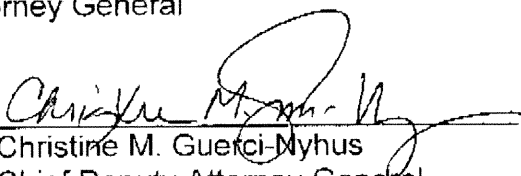
into the communities so that those who most need the funds can receive assistance. Delays, such as a restraining order, would only work to hinder the program.

I am hopeful that you and I can work in a collaborative manner rather than as adversaries. With the information I have provided, I ask that you consider whether a temporary restraining order is warranted.

Let me know if there is any further information I can provide to you.

Sincerely,

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