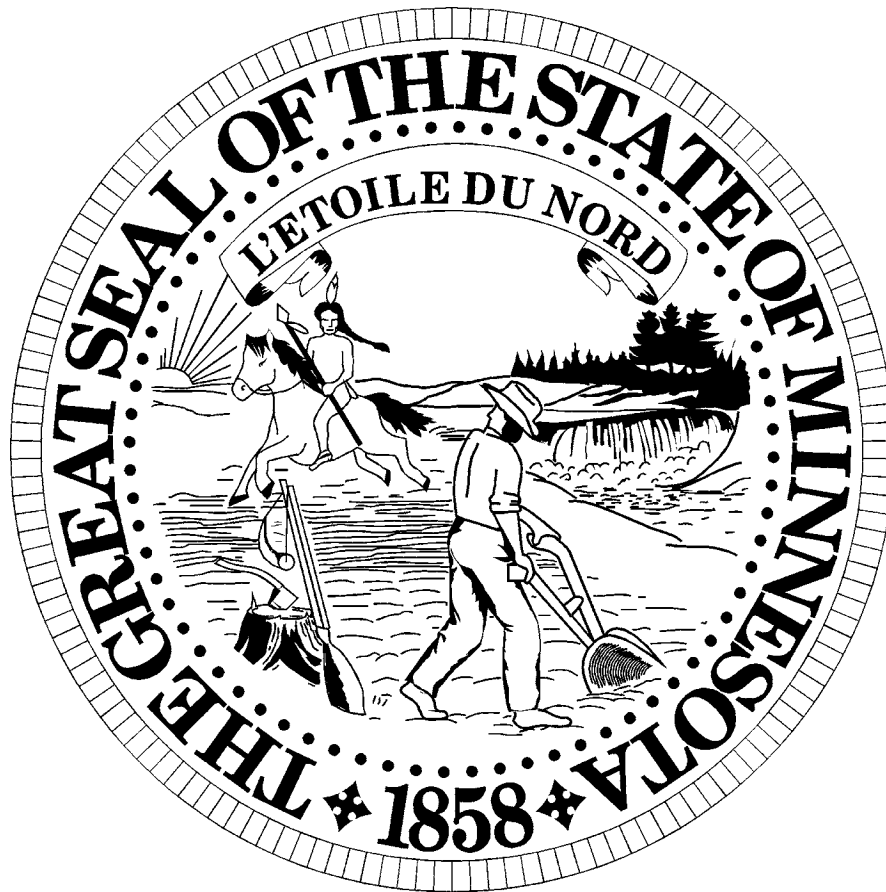


Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)



**Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules;
Executive Orders; Appointments; Commissioners' Orders; Revenue Notices;
Official Notices; State Grants & Loans; State Contracts;
Non-State Public Bids, Contracts and Grants**

**Monday 12 December 2016
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Minnesota State Register

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The *Minnesota State Register* is the official publication of the State of Minnesota's Executive Branch of government, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes*, Chapter 14, and *Minnesota Rules*, Chapter 1400. It contains:

- Proposed Rules
- Adopted Rules
- Exempt Rules
- Expedited Rules
- Withdrawn Rules
- Executive Orders of the Governor
- Appointments
- Proclamations
- Vetoed Rules
- Commissioners' Orders
- Revenue Notices
- Official Notices
- State Grants and Loans
- Contracts for Professional, Technical and Consulting Services
- Non-State Public Bids, Contracts and Grants

Printing Schedule and Submission Deadlines

Vol. 41 Issue Number	PUBLISH DATE (BOLDFACE shows altered publish date)	Deadline for: all Short Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical- Consulting Contracts, Non-State Bids and Public Contracts	Deadline for LONG, Complicated Rules (contact the editor to negotiate a deadline)
# 25	Monday 19 December	Noon Tuesday 13 December	Noon Thursday 8 December
# 26	Tuesday 27 December	Noon Tuesday 20 December	Noon Thursday 15 December
# 27	Tuesday 3 January	Noon Tuesday 27 December	Noon Thursday 22 December
# 28	Monday 10 January	Noon Tuesday 3 January	Noon Thursday 29 December

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Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The State Register is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the State Register. Published every Monday, the State Register makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific Minnesota Rule chapter numbers. Every odd-numbered year the Minnesota Rules are published. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the State Register.

An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (Minnesota Statutes §§ 14.101). It does this by publishing a notice in the State Register at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as Proposed Rules, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules, and withdrawn proposed rules, are also published in the State Register. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the State Register as Adopted Rules. These final adopted rules are not printed in their entirety, but only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the State Register, the issue the rule appeared in as proposed, and later as adopted.

The State Register features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive (issue #26 cumulative for issues #1-26); issues #27-38 inclusive (issue #39, cumulative for issues #1-39); issues #40-52 inclusive, with final index (#1-52, or 53 in some years). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the State Register, contact Minnesota's Bookstore, 660 Olive Street (one block east of I-35E and one block north of University Ave), St. Paul, MN 55155, phone: (612) 297-3000, or toll-free 1-800-657-3757. TTY relay service phone number: (800) 627-3529.

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Proposed Expedited Rules

Provisions exist for the Commissioners of some state agencies to adopt expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for normal rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the conditions. Expedited rules are effective upon publication in the State Register, and may be effective up to seven days before publication under certain conditions.

Expedited rules are effective for the period stated or up to 18 months. Specific *Minnesota Statute* citations accompanying these expedited rules detail the agency's rulemaking authority.

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

Adopted Rules - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Department of Administration

Office of State Procurement

Proposed Expedited Permanent Rules Governing the Certification Process for Socially and Economically Disadvantaged, Economically Disadvantaged Area, and Veteran-owned Small Businesses; Notice of Intent to Adopt Expedited Rules Without a Public Hearing

Proposed Amendment to and Repeal of Rules Governing the Certification Process for Socially and Economically Disadvantaged, Economically Disadvantaged Area, and Veteran-owned Small Businesses, *Minnesota Rules*, part 1230.0150 to 1230.1910; Revisor's ID Number RD4385

Introduction. The Department of Administration intends to adopt rules under the expedited rulemaking process following the rules of the Office of Administrative Hearings, *Minnesota Rules*, part 1400.2410, and the Administrative Procedure Act, *Minnesota Statutes*, section 14.389. You may submit written comments on the proposed expedited rules until January 17, 2017.

Agency Contact Person. Submit comments or questions on the rules to:

Dorothy Lovejoy
Office of State Procurement
Department of Administration
Room 112, State Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155
Phone: (651) 201-2403
Fax: (651) 297.3996
Email: Dorothy.Lovejoy@state.mn.us

Subject of the Expedited Rules and Statutory Authority. During the 2015 and 2016 legislative sessions, *Minnesota Statutes*, sections 16C.16 through 16C.19, relating to procurements from small businesses was amended to include: 1) new size standards for small businesses, 2) changes to purchasing methods, 3) state-certification of veteran-owned small businesses, and 4) acceptance of minority- or woman-owned small business with their principal place of business in Minnesota that have been certified by the Minnesota Unified Certification Program under the provisions of *Code of Federal Regulations*, title 49, part 26. The proposed expedited rules include amendments to *Minnesota Rules*, parts 1230.0150 through 1230.1910 to align those parts with the recent changes to *Minnesota Statutes*, sections 16C.16 through 16C.19 and to more closely align those parts with similar subparts in *Code of Federal Regulations*, title 49, part 26. In addition, the proposed expedited rules will consolidate provisions of parts 1230.1820 and 1230.1830 and repeal part 1230.1830. The statutory authority to adopt the rules is *Minnesota Statutes*,

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section 16C.19, paragraph (a). The statutory authority to adopt the rules under the expedited rulemaking process is *Minnesota Statutes*, section 16C.19, paragraph (g). A copy of the proposed rules is published in the State Register and a free copy of the proposed expedited rules may be viewed at: <http://www.mmd.admin.state.mn.us/rulesintention.htm>.

Comments. You have until **4:30 p.m. on January 17, 2017**, to submit written comment in support of or in opposition to the proposed expedited rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. The Department encourages comment. Your comment should identify the portion of the proposed expedited rules addressed and the reason for the comment. In addition, you are encouraged to propose any change desired. You must also make any comments that you have on the legality of the proposed rules during this comment period.

Modifications. The agency may modify the proposed expedited rules using either of two avenues: The agency may modify the rules directly so long as the modifications do not make them substantially different as defined in *Minnesota Statutes*, section 14.05, subdivision 2, paragraphs (b) and (c). Or the agency may adopt substantially different rules if it follows the procedure under *Minnesota Rules*, part 1400.2110. If the final rules are identical to the rules originally published in the State Register, the agency will publish a notice of adoption in the State Register. If the final rules are different from the rules originally published in the State Register, the agency must publish a copy of the changes in the State Register. If the proposed expedited rules affect you in any way, the agency encourages you to participate in the rulemaking process.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You may direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 18006573889.

Adoption and Review of Expedited Rules. The agency may adopt the rules at the end of the comment period. The agency will then submit rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date that the agency submits the rules. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

11/30/16

Signed by Dorothy Lovejoy, Assistant Director

1230.0150 DEFINITIONS.

Subpart 1. **Scope.** Within parts 1230.0100 to 1230.1910, the following apply, unless clearly indicated otherwise by the context.

Subp. 2. ~~Affiliate or subsidiary of a business dominant in its field of operation~~ **Affiliation.**

A. ~~“Affiliate or subsidiary of a business dominant in its field of operation” means a business that is at least 20 percent owned by a business dominant in its field of operation or by partners, officers, directors, majority stockholders, or their equivalent of a business dominant in that field of operation.~~

B. ~~“Dominant in its field of operation” means exceeding the annual gross revenues or sales specified in part 1230.1600, subpart 3.~~

“Affiliation” has the meaning given in the Small Business Administration (SBA) regulations, Code of Federal Regulations, title 13, part 121.

A. Except as otherwise provided in Code of Federal Regulations, title 13, part 121, businesses are affiliates of each other when, either directly or indirectly:

(1) one business controls or has the power to control the other; or

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(2) a third party or parties control or have the power to control both; or

(3) an identity of interest between or among parties exists such that affiliation may be found.

B. In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a business meets small business size criteria and the statutory cap on the participation of businesses in the Minnesota small business procurement program.

[For text of subps 2a to 7, see M.R.]

Subp. 8. **Director.** “Director” means director of the ~~Materials Management Division~~ Office of State Procurement or a ~~Materials Management Division~~ procurement manager with written delegation of authority from the director.

Subp. 9. **Division.** “Division” means ~~Materials Management Division~~ Office of State Procurement, Department of Administration, Room 112, State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155 and its successor divisions.

Subp. 9a. **Dominant in its field of operation.** “Dominant in its field of operation” means exceeding the annual gross revenues or sales specified in Minnesota Statutes, section 16C.16, subdivision 2.

Subp. 10. **Franchise.** “Franchise” means an operating agreement obtained from a franchiser to conduct a business entity, as an affiliate, that does not provide the operator with the exclusive right to profit from the operator’s effort, commensurate with ownership and to bear the risk of loss or failure and does not meet the test of ownership outlined in subpart 26 and ~~part 1230.1700,~~ subparts 5, item C, and 5a, items A to F parts 1230.1601 to 1230.1607.

Subp. 11. **Joint venture.** “Joint venture” means the temporary association of two or more businesses to secure and fulfill a contract. For contracts awarded under the preference or set-aside provisions of the small business procurement program in parts 1230.1400 to 1230.1910, all parties in the joint venture must be certified as targeted ~~groups or group,~~ economically disadvantaged area, or veteran-owned businesses.

[For text of subps 12 to 15, see M.R.]

Subp. 15a. **NAICS or North American Industry Classification System.** “NAICS” or “North American Industry Classification System” is a system developed for use in the classification of business establishments by type of activity for the purpose of facilitating the collection, tabulation, presentation, and analysis of data collected by various agencies of the United States government, state agencies, trade associations, and private research organizations for promoting uniformity and comparability in the presentation of statistical data relating to those establishments and their fields of endeavor.

