Building an Inclusive Workforce for All in Minnesota
BUILDING AN INCLUSIVE WORKFORCE

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DEAR STAKEHOLDERS,

One of the primary duties of the Commissioner of the Minnesota Department of Human Rights is to ensure that contractors performing work for the State of Minnesota and major metropolitan agencies provide equal employment opportunities.

We ensure equal employment opportunities by: (1) auditing the employment practices of the contractor and (2) facilitating collaboration among and between community organizations, business and educational institutions.

Historically, the Department’s auditing process has been an effective tool to combat unemployment disparities for historically disenfranchised communities. We believe that this strategy remains effective as more than 96% of the contractors hired at least three individuals in the year MDHR conducted their audit.

Today, the work of the Department also serves as an effective tool to combat the training, recruiting and retention challenges facing education, community and business leaders. Maximizing collaboration among all stakeholders will become increasingly important as the labor pool shrinks and becomes more racially and ethnically diverse.

The Department has prepared this report to provide information to the public and contractors concerning its auditing efforts and to demystify the concept of good faith efforts. The Department hopes that this report will serve as a catalyst for more in-depth conversations and engagement among stakeholders on ensuring equal employment opportunities.

The Department looks forward to continuing to collaborate with community, business, and educational leaders to ensure opportunities for all in Minnesota and grow our shared collective prosperity.

Sincerely,

Kevin M. Lindsey
Commissioner
Minnesota Department of Human Rights

Currently, Minnesota employers have more than 100,000 open positions. Employers without inclusive hiring practices will be at a