[For text of subps 16 and 17, see M.R.]

Subp. 18. **Principal place of business.** “Principal place of business” means the ~~primary physical location at which or from which a business performs, is maintained, or operates~~ business location where the individuals who manage the business’s day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the division shall determine the principal place of business.

[For text of subps 18a to 20, see M.R.]

Subp. 20a. **Small Business Administration.** “Small Business Administration” or “SBA” means the United States Small Business Administration.

Subp. 21. [See repealer.]

[For text of subp 21a, see M.R.]

Subp. 22. **Suspension.** “Suspension” means to be temporarily suspended by the director of ~~Materials Management~~ the Office of State Procurement from receiving solicitations, the award of a contract, or selling any products or services to state agencies while the director determines if there is probable cause for debarment.

Subp. 23. **Targeted group businesses business.** “Targeted group businesses” “Targeted group business” or “TG” means certified businesses designated by the commissioner of administration that are at least 51 percent owned and operated by women, persons with substantial physical disabilities, or specific minorities ~~and who~~ provide goods, products, or services within purchasing categories designated by the commissioner.

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Subp. 24. **Terms governing socially and economically disadvantaged persons.** The terms in items A to E D have the meanings given them for purposes of administering the small business procurement program of which members are rebuttably presumed to be socially and economically disadvantaged.

A. «Racial minority» means an individual in one or more of the categories in subitems (1) to ~~(5)~~ (9).

(1) «Black American» means persons having origins in any of the Black racial groups of Africa.

(2) «Hispanic American» means persons having origins in Mexico, Puerto Rico, Cuba, Central or South America, or other Spanish culture, regardless of race.

(3) «Asian Pacific American» means persons having origins in Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China (including Hong Kong), Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, the Philippines, the United States Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated states of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, or Nauru.

(4) «Subcontinent Asian American» means persons having origins in India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal.

(5) «Indigenous American» means:

(a) Eskimos and Aleuts having origins in any of the original people of North America who maintain cultural affiliation through tribal or community affiliation;

(b) native Hawaiians whose ancestors were natives, prior to 1778, of the area which now comprises the state of Hawaii; and

(c) American Indians having origins in any of the original people of North America who are enrolled members of Indian tribes recognized by the governments of the United States and Canada.

(1) «Alaska Native» means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom an Alaska Native village or Alaska Native group regards as an Alaska Native if the citizen's father or mother is regarded as an Alaska Native.

(2) «Black American» means an individual whose origin is any of the Black racial groups of Africa.

(3) «Hispanic American» means an individual of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.

(4) «Native American» means an individual who is an enrolled member of a federally or state-recognized Indian tribe, Alaska Native, or Native Hawaiian.

(5) «Asian-Pacific American» means an individual whose origin is from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the United States Trust Territories of the Pacific Islands (the Republic of Palau), the Republic of the Northern Mariana Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, the Federated States of Micronesia, or Hong Kong.

(6) «Subcontinent Asian American» means an individual whose origin is from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka.

(7) «Native Hawaiian» means any individual whose ancestors were natives, prior to 1778, of the area that now comprises the state of Hawaii.

(8) «Indian tribe» means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native corporation, that is recognized as eligible for the special programs and services provided by the United States.

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to Indians because of their status as Indians, or is recognized as such by the state in which the tribe, band, nation, group, or community resides.

(9) “Tribally owned business” means any business at least 51 percent owned by an Indian tribe.

[For text of items B and C, see M.R.]

D. This subpart includes any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

[For text of subp 25, see M.R.]

Subp. 26. **Small business eligible for certification as socially and economically disadvantaged business or, economically disadvantaged area, or veteran-owned business.** “Small business eligible for certification as socially and economically disadvantaged business or, economically disadvantaged area, or veteran-owned business” means a small business entity with its principal place of business in Minnesota organized for profit, including an individual, partnership, corporation, joint venture, association, or cooperative that is at least 51 percent owned and is operationally controlled on a day-to-day basis by citizens or lawfully admitted permanent residents of the United States. Certified rehabilitation facilities and extended employment providers need not be organized for profit to be eligible for certification.

Subp. 26a. **Socially and economically disadvantaged individual.** “Socially and economically disadvantaged individual” means any individual who is a citizen, or lawfully admitted permanent resident of the United States, and who has been subjected to racial or ethnic prejudice or cultural bias because of the individual’s identity as a member of a group or groups and without regard to the individual’s own qualities. The disadvantage must stem from circumstances beyond the individual’s control.

A. Any individual the commissioner finds to be a socially and economically disadvantaged individual is on a case-by-case basis. An individual must demonstrate that the individual has identified as a member of a designated group under subpart 24.

B. Being born in a particular country is not the only criteria used to determine that an individual is a member of one of the groups listed in subpart 24.

[For text of subp 27, see M.R.]

Subp. 28. **Veteran-owned business.** “Veteran-owned business” or “VO” means a for-profit business:

A. that is at least 51 percent owned by one or more veterans as defined in Minnesota Statutes, section 16C.16, or in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and

B. whose management and daily business operations are controlled by one or more of the veterans who own it.

1230.1400 PURPOSE.

Parts 1230.1400 to 1230.1910 are adopted pursuant to Minnesota Statutes, sections 16C.16 to 16C.21, for the purpose of governing procurement procedures relating to the programs for small businesses and ~~targeted group or~~ socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small businesses. These programs are administered by the ~~Materials Management Division Office of State Procurement,~~ Department of Administration, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

1230.1450 SCOPE.

In the event of irreconcilable conflict between the general procurement rules in parts 1230.0100 to ~~1230.1399~~ 1230.1300 and 1230.1400 to 1230.1910, parts 1230.1400 to 1230.1910 shall govern. The definitions contained in part 1230.0150 apply in the administration of these programs.

1230.1600 ELIGIBILITY FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED OR, ECONOMICALLY DISADVANTAGED AREA, OR VETERAN-OWNED SMALL BUSINESS PROGRAM.

Subpart 1. **Eligible businesses.** The following businesses are eligible for participation in the socially and economically disadvantaged or, economically disadvantaged area, or veteran-owned small business program: manufacturer, manufacturer’s representative, dealer, jobber, distributor, contractor, and businesses engaged in a joint venture.

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Subp. 2. **Ineligible businesses.** The following businesses are not eligible for participation in the socially and economically disadvantaged or, economically disadvantaged area, or veteran-owned small business program: brokers, third-party lessors, and franchises.

Subp. 3. [See repealer.]

Subp. 4. **Definitions.** For purposes of parts 1230.1600 to 1230.1910, the following definitions apply.

A. “Assets” mean all the property of a person available for paying debts or for distribution, including the person’s respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, individual retirement accounts or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

B. “Contingent liability” means a liability that depends on the occurrences of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant business, legal claims and judgments, and provisions for federal income tax.

C. “Immediate family member” means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under Minnesota law.

D. “Liabilities” mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to a bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

E. “Minnesota small business procurement program” or “program” refers to the programs described in parts 1230.1400 to 1230.1910.

F. “Personal net worth” means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include the individual’s ownership interest in an applicant or participating socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business or the individual’s equity in the individual’s primary place of residence. An individual’s personal net worth includes only the individual’s share of assets held jointly or as community property with the individual’s spouse.

G. “Primary industry classification” means the most current NAICS designation as specified in the United States North American Industry Classification System Manual that best describes the primary enterprise of a business.

H. “Spouse” means a married person, including a person in a domestic partnership or a civil union recognized under Minnesota law.

1230.1601 CERTIFICATION STANDARDS; BURDENS OF PROOF.

A. In determining whether to certify a business as eligible to participate as a socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business, the standards in this part apply.

B. The business seeking certification has the burden of demonstrating, by a preponderance of evidence, that it meets the requirements in parts 1230.1601 to 1230.1607.

C. Members of the designated groups identified in part 1230.1603, subpart 1, item A, are deemed to be socially and economically disadvantaged. In order to obtain the benefit of the determination, individuals must submit a signed, notarized statement that they are a member of one of the groups in part 1230.1603, subpart 1, item A. Applicants must provide the division information concerning their economic disadvantage status as required in part 1230.1603, subpart 1, item B.

1230.1602 GROUP MEMBERSHIP DETERMINATIONS.

A. If, after reviewing the signed notarized statement of membership in a socially and economically disadvantaged group as described in part 1230.1601, item C, the individual’s claim of membership in that group is questionable, the division may require that the individual submit additional evidence that the individual is a member of the group.

B. In making such a determination, the division must consider whether the person has identified as a member of the group over a significant period of time prior to applying for certification and whether the person is regarded as a member of the group by the relevant community. The division may require the applicant to produce appropriate documentation of group membership.

1230.1603 SOCIAL AND ECONOMIC DISADVANTAGE.

Subpart 1. Presumption of disadvantage.

A. Citizens of the United States or lawfully admitted permanent residents who are women, persons with substantial physical disabilities, Native Americans, Black Americans, Hispanic Americans, Asian-Pacific Americans, subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA are deemed to be socially and economically disadvantaged individuals. Applicants must submit a signed, notarized certification that each deemed disadvantaged owner is, in fact, socially and economically disadvantaged.

B. (1) Each individual owner of a business applying to participate as a socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business whose ownership and control are relied upon for certification must certify that the individual has a personal net worth that does not exceed the limit in Code of Federal Regulations, title 49, subtitle A, part 26.

(2) This certification must be supported with a signed, notarized statement of personal net worth on a form specified by the division, with appropriate supporting documentation. Where necessary to accurately determine an individual's personal net worth, on a case-by-case basis, additional financial information may be required from the owner of an applicant business including, but not limited to, information concerning the assets of the owner's spouse, where needed to clarify whether assets have been transferred to the spouse or when the owner's spouse is involved in the operation of the company.

(3) In determining an individual's net worth, the following requirements apply:

(a) an individual's ownership interest in the applicant business is excluded;

(b) an individual's equity in the individual's primary residence, except any portion of the equity that is attributable to excessive withdrawals from the applicant business, is excluded. The equity is the market value of the residence less any mortgages and home equity loan balances. Home equity loan balances must be included in the equity calculation and not as a separate liability on the individual's personal net worth form. Exclusions for net worth purposes are not exclusions for asset valuation or access to capital and credit purposes;

(c) a contingent liability may not be used to reduce an individual's net worth; and

(d) with respect to assets held in vested pension plans, individual retirement accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, only the present value of the assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time, is included.

(4) Upon certification, an individual's personal net worth and any documents pertaining to it including but not limited to financial statements and federal tax returns must be returned to the individual or destroyed by the division.

Subp. 2. **Rebuttal of presumption of disadvantage.** An individual's presumption of economic disadvantage may be rebutted in two ways.

A. If the standard of personal net worth and supporting documentation that an individual submits under subpart 1, item B, shows that the individual's personal net worth exceeds the limit in Code of Federal Regulations, title 49, subtitle A, part 26, the individual's determination of economic disadvantage is rebutted.

For example, an individual with very high assets and significant liabilities may, in accounting terms, have a personal net worth of less than the limit in Code of Federal Regulations, title 49, subtitle A, part 26. However, the person's assets collectively, including high income level, an expensive house, a yacht, and extensive real or personal property holdings, may lead a reasonable person to conclude that the individual is not economically disadvantaged. The individual's determination of economic disadvantage may be rebutted under these circumstances, as provided in this subpart, even though the individual's personal net worth is

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less than the limit in Code of Federal Regulations, title 49, subtitle A, part 26.

B. If the statement of personal net worth and supporting documentation an individual submits under subpart 1, item B, demonstrates that the individual is able to accumulate substantial wealth, the individual's determination of economic disadvantage is rebutted. Factors that may be considered in making this determination include, but are not limited to, the following:

(1) whether the average adjusted gross income of the owner over the most recent three-year period exceeds the limit in Code of Federal Regulations, title 49, subtitle A, part 26;

(2) whether the income was unusual and not likely to occur in the future;

(3) whether the earnings were offset by losses;

(4) whether the income was reinvested in the business or used to pay taxes arising in the normal course of operations by the business;

(5) other evidence that income does not indicate a lack of economic disadvantage; and

(6) whether the total fair market value of the owner's assets exceeds the limit in Code of Federal Regulations, title 49, subtitle A, part 26.

Subp. 3. Transfers within two years.

A. Except as set forth in item B, any assets that an individual has transferred to an immediate family member, to a trust that has a beneficiary who is an immediate family member, or to the applicant business for less than fair market value, within two years prior to a business's application for participation in the socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business program or within two years of the business's certification, will be attributed to the individual claiming disadvantaged status, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

B. Any assets transferred by an individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements, will not be attributed to the individual claiming disadvantaged status.

1230.1604 OWNERSHIP.

Subpart 1. **Determination of ownership.** In determining whether the qualifying participants in a business own the business, all the facts in the record will be viewed as a whole, including the origin of all assets and how and when they were used in obtaining the business. All transactions for the establishment and ownership, or transfer of ownership, must be in the normal course of business, reflecting commercial and arms-length practices.

Subp. 2. **Eligibility.**

A. To be an eligible socially and economically disadvantaged or veteran-owned small business, a business must be at least 51 percent owned by socially and economically disadvantaged individuals or veterans, respectively.

(1) In the case of a corporation, socially and economically disadvantaged individuals or veterans, respectively, must own at least 51 percent of each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding.

(2) In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals or veterans, respectively. The ownership must be reflected in the business partnership agreement.

(3) In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals or veterans, respectively.

B. To be an eligible economically disadvantaged area business, if the business is not located in an economically disadvan-

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taged area, the business must be at least 51 percent owned by individuals who reside in an economically disadvantaged area.

Subp. 3. Proof of contribution.

A. The business's ownership by qualifying individuals, individuals, or veterans, including their contribution of capital or expertise to acquire their ownership interests, must be real, substantial, and continuing, going beyond pro forma ownership of the business as reflected in ownership documents. Proof of contribution of capital should be submitted at the time of the application. When the contribution of capital is through a loan, there must be documentation of the value of assets used as collateral for the loan.

B. Insufficient contributions include a promise to contribute capital, an unsecured note payable to the business or an owner who is not a qualifying individual, mere participation in a business's activities as an employee, or capitalization not commensurate with the value of the business.

C. The qualifying owners must enjoy the customary incidents of ownership, and share in the risks and be entitled to the profits and loss commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements. Any terms or practices that give a nonqualifying individual or business a priority or superior right to a business's profits, compared to the qualifying owner or owners, are grounds for denial.

D. Debt instruments from financial institutions or other organizations that lend funds in the normal course of business do not render a business ineligible, even if the debtor's ownership interest is security for the loan. For example:

(1) if an individual pays \$100 to acquire a majority interest in a business worth \$1,000,000, the individual's contribution to capital would not be viewed as substantial;

(2) if a 51 percent qualifying owner and a nonqualifying 49 percent owner contribute \$100 of \$10,000, respectively, to acquire a business grossing \$1,000,000, this may be indicative of a pro forma arrangement that does not meet the requirements of item A; and

(3) if a qualifying owner of an applicant business spends \$250 to file articles of incorporation and obtains a \$100,000 loan, but makes only nominal or sporadic payments to repay the loan, this type of contribution is not of a continuing nature.

Subp. 4. Securities and assets. All securities that constitute ownership of a business shall be held directly by a qualifying owner. Except as provided in this subpart, no securities or assets held in trust, or by any guardian for a minor, are considered as held by a qualifying individual in determining the ownership of a business. However, securities or assets held in trust are regarded as held by a qualifying individual for purposes of determining ownership of the business if:

A. the beneficial owner of securities or assets held in trust is a qualifying individual, and the trustee is the same or another such individual; or

B. the beneficial owner of a trust is a qualifying individual who, rather than the trustee, exercises effective control over management and policy making or daily operational activities of the business. Assets held in a revocable living trust may be counted only in the situation where the same qualifying individual is the sole grantor, beneficiary, and trustee.

Subp. 5. Contributions. The contributions of capital or expertise by the socially and economically disadvantaged or veteran owners to acquire ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the business or an owner who is not a qualifying individual, or mere participation in a business's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of business do not render a business ineligible, even if the debtor's ownership interest is security for the loan.

Subp. 6. Contribution requirements. The following requirements apply to situations in which expertise is relied on as part of a qualifying individual's contribution to acquire ownership.

A. The owner's expertise must be:

(1) in a specialized field;

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- (2) of outstanding quality;
- (3) in areas critical to the business's operations;
- (4) indispensable to the business's potential success;
- (5) specific to the type of work the business performs; and

(6) documented in the records of the business. These records must clearly show the contribution of the owner's expertise and its value to the business.

B. The individual whose expertise is relied upon must have a significant financial investment in the business.

Subp. 7. Business interests or other assets. For purposes of determining ownership, all interests in a business or other assets obtained by the individual under the following circumstances will be deemed as held by a qualifying individual:

A. as the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this part; or

B. through inheritance, or otherwise upon the death of the former owner.

Subp. 8. Gift or transfer interest.

A. For purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, are not held by a qualifying individual if they were obtained from any nonqualifying individual or nonqualifying business that is:

(1) involved in the same business for which the individual is seeking certification, or an affiliate of that business; or

(2) engaged in an ongoing business relationship with the business, or an affiliate of the business, for which the individual is seeking certification.

B. To overcome this determination and permit the interests or assets to be counted, the qualifying individual must demonstrate, by clear and convincing evidence, that:

(1) the gift or transfer to the qualifying individual was made for reasons other than obtaining certification; and

(2) the qualifying individual actually controls the management, policy, and operations of the business, notwithstanding the continuing participation of a nonqualifying individual who provided the gift or transfer.

Subp. 9. Marital assets. The division must apply the following rules in situations in which marital assets form a basis for ownership of a business.

A. When marital assets, other than the assets of the business in question, held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, the ownership interest in the business is deemed to have been acquired by that spouse with the spouse's own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the business is domiciled. A greater portion of joint or community property assets will not be counted toward ownership than state law would recognize as belonging to the qualifying owner or the applicant business.

B. A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned business or community assets used to acquire an ownership interest in the business must be included as part of the business's application for certification.

Subp. 10. Factors used to determine ownership. The following factors shall be considered in determining the ownership of a business. A contribution of capital is not regarded as failing to be real and substantial, and a business shall not be found ineligible, solely because:

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A. a qualifying individual acquired the individual's ownership interest as the result of a gift, or transfer without adequate consideration, other than the types specified in subpart 8;

B. there is a provision for the cosignature of a nonqualifying spouse on financing agreements, contracts for the purchase or sale of real personal property, bank signature cards, or other documents; or

C. ownership of the business in question or its assets is transferred for adequate consideration from a nonqualifying spouse to a qualifying spouse. In this case, particularly close and careful scrutiny shall be given to the ownership and control of a business to ensure that it is owned and controlled, in substance as well as in form, by a qualifying individual.

1230.1605 OPERATING CONTROL.

A. In determining whether qualifying owners control a business, all the facts in the record will be considered and viewed as a whole.

B. Only an independent business may be certified as a socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business. An independent business is one in which the viability does not depend on its relationship with another business or businesses.

(1) In determining whether a potential socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business is an independent business, the relationships with nonqualifying businesses in areas as personnel, facilities, equipment, financial and bonding support, and other resources, shall be scrutinized.

(2) Present or recent employer-employee relationships between the qualifying owner or owners of the potential socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business and nonqualifying businesses or persons associated with nonqualifying businesses may be considered in determining whether these relationships compromise the independence of the potential socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business.

(3) The business's relationships with prime contractors shall be examined to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business.

(4) In considering factors related to the independence of a potential socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business, the consistency of relationships between the potential socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business and nonqualifying businesses with normal industry practice shall be considered.

C. A socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business must not be subject to any formal or informal restrictions that limit the customary discretion of qualifying owners. There must not be any restrictions through corporate charter provisions, bylaw provisions, contracts, or any other formal or informal devices including cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by nonqualifying partners, conditions precedent or subsequent, executory agreements, voting trusts, or restrictions on or assignments of voting rights, that prevent qualifying owners, without the cooperation or vote of any nonqualifying individual, from making any business decision of the business. This item does not preclude a spousal cosignature on documents as provided for in part 1230.1604, subpart 10, item B.

D. The qualifying owners must possess the power to direct or cause the direction of the management and policies of the business and to make day-to-day as well as long-term decisions on matters of management, policy, and operations.

(1) A qualifying owner must hold the chief executive officer, president, or highest-ranking officer position in the company.

(2) In a corporation, qualifying owners must control the board of directors.

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(3) In a partnership, one or more qualifying owners must serve as general partners, with control over all partnership decisions.

E. Nonqualifying individuals or immediate family members may be involved in a socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business as owners, managers, employees, stockholders, officers, and directors. These individuals must not possess or exercise the power to control the business or be disproportionately responsible for the operation of the business.

F. The qualifying owners of the business may delegate various areas of management and policy making or daily operations of the business to other participants in the business, regardless of whether these participants are qualifying individuals. These delegations of authority must be revocable, and the qualifying owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the qualifying owners in the business's overall affairs must evidence that involvement can be reasonably concluded that the qualifying owners actually exercise control over the business's operations, management, and policy.

G. The qualifying owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the business is engaged and the business's operations. The qualifying owners are not required to have experience or expertise in every critical area of the business's operations, or to have greater experience or expertise in a given field than managers or key employees. The qualifying owners must have the ability to intelligently and critically evaluate information presented by other participants in the business's activities and to use this information to make independent decisions concerning the business's daily operations, management, and policy making. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the business is insufficient to demonstrate control.

H. If Minnesota or local law requires the owners to have a particular license or other credential in order to own or control a certain type of business, then the qualifying individuals who own and control a potential socially and economically disadvantaged or veteran-owned small business of that type must possess the required license or credential. If Minnesota or local law does not require a license or credential to own or control a business, certification will not be denied solely on the grounds that the owner lacks the license or credential. However, the division may take into account the absence of the license or credential as one factor in determining whether the qualifying owners actually control the business.

I. (1) Differences in remuneration between the qualifying owners and other participants in the business may be considered in determining whether to certify a business as a socially and economically disadvantaged or veteran-owned small business. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the business's policy and practice concerning reinvestment of income, and any other explanations from the business for the differences. It may be determined that a business is controlled by its qualifying owner although that owner's remuneration is lower than that of some other participants in the business.

(2) In a case where a nonqualifying individual formerly controlled the business, and a qualifying individual now controls it, a difference between the remuneration of the former and current controller of the business may be considered as a factor in determining who controls the business, particularly when the nonqualifying individual remains involved with the business and continues to receive greater compensation than the qualifying individual.

J. In order to be viewed as controlling a business, a qualifying individual cannot engage in outside employment or other business interests that conflict with the management of the business or prevent the individual from devoting sufficient time and attention to the affairs of the business to control its activities. Absentee ownership of a business and part-time work in a full-time business are not viewed as constituting control. An individual could be viewed as controlling a part-time business that operates only on evenings and weekends if the individual controls it all the time it is operating.

K. (1) A qualifying individual may control a business even though one or more of the individual's immediate family members who are nonqualifying individuals participate in the business as a manager, employee, or owner, or in another capacity. Except as otherwise provided in this item, a judgment about the control the qualifying owner must exercise in relation to other persons involved in the business must be made without regard as to whether or not the other persons are immediate family members.

(2) If the qualifying owners, as distinct from the family as a whole, cannot be determined to control the business, then the qualifying owners have failed to establish their burden of proof concerning control, even though they may participate

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significantly in the business's activities.

L. When a nonqualifying individual who may be an immediate family member or not, transfers ownership and control of a business to a qualifying individual, and the nonqualifying individual remains involved with the business in any capacity, there is a rebuttable presumption of control by the nonqualifying individual unless the socially and economically disadvantaged individual or veteran now owning the business demonstrates, by clear and convincing evidence, that:

(1) the transfer of ownership and control of the business to the qualifying individual was made for reasons other than obtaining certification as a socially and economically disadvantaged or veteran-owned small business; and

(2) the qualifying individual actually controls the management, policy, and operations of the business, notwithstanding the continuing participation of a nonqualifying individual who formerly owned and controlled the business.

M. In determining whether a business is controlled by qualifying owners, whether the business owns equipment necessary to perform its work will be considered. Where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the business, the business may be determined to be controlled by qualifying individuals.

N. A business shall be granted certifications only for specific types of work in which qualifying owners have the ability to control the business. To become certified in an additional type of work, the business must demonstrate that its qualifying owners are able to control the business with respect to that type of work. The qualifying owner's control of the business in the additional type of work must be verified.

(1) The types of work a business can perform, whether on initial certification or when a new type of work is added, must be described in terms of the most specific available NAICS code for that type of work. Multiple NAICS codes may be assigned where appropriate. The plain meaning of NAICS code descriptions will be used in determining the scope of a business's certification.

(2) Businesses must carefully check to make sure that the NAICS codes cited in a certification are kept up to date and accurately reflect work that the business's owners can control. The business bears the burden of providing detailed company information to make an appropriate NAICS code designation.

(3) If a business believes that there is not a NAICS code that fully or clearly describes the types of work in which it is seeking to be certified, the business may request that the division, in the business's certification documentation, supplement the assigned NAICS codes with a clear, specific, and detailed narrative description of the type of work in which the business is certified.

O. A business operating under a franchise or license agreement may be certified if it meets the standards in this part and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license should not be considered, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

P. In order for a partnership to be controlled by qualifying individuals, any nonqualifying partners must not have the power without the specific written concurrence of the qualifying partner or partners to contractually bind the partnership or subject the partnership to contract or tort liability.

Q. The qualifying individuals controlling a business may use an employee leasing company. The use of such a company does not preclude the qualifying individuals from controlling their businesses if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

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1230.1606 OTHER RULES AFFECTING CERTIFICATION.

A. (1) The eligibility of a business must be evaluated on the basis of present circumstances. A business may not be denied certification based solely on historical information indicating a lack of ownership or control of the business by qualifying individuals in the past if the business currently meets the ownership and control standards of parts 1230.1601 to 1230.1607.

(2) A business may not be denied certification solely on the basis that it is a newly formed business that has not completed projects or contracts at the time of its application, has not yet realized profits from activities, or has not demonstrated a potential for success. If the business meets the requirements in parts 1230.1601 to 1230.1607, the business is eligible for certification.

B. Certified socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small businesses and businesses seeking certification as socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small businesses shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is grounds for removal or denial of certification.

C. Except in the case of rehabilitation facilities and extended employment providers, only businesses organized for profit may be eligible.

D. An eligible socially and economically disadvantaged or veteran-owned small business must be owned by individuals who are socially and economically disadvantaged or by veterans. Except as provided in this item, a business that is not owned by such individuals, but instead is owned by another business, including a socially and economically disadvantaged or veteran-owned small business, is not an eligible socially and economically disadvantaged or veteran-owned small business.

(1) If qualifying individuals own and control a business through a parent or holding company, established for tax, capitalization, or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, the subsidiary may be certified if it otherwise meets all the requirements in parts 1230.1601 to 1230.1607. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

(2) A subsidiary may be certified only if there is cumulatively 51 percent ownership of the subsidiary by qualifying individuals. For example:

(a) if qualifying individuals own 100 percent of a holding company, which has a wholly owned subsidiary, the subsidiary may be certified if it meets all other requirements;

(b) if qualifying individuals own 100 percent of a holding company that owns 51 percent of a subsidiary, the subsidiary may be certified if all other requirements are met;

(c) if qualifying individuals own 80 percent of a holding company that owns 70 percent of a subsidiary, so that the cumulative ownership of the subsidiary by qualifying individuals is 56 percent (80 percent of the 70 percent), which is more than 51 percent, then the subsidiary may be certified if all other requirements are met;

(d) if unit (b) or (c) applies, but someone other than the qualifying owners of the parent or holding company controls the subsidiary, even though the subsidiary is owned by qualifying individuals through the holding or parent company, it cannot be certified because it fails to meet control requirements;

(e) if qualifying individuals own 60 percent of the holding company, that in turn owns 51 percent of a subsidiary, so that the cumulative ownership of the subsidiary by qualifying individuals is about 31 percent, which is less than 51 percent, then the subsidiary cannot be certified; or

(f) if the holding company, in addition to the subsidiary seeking certification, owns several other companies and the combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification, then under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

E. Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a business is an independent business, owned and controlled by qualifying individuals.

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F. Socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small businesses may not be required to be prequalified as a condition for certification.

G. A business that is owned by an Indian tribe rather than by Native Americans as individuals may be eligible for certification. Such a business must be controlled by qualifying individuals, as provided in parts 1230.1601 to 1230.1607.

1230.1607 OTHERWISE DISADVANTAGED BUSINESSES.

A. An individual business that is not a targeted group business but is owned by a socially and economically disadvantaged person, as defined in part 1230.0150, subpart 24, may be included as a targeted group business if the division determines that inclusion is necessary to remedy discrimination against the owner based on race, gender, or disability in attempting to operate a business that would provide goods or services to public agencies. The business must demonstrate that it is encountering the effects of discrimination as evidenced by the owner lacking adequate external support necessary to operate a competitive business enterprise through a diminished ability to secure:

- (1) long-term or working capital financing;
- (2) equipment, raw material, or supplier trade credit;
- (3) bonding and insurance; or
- (4) a proportionate share of the market for its goods and services.

B. In addition, for certification under item A, the information in this item must be provided for the most recent fiscal year and the preceding four years, if the applicant has operated as a business for four years. The applicant must identify the fiscal-year reporting system used and list in whole dollar amounts:

- (1) assets:
 - (a) all cash, marketplace securities, and other near-cash items, excluding sinking funds;
 - (b) all accounts from trade, less allowance for doubtful accounts;
 - (c) anything constituting inventory for the business;
 - (d) any other current assets, not including prepaid items;
 - (e) the total of all current assets shown in units (a) to (d);
 - (f) all property, plant, leasehold improvements, and equipment, less accumulated depreciation or depletion;
 - (g) intangible assets, including goodwill, trademarks, patents, catalogs, brands, copyrights, formulas, franchises, and mailing lists, less accumulated amortization;
 - (h) prepaid items and any other noncurrent assets; and
 - (i) total of all items listed in units (a) to (h);
- (2) liabilities:
 - (a) all short-term note obligations, including bank and commercial paper excluding trade notes payable;
 - (b) that portion of long-term obligations that is due within the next fiscal year;
 - (c) open accounts due to the trade;

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- (d) income taxes, including current portion of deferred taxes. Identify federal, state, and local income taxes in subtotals;
 - (e) all other current liabilities, including bank overdrafts and accrued expenses;
 - (f) total of all current liabilities listed in units (a) to (e);
 - (g) all senior debt, including bonds, debentures, bank debt, mortgages, deferred portions of long-term debt, and capital lease obligations;
 - (h) all deferred taxes. Identify federal, state, and local taxes in subtotals;
 - (i) any other noncurrent liabilities, including subordinated debt and liability reserves;
 - (j) difference between total liabilities and total assets, including minority interest; and
 - (k) total liabilities and net worth: total of all items listed in units (a) to (j); and
- (3) income data:
- (a) gross sales less returns and discounts allowed, if any;
 - (b) net sales less cost of sales;
 - (c) all selling, general, and administrative expenses, including depreciation, excluding interest expense;
 - (d) gross profit less operating expenses;
 - (e) includes miscellaneous other income less expenses, such as interest expense, miscellaneous expenses not included in general and administrative expenses netted against recoveries, interest income, dividends received, and miscellaneous income; and
 - (f) operating profit minus all other expenses (net).

C. If the business seeking certification under item A is a contractor, the information in item B must be submitted in all categories except as modified as follows:

- (1) assets:
 - (a) accounts receivable - progress billings: amounts billed on current contracts excluding retention;
 - (b) accounts receivable - current retention: amounts held back by customers on current contracts as retention;
 - (c) inventory: costs attributable to equipment, small tools, supplies, and other deferred costs related to contracts in progress where a portion of the cost applies to work not yet performed;
 - (d) costs and estimated earnings in excess of billings: the difference between the total of costs and recognized estimated earnings to date and the total billings to date;
 - (e) total current: total of all current assets shown and as modified, changed, or added in units (a) to (d); and
 - (f) joint ventures and investments: the total of investments and equity in joint ventures;
- (2) liabilities:
 - (a) accounts payable - trade: open accounts and note obligations due to the trade;

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(b) accounts payable - retention: amounts held back as retention in payments to subcontractors on current contracts;

(c) billings in excess of costs and estimated earnings: the difference between the total billings to date and the total of costs and recognized estimated earnings to date;

(d) total current liabilities: total of current liabilities shown and as modified, changed, or added in units (a) to (c);
and

(e) total liabilities and net worth: total of all items shown as modified, changed, or added in units (a) to (d); and

(3) income data: contract revenues: revenues recognized under percent of completion method, in place of net sales.

D. In separate schedules, all applicants applying under item B or C should show the amounts attributable to depreciation, depletion, amortization, interest income, interest expenses, officers' compensation, and miscellaneous income shown as passive or nonpassive income. A schedule of leased assets with a brief description of type and dollar value must be submitted. A brief outline describing shareholders equity must be submitted, when applicable, for the type of company organization.

In addition, supportive documentation must be submitted when seeking certification under various provisions as follows:

(1) item A, subitem (1), for certification as lacking adequate external support in obtaining long-term or working capital financing, any documentation showing denial of loans or offers of loans at terms and rates not currently normal for similar enterprises;

(2) item A, subitem (2), for certification as lacking external support in obtaining equipment, raw materials, or supplier trade credit, any documentation showing denial of credit or credit extended at terms, conditions, and rates in excess of the norm expected within similar enterprises; and

(3) item A, subitem (3), for certification as lacking adequate external support in obtaining bonding and insurance, any documentation showing inability to obtain bonding or insurance at rates and terms normally expected within the industry segment of the applicant.

In all cases, adequacy of documentation, accuracy of financial data, and development of argument and positions with regard to an applicant's lack of external support within any of the four categories of item A rests with the applicant and must be submitted in writing with the application for certification. The division retains the right of inquiry and verification of all information submitted.

E. Denials of certification under this part are subject to appeal under part 1230.1700, subpart 6.

1230.1608 PROCEDURES.

A. Eligibility of businesses as socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business must be determined consistent with the standards of parts 1230.1601 to 1230.1607.

B. The following documentation and information must be provided in determining whether a socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business meets the standards of parts 1230.1601 to 1230.1607:

(1) documentation related to the legal structure, ownership, and control of the applicant business. This includes, but is not limited to, articles of incorporation; corporate bylaws or operating agreements; organizational, annual, and board or member meeting records; stock ledgers and certificates; and state-issued certificates of good standing;

(2) bonding and financial capacity of the business, lease and loan agreements, and bank account signature cards;

(3) the work history of the business, including contracts it has received, work it has completed, and payroll records;

(4) a statement from the business on the type of work it prefers to perform as part of the program and its preferred locations for performing the work, if any;

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(5) a list of the equipment owned by or available to the business and the licenses the business and its key personnel possess to perform the work it seeks to do as part of the program;

(6) complete federal income tax returns or requests for extensions filed by the business, its affiliates, and the socially and economically disadvantaged or veteran owners for the last three years. A complete return includes all forms, schedules, and statements filed with the IRS;

(7) an appropriate application form, as determined by the division;

(8) a profile of the owners' management responsibilities and a description of the management responsibilities assigned to other individuals, including a chronological resume for each owner, officer, and other key personnel; and

(9) full disclosure of all owners' and officers' direct and indirect involvement in other businesses and enterprises which are in the same field of operation as the applicant, unless ownership is by common stock regularly bought and sold through recognized exchanges.

C. When seeking certification under any provision of item A, or any certification provision, the applicant shall provide all other relevant or supporting information requested by the division.

D. The applicant must attest to the accuracy and truthfulness of the information on the application form. This must be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or in the form of an unsworn declaration executed under penalty of law.

E. All information on the form must be reviewed prior to making a decision about the eligibility of the business. Clarification of information contained in the application may be requested at any time in the application process.

F. A certified business must inform the commissioner in writing of any change in circumstances affecting its ability to meet the requirements of parts 1230.1601 to 1230.1607 or any material change in the information provided in its application form.

(1) Changes in management responsibility among members of a limited liability company are covered by this requirement.

(2) Supporting documentation describing in detail the nature of such changes must be attached.

(3) The notice must take the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of law. The written notification must be provided within 30 days of the occurrence of the change. If the applicant fails to make timely notification of such a change, the applicant will be deemed to have failed to cooperate.

G. If an applicant for certification withdraws an application before a decision on the application has been issued, the applicant can resubmit the application at any time.

1230.1609 DENIALS OF REQUESTS FOR CERTIFICATION.

A. When a request to be certified as a socially and economically disadvantaged, economically disadvantaged area, or veteran-owned small business is denied, a written explanation of the reasons for the denial must be provided to the applicant, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant on request.

B. When a business is denied certification, 12 months must lapse before the business may reapply for certification. The time period for reapplication begins to run on the date the explanation required by item A is received by the applicant. An applicant's appeal of the decision does not extend this period.

C. When an administratively final denial of certification is made concerning a business, the business may appeal the denial pursuant to part 1230.1700, subpart 6.

1230.1700 CERTIFICATION OF ELIGIBILITY.

Subpart 1. [See repealer.]

[For text of subs 2 to 4, see M.R.]

Subp. 5. **Grounds for rejecting denying application.** An applicant must be notified in writing of the acceptance or rejection denial of the application, within 60 calendar days of receipt of the application form and all supporting documents required by the division. An application must be rejected denied on any of the following grounds:

[For text of items A and B, see M.R.]

C. the applicant failed to establish that majority ownership and day-to-day operating control are held by socially disadvantaged small business or economically disadvantaged area small business person(s) qualifying individuals;

[For text of items D to H, see M.R.]

I. the applicant's financial data profile does not fit within the parameters in subpart 5a, item F C, subitem (2), unit (a), when applying as an individual business under subpart 1, item B, subitem (2) part 1230.1607.

Subp. 5a. **Criteria for determinations.** The following standards must be used in determining whether, under subpart 5, item C, a firm is owned and operated on a day-to-day basis by one or more socially or economically disadvantaged persons:

A. The individual's claim, supported by sufficient documentation, that he or she is a socially disadvantaged small business person or an economically disadvantaged area small business person as defined in these rules:

B. The ownership and day-to-day operation of a socially disadvantaged small business or economically disadvantaged area small business must be real, substantial, and continuing, and must go beyond the pro forma ownership of the firm as reflected in its ownership documents. The majority owner of the firm must be employed at least half time by the firm during normal business hours for that industry. The socially disadvantaged or economically disadvantaged small business owners shall have the customary incidents of business ownership and shall share in the risks and profits commensurate with their ownership interests as demonstrated by an examination of the substance, rather than form of the business arrangements. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient. The division shall consider all relevant factors, including the date the business was established, the adequacy of its resources for the work of the contract, and the degree to which financial arrangements, equipment rental or leasing agreements, and relationships with nontargeted businesses vary from accepted industry practice:

C. The socially disadvantaged or economically disadvantaged area business owner shall possess the power and expertise to direct the management and policies of the firm and to make the day-to-day as well as major decisions on matters of management, policy, and operation. If the business is a corporation, the socially disadvantaged or economically disadvantaged area stockholder shall hold the position of chief executive officer or president. The firm must not be subject to any formal or informal restrictions that limit the customary discretion of the socially or economically disadvantaged owners. There must be no restrictions through, for example, bylaw provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevent the socially or economically disadvantaged business owners from making a business decision for the firm without the cooperation or vote of any owner who is not a socially or economically disadvantaged person:

D. If the owners of the firm who are not socially or economically disadvantaged persons are disproportionately responsible for the operation of the firm, then the firm will not be considered to be owned and operated by socially or economically disadvantaged persons:

E. All securities that constitute ownership or control or both ownership and control of a corporation must be held directly by socially or economically disadvantaged persons. No securities held in trust or by any guardian for a minor will be considered as held by socially or economically disadvantaged persons in determining the ownership or control of a corporation:

F. The contributions of capital or expertise by the socially or economically disadvantaged owners to acquire their interests in the firm must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not socially or economically disadvantaged, or participation as an employee only, rather than as a manager:

G. A. In addition to the standards in items A to F parts 1230.1604 and 1230.1608, the following circumstances will be

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given special consideration in determining eligibility:

(1) newly formed ~~firms~~ businesses and ~~firms~~ businesses whose ownership or day-to-day operating control or both ownership and control has changed will be closely scrutinized to determine the reasons for the timing of the formation or of a change in the firm business;

~~(2) a previous or continuing employer-employee relationship between or among present owners will be carefully reviewed to ensure that the employee-owner has the management responsibilities and capabilities referred to in subpart 5 and this subpart;~~

~~(3) (2) any relationship between a socially and economically disadvantaged ~~or~~, economically disadvantaged area, or veteran-owned business and a nonqualifying business that is not a socially disadvantaged or economically disadvantaged area business that has an interest, financial or otherwise, in the socially and economically disadvantaged ~~or~~, economically disadvantaged area, or veteran-owned business will be carefully reviewed to determine if the interest conflicts with the ownership and day-to-day operating control requirements.~~

H. B. The combined gross sales or revenues from businesses operated by the same owners in related fields exceed the highest size standard for the field defined under part 1230.1600, subpart 3 Minnesota Statutes, section 16C.16, subdivision 2.

F. C. The following standards, along with supporting documentation, must be used in reaching a determination to certify an applicant under subpart 1, item B, subitem (2), unit (a), (b), (c), or (d) part 1230.1607:

(1) Financial data for the company seeking certification shall be analyzed using formulas, techniques, processes, and ratios used in the annual statement studies published by Robert Morris and Associates (RMA), Philadelphia. Where RMA data does not reflect or provide adequate comparable data for the applicant's main line of business, the "Industry Norms and Key Business Ratios," published by Dun and Bradstreet Credit Services, or any similar representative reporting service may be used.

(2) Certification determination will be made upon careful review of all the evidence submitted. However, to establish eligibility for this review, the financial data applicable to the applicant company shall fall within the following parameters: financial ratios: at any point between the lower quartile and the upper quartile. Upper quartile ratings are indicative of a successful company not in need of the assistance provided through certification. Lower quartile ratings indicate a need for additional assistance before certification. Lower quartile businesses will be referred to the Department of Employment and Economic Development for remedial assistance before becoming eligible for reconsideration for certification.

(3) The following ratios and formulas will be used to determine eligibility for certification:

(a) lacking adequate external support in obtaining long-term or working capital financing: earnings before interest and taxes (EBIT)/interest, sales/working capital, quick ratio, fixed/worth, debt/worth;

(b) lacking adequate external support in obtaining equipment, raw materials, or supplier trade credit: current ratio, quick ratio;

(c) bonding and insurance: none - review of documentation only;

(d) the business has not captured a proportionate share of the market for its goods and services, based on the most current annual statement studies published by RMA. The national average revenues appropriate for the applicant business's standard industrial code and asset size will be divided by the national average assets determined similarly and multiplied by the applicant's actual total assets to indicate a proportionate market share. The applicant business's actual revenues will be divided by this proportionate market share to indicate the actual percentage of the proportionate market attained. Any percentage at 75 or less shall qualify for eligibility.

(4) If eligible under subpart 1, item B, subitem (2), unit (a), (b), (c), or (d) part 1230.1607, all other documentation shall be reviewed to arrive at a determination to grant or deny certification. The key determinant is "lacking adequate external support ... as evidenced by diminished ability to secure ..." Even though an applicant qualifies as an eligible business on the basis of financial ratios, if the business has been able to secure sufficient loans, bonding, insurance, or credit at the usual industry norms, it is not qualified as there is no evidence showing lack of support. Conversely, the business may show adequate financial ratios but still find itself unable to obtain any, or only partial, amounts of financing, bonding, credit, or insurance needed to remain competi-

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tive, or it can only acquire such at unfavorable terms not normal for its industry segment. Upon finding that such circumstances are not a result of internal management deficiencies as indicated by ratios appropriate to these concerns such as the following:

- (a) percent profit before taxes/tangible net worth;
- (b) percent profit before taxes/total assets;
- (c) percent depreciation, depletion, amortization/sales; and
- (d) percent officers' compensation/sales;

the business can be certified as a targeted group business. The same management efficiency review shall apply when determining certification due to an inability to capture a proportionate market share; however, no other documentation will need be considered under this eligibility criterion. Findings that a business suffers from internal management deficiencies will require a denial of certification until remedial assistance has been obtained through referral to the Department of Employment and Economic Development for help from public or private resources. When the appropriate ratio indicators fall within the eligible zone, the business may again apply for certification.

The impact of both short- and long-term business cycles for the economy in general and for the particular business segment in specific shall be considered in arriving at certification findings. When appropriate, an average of two to five years of fiscal data for the applicant company shall be used in determining ratio values.

D.

(5) Businesses seeking certification that operate in distinctly defined commodities, construction services, or product lines must be reviewed for certification under those distinctions. If the company operates in more than one classification, the review must be made under the primary industry segment if 75 percent or more of its net sales or contract revenues are generated by that segment. The business may seek certification for individual product, service, commodity, or construction activities if 25 percent or more of its net sales or contract revenues is generated by a given category. All other financial data required by this application process must be proportionately attributed to the categories for which certification is sought unless it can be conclusively demonstrated that the dollar amounts shown are directly attributable to specific elements. If the company is unable to provide the breakdown of financial data requested by this rule, it shall accept or request certification under the predominant category in its operation.

Subp. 6. **Appeal of ~~rejection denial~~ of application.** After an applicant has received written notice of ~~rejection denial~~ of the application for certification as a socially and economically disadvantaged ~~small business or~~ economically disadvantaged area, or veteran-owned small business, the applicant may appeal the decision in writing to the commissioner of administration within 15 calendar days of receipt of the determination. If there are facts in dispute, the commissioner may refer the matter to the Office of Administrative Hearings for a contested case hearing under Minnesota Statutes, sections 14.57 to 14.62. The applicant has the burden of proof in establishing qualifications for certification. The commissioner shall, if time permits, refer the appeal to ~~the Small Business Procurement Advisory Council or, if the council does not exist,~~ a panel designated by the commissioner, for a recommendation before reaching a final decision. The commissioner shall make a final decision in writing within 60 calendar days of receipt of the appeal. Any person receiving an adverse decision from the commissioner may appeal in any appropriate court of the state.

1230.1805 PROCUREMENTS FROM SOCIALLY AND ECONOMICALLY DISADVANTAGED, ECONOMICALLY DISADVANTAGED AREA, AND VETERAN-OWNED SMALL BUSINESSES.

Subpart 1. **Directory.** A directory of eligible certified businesses, ~~certified pursuant to part 1230.1700,~~ must be established and maintained by the division for various commodity classes.

Subp. 2. **Manufacturers representatives.** Manufacturers representatives shall have written agreements with manufacturers or manufacturers' authorized distributors to sell the products of the manufacturers in place and approved by the division at the time responses are due in order to be eligible for consideration for award under parts 1230.1810 to 1230.1830.

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1230.1810 PROPORTIONAL UTILIZATION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED, ECONOMICALLY DISADVANTAGED AREA, AND VETERAN-OWNED SMALL BUSINESSES.

The division shall attempt to achieve utilization of socially and economically disadvantaged, economically disadvantaged area, and veteran-owned small businesses in proportion to their representation in the state's market area. In so doing, the division may use either of the following purchasing methods for making awards to those socially disadvantaged businesses designated by the commissioner as targeted group, economically disadvantaged area, or veteran-owned small businesses.

A. When it is likely that three responses will be obtained from certified targeted group, economically disadvantaged area, or veteran-owned small businesses, the solicitation may be set aside for responses only from those businesses.

(1) The division shall include a statement on the solicitation document informing all vendors that the solicitation is set aside for responses only from certified targeted group, economically disadvantaged area, or veteran-owned small businesses.

(2) The division shall reject any response from a business not certified as a targeted group, economically disadvantaged area, or veteran-owned small business.

[For text of subitem (3), see M.R.]

B. A certified targeted group, economically disadvantaged area, or veteran-owned small business may be awarded up to a six percent preference in the amount offered over the lowest responsible offer from another vendor except as provided in part 1230.1830, item D.

(1) The division shall include a statement on the solicitation document informing all vendors that certified targeted group, economically disadvantaged area, or veteran vendors will receive a preference in the amount offered and the amount of the preference to be awarded.

(2) Unless awarded pursuant to subitem (4), when the lowest acceptable response from a certified targeted group, economically disadvantaged area, or veteran-owned small business is within the specified percent of the lowest acceptable response from another vendor, award must be made to the lowest responsible certified targeted group, economically disadvantaged area, or veteran-owned small business.

(3) Unless awarded pursuant to subitem (4), when there is no acceptable response from a certified targeted group, economically disadvantaged area, or veteran-owned small business within the specified percent of the lowest acceptable response from another vendor, award must be made to the lowest responsible vendor.

[For text of subitem (4), see M.R.]

1230.1820 REQUIRED SUBCONTRACTING FOR CONSTRUCTION OR PROFESSIONAL OR TECHNICAL SERVICES.

Subpart 1. **Goal setting.** The division may set goals that require prime contractors to subcontract a portion of any contract for construction or professional or technical services to targeted group, economically disadvantaged area, or veteran-owned small businesses.

A. Goals for subcontracting will depend on the type of work involved, location of project, size of project, and the availability of certified, willing, and able targeted group, economically disadvantaged area, or veteran-owned small businesses open to subcontracts from the prime contractor.

[For text of item B, see M.R.]

Subp. 2. **Subcontracting.** No contractor receiving a subcontract under this program shall in turn subcontract more than 25 percent of the contract dollar amount. A targeted group, economically disadvantaged area, or veteran-owned small business may exceed the 25 percent limitation if the awarded subcontract is to another targeted group, economically disadvantaged area, or veteran-owned small business certified under the same eligibility criteria.

Subp. 3. **Waivers.** Prime contractors may obtain waivers from the normal subcontracting goals according to the following procedure:

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A. The prime contractor may request a waiver for some or all specialties based on a documented unsuccessful effort to obtain certified targeted group, economically disadvantaged area, or veteran subcontractors. The request for waiver with must be accompanied by documentation showing the effort and steps taken to secure certified targeted group, economically disadvantaged area, or veteran subcontractors and the results thereof must accompany the bid response, unless the invitation to bid specified a period after bid opening, not to exceed 72 hours, where documentation of efforts and steps taken to secure certified targeted group subcontractors will be permitted.

~~B. After the award and the commencement of a project, A prime contractor may request a waiver for a specific specialty if the a certified targeted group, economically disadvantaged area, or veteran subcontractor cannot or will not fulfill the a subcontract and no suitable alternative subcontractor is available so as to prevent significant project delay. Failure to use the certified targeted group subcontractors specified at the time of award without a grant of waiver will invoke a penalty as outlined in subpart 4.~~

Subp. 4. **Incentives and penalties.** Solicitation documents must state whether or not the incentive rule applies for the project being solicited. If so,

A. Prime contractors who exceed the established goal on a given project for use of certified targeted group, economically disadvantaged area, or veteran subcontractors by more than three percent may be awarded a financial incentive over and above the awarded project price, the incentive to be determined in the following manner:

[For text of subitem (1), see M.R.]

(2) A monetary incentive over and above the awarded contract price shall be paid to the prime contractor upon documented proof of actual use of certified targeted group, economically disadvantaged area, or veteran subcontractors on the project in excess of three percent of the goal set for that project. The monetary incentive in any case shall not exceed six percent of the awarded project price, or \$60,000 at the maximum. The form of documented proof shall be specified in the award agreement.

[For text of subitem (3), see M.R.]

(4) The provisions of subitems (1), (2), and (3); shall be applicable to all prime contractors and shall also apply to certified targeted group, economically disadvantaged area, or veteran contractors acting as prime contractors if the awarded contract was not gained through preference or set-aside bidding procedures.

B. Prime contractors who have been awarded a contract and fail to meet the project goal for certified targeted group, economically disadvantaged area, or veteran subcontractor use without approved waiver shall be penalized up to six percent of the total project value, not to exceed \$60,000. The penalty to be assessed will be proportionate to the actual underuse of certified targeted group, economically disadvantaged area, or veteran subcontractors as compared to the project goal. The contractor involved shall be notified in writing of the proposed penalty and the reasons for the penalty. Within 15 calendar days of receipt of the notice the contractor may request a hearing before the director or the director's designee. The director may uphold, modify, or reject the penalty. The decision of the director may be appealed within 30 calendar days to the commissioner. If there are facts in dispute, the commissioner may refer the matter to the Office of Administrative Hearings for a contested case hearing under Minnesota Statutes, sections 14.57 to 14.62, or, if feasible, may affirm or reject the director's decision. Any person receiving an adverse decision from the commissioner may appeal in any appropriate court in this state.

C. If required in a solicitation, prime contractors who fail to meet the project goal without waiver for a project to be awarded and are the apparent low responder shall have a penalty of up to six percent, not to exceed \$60,000, added to their total price when other prime contractors have submitted responses that meet the specified targeted goal. The penalty to be added must be proportionate to the underuse determined in the response as compared to the announced project goal.

D. The formula to be utilized in the application of this subpart is: Penalty (to be added to the response) = maximum penalty x (underuse ÷ project goal).

~~E.~~ E. The division may cancel solicitations and resolicit the project when no responses meet the announced goal and the evidence available to the division indicated sufficient responsible certified targeted group, economically disadvantaged area, or veteran-owned subcontractors are willing and able to do the work.

1230.1850 REMOVAL FROM SOCIALLY DISADVANTAGED OR ECONOMICALLY DISADVANTAGED AREA MINNESOTA SMALL BUSINESS PROCUREMENT PROGRAM.

[For text of subps 1 and 2, see M.R.]

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Subp. 3. **Removal from ~~socially disadvantaged or economically disadvantaged area~~ the Minnesota small business procurement program when a business no longer qualifies.** A business must be removed from the ~~socially disadvantaged or economically disadvantaged area~~ Minnesota small business procurement program when the business no longer qualifies for the programs under Minnesota Statutes, section 16C.19, and parts 1230.1400 to 1230.1910. Notice of removal and the reasons for removal must be given in writing to the business by the division. Removal is effective upon receipt of the notice by the business. When removal is for loss of status as an economically disadvantaged area, the business remains eligible for 120 calendar days after certified small businesses in the area are notified of the termination of the status by the division.

Subp. 4. **Appeal of removal.** When a business is removed from the ~~socially disadvantaged or economically disadvantaged area~~ Minnesota small business procurement program under subpart 3, the business may appeal the removal and disqualification to the commissioner of administration in writing within 15 calendar days of the receipt of the notice of removal. Receipt of the appeal must be acknowledged by the commissioner in writing within 15 calendar days of receipt. The commissioner shall request that the business choose either an informal review of the disqualification under ~~item A subpart 4a~~ or a formal review under item B subpart 4b if facts of the matter are in dispute. If a business fails to choose either an informal or formal review within 15 calendar days of the receipt of the commissioner's request, the right to appeal lapses.

Subp. 4a. Informal review of removal.

A. **Informal review.** ~~The Small Business Procurement Advisory Council or, if the council does not exist, A panel designated by the commissioner, shall consider whether the decision to remove a business from the socially and economically disadvantaged ~~or~~ economically disadvantaged area, or veteran-owned small business program was reasonable and whether the removal is in compliance with subpart 3. The ~~council~~ or panel will review the facts presented by the business and the division. Within 60 calendar days of receipt of a request for review, the ~~council~~ or panel shall recommend that the commissioner take one of the following actions:~~

A.

(1) ~~reinstatement of the business to the socially and economically disadvantaged ~~or~~ economically disadvantaged area, or veteran-owned small business program;~~

B.

(2) affirm the removal of the business; or

C.

(3) refer the matter to the Office of Administrative Hearings for a contested case hearing under Minnesota Statutes, sections 14.57 to 14.62.

The recommendation to the commissioner must be in writing and include the reasons for the decision. The commissioner shall consider the recommendation and make a final decision on the matter within 15 calendar days of receiving the recommendation. The commissioner shall include written reasons for the decision.

Subp. 4b. Formal review of removal.

B. **Formal review.** Within 30 calendar days after a request by the business, ~~council~~, or panel for formal review, the commissioner will initiate a contested case hearing under Minnesota Statutes, sections 14.57 to 14.62, by filing a request for assignment of an administrative law judge with a notice of an order for hearing. When the commissioner receives the report of the administrative law judge, the commissioner shall forward the report to the council or panel for review, and the council or panel shall, within 45 calendar days, make a recommendation. The commissioner shall make a final decision on each appeal. Any person receiving an adverse decision from the commissioner may appeal in any appropriate court of this state.

1230.1860 LIMITS TO PROGRAM PARTICIPATION.

To ensure equitable distribution of awards and reduce the dependency of any given business on state awards for a major part of its annual revenues, the following limitations apply:

A. [Repealed, L 1999 c 232 s 2]

B. Eligibility for set-aside or preference for a specific business participating in the ~~socially disadvantaged or economically disadvantaged area~~ Minnesota small business procurement program must be terminated when the review of financial statements or the cumulative record of awards compiled by the division from reports submitted by agencies covered under the statute indicate that any of the following conditions exist:

[For text of subitems (1) to (3), see M.R.]

C. No business may participate in the ~~socially disadvantaged or economically disadvantaged area~~ Minnesota small business procurement program indefinitely. A business shall graduate from the program when one of the following circumstances exists:

[For text of subitems (1) to (3), see M.R.]

1230.1900 GENERAL TERMS AND CONDITIONS.

[For text of subps 1 to 6, see M.R.]

Subp. 7. **Reporting requirements.** The following reporting requirements apply to the ~~socially disadvantaged or economically disadvantaged area~~ Minnesota small business procurement program:

A. Businesses eligible to participate in these programs shall, within 30 calendar days of a request by the division, verify information on file with the division for that business, make any necessary changes, and submit a complete financial statement and personal net worth statement to the division. The information on file with the division will include:

[For text of subitems (1) to (5), see M.R.]

B. Failure to provide the information required by item A may result in removal of the noncomplying business from the ~~socially disadvantaged or economically disadvantaged area~~ Minnesota small business procurement program.

1230.1910 PROFESSIONAL AND TECHNICAL PROCUREMENTS.

[For text of subp 1, see M.R.]

Subp. 2. **Awards.** Division certification is not required for individuals who provide consultant, professional, or technical services and who are not organized as a business, corporation, partnership, proprietorship, or other recognized business structure. An individual person may be awarded contracts under Minnesota Statutes, section ~~16B.19, subdivision 2~~ 16C.16, subdivision 3, provided that the contracting agency maintains records stating that the individual meets the terms governing ~~socially or and economically disadvantaged persons~~, economically disadvantaged area persons, or veterans established in part 1230.0150, subparts 24 and 26, and reports the awards in the format required by the division.

1230.3900 TERMINATION OF DEBARMENT OR AWARD DURING DEBARMENT.

The commissioner of transportation may terminate a debarment by order or may award a ~~MnDOT~~ MnDOT contract to a debarred or suspended business when:

[For text of items A and B, see M.R.]

C. the commissioner of administration determines that an emergency exists ~~as defined in Minnesota Statutes, section 16B.08, subdivision 6~~ that for purposes of this part is an unforeseen occurrence or combination of circumstances that calls for immediate action in the public interest; or

[For text of item D, see M.R.]

REPEALER. Minnesota Rules, parts 1230.0150, subpart 21; 1230.1600, subpart 3; 1230.1700, subpart 1; and 1230.1830, are repealed.

Adopted Expedited Rules

Provisions exist for the Commissioners of some state agencies to adopt expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for normal rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the conditions. Expedited rules are effective upon publication in the State Register, and may be effective up to seven days before publication under certain conditions.

Expedited rules are effective for the period stated or up to 18 months. Specific *Minnesota Statute* citations accompanying these expedited rules detail the agency's rulemaking authority.

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

Adopted Rules - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Department of Natural Resources

Adopted Expedited Permanent Game and Fish Rules: Taking Fish on Boundary Waters

The rules proposed and published at State Register, Volume 40, Number 37, pages 1199-1201, March 14, 2016 (40 SR 1199), are adopted with the following modifications:

6266.0100 GENERAL REGULATIONS FOR TAKING FISH ON BOUNDARY WATERS WITH ADJACENT STATES.

Subp. 2. Possession limits on boundary waters.

C. Fish that are taken by angling on Minnesota boundary waters with North Dakota and on that portion of the Bois de Sioux River from the White Rock Dam to the North Dakota border and not immediately released or returned to the water as defined in Minnesota Statutes, section 97A.015, subdivision 26c, are considered to be in possession and part of the bag limit. No culling or live well sorting (the act of replacing one fish with another one) is allowed. Fish may not be released after being reduced to possession, except that an angler may release fish to the same water body where the fish were taken when the angler is done fishing for that day and before the angler leaves the water body.

€D. Licensed anglers, or those exempt from licensing, must follow the general restrictions on transport, possession, and packing of fish while on a boundary water unless otherwise specified in this chapter or part 6262.0300.

Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Department of Agriculture

Rural Finance Authority

Notice of Meeting Schedule, Meeting Via Conference Call

Future monthly meetings of the Rural Finance Authority Board are scheduled for 1:00 P.M. at 625 Robert Street North on the following dates in 2017: **January 4; February 1; March 1; April 5; May 3; June 7; September 6; October 4; November 1; December 6.** July and August meetings are combined into one out-state meeting. Notice of the date and location of the out-state meeting will be published at a later date. Some members may participate in certain of these meetings by electronic means. In accordance with Minnesota Statutes, Section 471.705 (1997), the Agency, to the extent practicable, will allow a person to monitor those certain meetings electronically from a remote location. If such monitoring shall occur, the Agency may require the person making such a connection to pay for documented marginal costs that the Agency incurs as a result of the additional connection. If you wish to attend, sign in at the front desk; you will be issued a badge and call 651-201-6004 for an escort to the meeting.

For additional information, contact Matt McDevitt, Minnesota Department of Agriculture, 625 Robert Street North, St. Paul, MN 55155-2538 or call (651) 201-6311.

Matt McDevitt, Ag Finance Supervisor
Minnesota Department of Agriculture

Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design

REQUEST FOR COMMENTS for Possible Amendments to Rules Governing Rules of Professional Conduct, *Minnesota Rules*, 1805.0100, 1805.0200, 1805.0300, 1805.0400, 1805.0500, 1805.0600, 1805.0650, 1805.0700, 1805.0800, 1805.0900, 1805.1500, 1805.1600, 1805.1800; Revisor's ID Number R-04449

Subject of Rules. The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design requests comments on its possible amendment to rules governing the Rules of Professional Conduct. The Board is considering rule amendments to update and clarify the rules, including the addition of certificate holders to those required to abide by the rules.

Persons Affected. The amendment to and repeal of the rules would likely affect applicants, licensees and certificate holders.

Statutory Authority. *Minnesota Statutes*, section 326.06, authorizes the Board to “make all rules, not inconsistent with law, needed in performing its duties.”

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing or orally until further notice is published in the *State Register* that the Board intends to adopt or to withdraw the rules. The Board will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments. The Board does not plan to appoint an advisory committee to comment on the possible rules.

Rules Drafts. The Board does not anticipate that a draft of the rule amendments will be available before the publication of the proposed rules.

Agency Contact Person. Written or oral comments, questions, requests to receive a draft of the rules when it has been prepared, and requests for more information on these possible rules should be directed to: Andrea Barker at the Board of AELSLAGID, 85 East Seventh Place, Suite 160, St. Paul, MN 55101, phone: 651-757-1511, FAX: 651-297-5310,

Official Notices

or email: andrea.barker@state.mn.us. TTY users may call the Board at 800-627-3529.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submitted comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Dated: December 5, 2012

Signed by: Doreen Frost, Executive Director

Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design

Minnesota Department of Health (MDH)

Division of Health Policy

Limited Exception from Minnesota's Requirements for the Standard, Electronic Exchange of Eligibility (270/271) Transactions for Payers Not Subject to HIPAA is Continued for 2017

Minnesota Statutes, section 62J.536 requires that health care providers, clearinghouses, and group purchasers (payers) exchange specified administrative transactions electronically, using a standard data content and format adopted in rule. The statute also authorizes the Commissioner of Health to exempt group purchasers not subject to federal HIPAA administrative transactions and code sets regulations from one or more of the state's data exchange requirements if the Commissioner determines that:

- a transaction is incapable of exchanging data that are currently being exchanged on paper and is necessary to accomplish the purpose of the transaction; or
- another national electronic transaction standard would be more appropriate and effective to accomplish the purpose of the transaction.

Group purchasers not subject to HIPAA regulations include workers' compensation, auto, and property and casualty carriers.

MDH consults annually with the Minnesota Administrative Uniformity Committee (AUC) to determine whether to grant the exemptions described above. Based on these consultations, MDH previously granted very narrowly targeted, annually renewable exceptions to the rules adopted pursuant to Minnesota Statutes §62J.536 as described above for the years 2009 through 2016. The exceptions were limited to only group purchasers not subject to HIPAA regulations, who were exempted from the data exchange requirements for only the ASC X12/005010X279A1 Health Care Eligibility Benefit Inquiry and Response (270/271) transaction because it did not meet their business needs.

MDH consulted with the AUC in October 2016 regarding the continued need for the targeted exemption described above. MDH determined through the review process that the current limited exception to Minnesota's health care administrative data exchange rules will continue through 2017. This exception applies only to exchanges of the ASC X12/005010X279A1 Health Care Eligibility Benefit Inquiry and Response (270/271) transaction with health care group purchasers that are not subject to federal HIPAA transactions and code sets regulations, and only for calendar year 2017.

The next annual review of this exception to rules adopted pursuant to Minnesota Statutes §62J.536 is scheduled for October 2017, to determine whether the exception will be continued through 2018.

For questions or additional information, please contact:

David K. Haugen, Director,
Center for Health Care Purchasing Improvement
Phone: (651) 201-3573
E-mail: david.haugen@state.mn.us

November 28, 2016

Edward P. Ehlinger, MD, MSPH, Commissioner
Minnesota Department of Health
P.O. Box 64975
St. Paul, MN 55164-0975

Department of Human Services

Health Care Administration

Request for Comments on the Indian Health Board of Minneapolis Section 1115 Medicaid Waiver Request

The Minnesota Department of Human Services (DHS) is announcing a 30-day comment period on the Indian Health Board of Minneapolis, section 1115 Medicaid waiver request.

The 2016 Minnesota State Legislature directed DHS to seek federal waiver authority to allow tribal organizations dually certified as Urban Indian Health Programs and Federally Qualified Health organizations to receive the Indian Health Services encounter rate for Medicaid services provided to American Indian and Alaskan Native populations, and for the state to be eligible for 100 percent federal financial participation for such services. *See* Minn. Stat. § 256B.0625, specifically subdivisions 30 and 34.

DHS plans to submit this waiver request in January of 2017. Currently, the Indian Health Board of Minneapolis (IHB) would be the only entity eligible under this waiver authority, if approved by the Centers for Medicare and Medicaid Services (CMS). The IHB plays an important role in providing culturally appropriate care to American Indians who live in the Twin Cities metropolitan area. As a demonstration project under section 1115 of the Social Security Act, DHS plans to test an alternative approach to accessing coverage and quality care for urban American Indians served by the IHB. This approach includes the use of an abbreviated application process for American Indians eligible for Medicaid and targeting additional funding for the IHB into enhanced care coordination and application assistance for this population.

DHS invites public comment on the IHB waiver request. Comments received will be posted on the DHS website. A copy of the waiver request can be found at http://www.dhs.state.mn.us/main/id_006304. To request a paper copy of the waiver request, please contact Elizabeth Bonnell at (651) 431-2836.

Written comments may be submitted to the following email mailbox: dhs.waiver.comments@state.mn.us or by mail to the address below. DHS would like to provide copies of comments received in a format that is accessible for people with disabilities.

Therefore, we request that comments be submitted in Microsoft Word format or incorporated within the email text. If you would also like to provide a signed copy of the comment letter, you may submit a second copy in Adobe PDF format or mail it to the address below. Comments must be received by **January 10, 2017**.

Marie Zimmerman
Medicaid Director
Minnesota Department of Human Services
P.O. Box 64983
St. Paul, Minnesota 55164-0983

Official Notices

In addition to the opportunity to submit written comments during the 30-day public comment period, public hearings will be held to provide stakeholders and other interested persons the opportunity to comment on the waiver request. You may attend by phone or in person. If you would like to attend by phone, please send an email request to dhs.waiver.comments@state.mn.us to obtain the call-in information. If you would like to attend a hearing in person, the locations for the two public hearings are provided below. If you plan to testify by phone or in person, please send an email to dhs.waiver.comments@state.mn.us indicating that you will testify.

Public Hearing #1

Date: Thursday, December 15, 2016

Time: 9:30 a.m.

Location: Department of Human Services, Elmer L. Andersen Human Services Building, 540 Cedar St., St. Paul, MN 55101. Room 6223

Public Hearing #2

Date: Monday, December 19, 2016

Time: 3:00 p.m.

Location: Department of Human Services, 444 Lafayette Rd., St. Paul, MN 55155. Room 3146

Department of Labor and Industry

Labor Standards Unit

Notice of Correction to Highway Heavy Prevailing Wage Rates

Corrections have been made to the Highway Heavy Prevailing Wage Rates certified 11/07/2016 for;

Power Equipment Operators, Group 4, (Labor Codes 323-368) in Regions 1,5 & 9

Laborer, Common (Labor Code 101) in Region 10

Laborer, Skilled (Labor Code 102) in region 10

Pipelayer (Labor Code 107) in region 7

Underground and Open Ditch Laborer (Labor Code 109) in region 7

Carpenters (Labor Code 704) in Region 3

Millwright (Labor Code 714) in Region 1

Wiring System Technician (Labor Code 727) in Region 1 & 6

Wiring System Installer (Labor Code 728) in Regions 1, 3, 5, 6 & 9

Copies with the corrected certified wage rates for these Counties and Regions may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road N., St. Paul, MN 55155-4306, or by calling (651) 284-5091, or accessing our web site at www.dli.mn.gov.

KEN B. PETERSON
COMMISSIONER

Department of Labor and Industry

Workers' Compensation Division

Notice of adjustment of threshold for payment for catastrophic, high-cost injuries under Minnesota Statutes, section 176.1362, subdivision 2

Notice is hereby given that on January 1, 2017, the threshold in Minnesota Statutes, section 176.1362, subdivision 2 (a) is adjusted by 4.87 percent, from \$175,000 to \$183,523.

Minnesota Statutes, section 176.1362, subd. 2, states:

(a) If the hospital's total usual and customary charges for services, articles, and supplies for a patient's hospitalization exceed a threshold of \$175,000, annually adjusted as provided in paragraph (b), reimbursement must not be based on the MS-DRG system, but must instead be paid at 75 percent of the hospital's usual and customary charges.

(b) Beginning January 1, 2017, and each January 1 thereafter, the commissioner must adjust the previous year's threshold by the percent change in average total charges per inpatient case, using data available as of October 1 for non-Critical Access Hospitals from the Health Care Cost Information System maintained by the Department of Health pursuant to chapter 144. The commissioner must annually publish notice of the updated threshold in the State Register.

The adjustment from \$175,000 to \$183,523 reflects the 4.87 percent increase in the average total charges per inpatient admission based on data available as of October 1, 2016 from the Health Care Cost Information System for non-critical access hospitals. Based on this data, the total charges per admission from 2013 were \$34,178 and the total charges per admission from 2014 were \$35,844, an increase of 4.87 percent.

Date: December 2, 2016

Ken B. Peterson, Commissioner

Board of Water and Soil Resources

Notice of Request for Comment on Proposed Policies and Draft Model County Ordinance and Watershed District Rule for the Implementation of the Minnesota Buffer Program

The Minnesota Board of Water and Soil Resources (BWSR) is requesting public review and comment on proposed policies and a draft model county ordinance and draft model watershed district rule to support the implementation of Minnesota Statutes 103F.48, relating to water resources riparian protection requirements on public waters and public drainage systems.

The Buffer Program was enacted in 2015, subsequently amended in 2016, and includes the following provisions:

- Requires landowners to establish and maintain buffers adjacent to public waters and public drainage ditches;
- Requires soil and water conservation districts to identify other waters for inclusion in local water plans;
- Exempts certain land uses and areas from the riparian protection requirement;
- Allows landowners to meet the buffer requirements through other conservation practices that will protect water quality;
- Requires soil and water conservation districts to assist landowners in complying with the riparian protection requirement; and
- Authorizes counties and watershed districts to elect to enforce the buffer requirements via, ordinance, rule, or administrative penalty order and BWS;
- Provides for enforcement by BWSR when a county or watershed districts elect not to; and
- Provides for an appeal of an administrative penalty order to BWSR.

BWSR is considering the following policies for Buffer Program implementation relating to:

- Policy 8: Initial Election of Jurisdiction; and
- Policy 9: Enforcement Procedures and Administrative Penalty Order Plan

These proposed policies are located on the BWSR website (www.bwsr.state.mn.us/buffers).

Official Notices

In addition, BWSR is developing model regulatory tools for use by counties and watershed districts exercising jurisdiction under Minnesota Statutes 103F.48, these are:

- A model county ordinance; and
- A model watershed district rule.

The draft model county ordinance and draft model watershed district rule are located on the BWSR website (www.bwsr.state.mn.us/buffers).

Information and comments will be accepted until **4:30 p.m. on January 9, 2017**. Comments may be submitted via email to buffers.bwsr@state.mn.us. Alternatively, comments may be submitted by U.S. mail as follows:

David Weirens
Assistant Director for Programs and Policy
Board of Water and Soil Resources
520 Lafayette Road
St. Paul, MN 55155

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts Section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the State Register, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

SEE ALSO: Office of Grants Management (OGM) at: <http://www.grants.state.mn.us/public/>

Minnesota Department of Human Services

Mental Health Division

Request for Proposals for a Qualified Grantee to Coordinate Trainings Logistics for the Mental Health Mobile Crisis Providers in the State of Minnesota

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services is requesting proposals to coordinate training logistics for the Mental Health Mobile Crisis Providers in the State of Minnesota.

Work is proposed to start March 1st, 2017 for more information, or to obtain a copy of the Request for Proposal, contact:

Niambi Shakir
Department of Human Services
Mental Health Division
P.O. Box 64981
444 Lafayette Road North, St. Paul, MN 55155-0981
Phone: (651) 431-4083 Fax: (651)431-7418
Niambi.Shakir@state.mn.us

This is the only person designated to answer questions by potential responders regarding this request.

State Grants & Loans

Proposals submitted in response to this Request for Proposals must be received at the address above no later than **4:00 p.m., Central Time, January 19th, 2016. Late proposals will not be considered.** Faxed or e-mailed proposals will **not** be considered.

All grant RFPs are required to be put on the DHS Grants and RFP web site. See Section D: Posting Grant RFPs on the DHS Public Web Site in the Contracts Manual for more details

The RFP can be viewed by visiting the Minnesota Department of Human Services RFP web site:
http://www.dhs.state.mn.us/id_000102

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

State Contracts

Informal Solicitations: Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Website at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Requirements: There are no statutes or rules requiring contracts to be advertised for any specific length of time, but the Materials Management Division strongly recommends meeting the following requirements: \$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600 \$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days; \$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar days.

Minnesota State Colleges and Universities (MnSCU) Minneapolis Community and Technical College (MCTC) Request for Proposal for Student Health Services

PROJECT NAME: Student Health Services

DETAILS: Minneapolis Community and Technical College (MCTC) is requesting proposals for student health services to provide health services including (but not limited to) routine preventive health medical assessments; diagnoses and treatments for injuries like sprains, strains and fractures; screenings for sexually transmitted infections, strep, Mantoux and others; standing order treatments and referrals for positive tests; vaccinations; acute care for minor injuries; phlebotomy for laboratory procedures; orders for on-site radiologic studies; mental health services to include at least one day per week of medication management and at least four days per week for diagnostic assessment and short-term psychotherapy; health education promotion and programming. In addition, vendor will also coordinate processing of all insurance claims. Services to be provided four days per week during fall and spring terms (approximately 30 weeks) and 2 days per week (approximately 7 weeks) during the summer term.

Work is anticipated to start July 1, 2017.

COPY REQUEST: To get a copy of the Request for Proposal and Bid Form, please send a written request by email to Denise Bednar at Minneapolis Community and Technical College at Denise.Bednar@minneapolis.edu

PROPOSAL DEADLINE: Proposals submitted in response to the Request for Proposals in this advertisement must be received by mail no later than **January 13, 2017. Late proposals will not be considered. E-mailed or Faxed proposals will not be considered.** This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

State Contracts

Minnesota State Colleges and Universities (MnSCU)

Winona State University

Request for Proposals for Contract Services to Produce Recruiting Communications

Notice is hereby given that Winona State University is seeking proposals for **Contract Services to Produce Recruiting Communications**.

Proposal specifications are available by contacting Laura Mann, Purchasing Director, PO Box 5838, 106 Somsen Hall, Winona, MN 55987 or via email to lmann@winona.edu.

Sealed proposals must be received by Laura Mann, Purchasing Director, at Winona State University, PO Box 5838 or 175 West Mark Street, Business Office, Somsen Hall 106, Winona, MN 55987, by **2:00 PM CST, Friday, January 27, 2017**.

Winona State University reserves the right to reject any or all proposals and to waive any irregularities or informalities in proposals received.

Minnesota State Colleges and Universities (MnSCU)

Winona State University

Request for Proposals for an Outreach and Engagement Coordinator

Notice is hereby given that Winona State University is seeking proposals for **Contract Services to Produce Recruiting Communications**.

Proposal specifications are available by contacting Laura Mann, Purchasing Director, PO Box 5838, 106 Somsen Hall, Winona, MN 55987 or via email to lmann@winona.edu.

Sealed proposals must be received by Laura Mann, Purchasing Director, at Winona State University, PO Box 5838 or 175 West Mark Street, Business Office, Somsen Hall 106, Winona, MN 55987, by **Monday, January 9, 2017, 3:00pm CT**.

Winona State University reserves the right to reject any or all proposals and to waive any irregularities or informalities in proposals received.

Minnesota House of Representatives

Sergeant-At-Arms Office

Notice of Request for Bid for Printing of Personalized Stationery, Envelopes and Business Cards for 2017-2018

PUBLIC NOTICE IS HERBY GIVEN that the Minnesota House of Representatives is seeking bids from qualified printers to provide printing services for the 134 Members of the Minnesota House of Representatives.

All work must be done in-house unless specifically approved by the House.

All bids must be submitted no later than **January 5, 2017 at 2 p.m.** on the forms accompanying the specifications in a sealed envelope and delivered to:

Bob Meyerson, Chief Sergeant at Arms
Room B-17, State Office Building,
100 Rev Dr Martin Luther King JR Blvd
St. Paul, MN 55155-1298

A copy of the Request for Bid packet and specifications can be obtained by contacting:

Bob Meyerson
651.296.4884
Bob.Meyerson@house.mn

Other department personnel are not allowed to discuss the Request for Bid with anyone, including responders, before the proposal submission deadline.

Minnesota Department of Human Services

Disability Services Division

Notice of Request for Proposals to Develop Alternatives to Corporate Foster Care and Community Residential Settings (CRS) for People with Disabilities

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services is requesting proposals from qualified responders to assist lead agencies and provider organizations in developing alternatives to congregate living, specifically, but not limited to, corporate foster care, within the available level of resources for the home and community-based services waivers for persons with disabilities. Responders must be individual counties, tribes, multi-county collaboratives, multi-tribe collaboratives, or county/tribe collaboratives.

Work is proposed to start July 1, 2017. For more information, or to obtain a copy of the Request for Proposal, contact:

Nan Stubenvoll
Department of Human Services
Disability Services Division
P.O. Box 64976
444 Lafayette Road North, St. Paul, MN 55164-0976
Phone: (651) 431-2565 or nan.stubenvoll@state.mn.us

This is the only person designated to answer questions by potential responders regarding this request.

Proposals (one (1) original and six (6) copies) submitted in response to this Request for Proposals must be physically received at the address above no later than **4:00 p.m., Central Time, February 15, 2017. Late proposals will not be considered.** Faxed or e-mailed proposals will **not** be considered.

The RFP can be viewed by visiting the Minnesota Department of Human Services RFP web site:
http://www.dhs.state.mn.us/id_000102

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Department of Revenue

Notice of Contract Opportunity for Diversity and Inclusion Consulting Services

PROJECT NAME: Diversity and Inclusion Consulting Services

DETAILS: The Minnesota Department of Revenue is requesting proposals for the purpose to provide consulting services towards the development of an agency-wide diversity and inclusion (D&I) plan. The consultant will work closely with senior management and the Office of Equity, Access, and Inclusion to assess the organization, interpret results, and develop a comprehensive D&I strategy. The purpose of the diversity and inclusion strategic plan is to create a culture of inclusion by 1) creating a shared vision of respect and inclusion for which all employees are accountable; 2) increasing the diversity of Revenue's workforce; 3) expanding opportunities for engagement for all employees; 4) ensuring a collaborative work place that values diversity; and 5) aligning our current resources to meeting our changing workforce needs.

Work is anticipated to start after 2/15/2017.

COPY REQUEST: To get a copy of the Request for Proposals, please send a written request, by email, to:

Carolyn Murphy, Contract Manager/ Budget Coordinator
Financial Management Division
600 North Robert St.
St. Paul, MN 55146
Email: dor.rfp@state.mn.us

State Contracts

PROPOSAL DEADLINE: Proposals submitted in response to the Request for Proposals in this advertisement must be received in-person, via mail, email, or fax no later than **December 30, 2016 by 4:00p.m.** **Late proposals will not be considered.**

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Minnesota Department of Transportation (Mn/DOT)

Engineering Services Division

Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (“Consultant Pre-Qualification Program”)

This document is available in alternative formats for persons with disabilities by calling Kelly Arneson at (651) 366-4774; for persons who are hearing or speech impaired by calling Minnesota Relay Service at (800) 627-3529.

Mn/DOT, worked in conjunction with the Consultant Reform Committee, the American Council of Engineering Companies of Minnesota (ACEC/MN), and the Department of Administration, to develop the Consultant Pre-Qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT awards most of its consultant contracts for highway-related technical activities using this method, however, Mn/DOT also reserves the right to use Request for Proposal (RFP) or other selection processes for particular projects.

Nothing in this solicitation requires Mn/DOT to use the Consultant Pre-Qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT’s Consultant Services web site, indicated below, to expenses are incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and applications forms are available on Mn/DOT’s Consultant Services web site at: <http://www.dot.state.mn.us/consult>.

Send completed application material to:

Kelly Arneson
Consultant Services
Office of Technical Support
Minnesota Department of Transportation
395 John Ireland Blvd. - Mail Stop 680
St. Paul, MN 55155

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Notice Concerning Professional/Technical Contract Opportunities and Taxpayers’ Transportation Accountability Act Notices

NOTICE TO ALL: The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT’s Consultant Services **website** at: www.dot.state.mn.us/consult

New Public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice. Mn/DOT is also posting notices as required by the Taxpayers’ Transportation Accountability Act on the above referenced website.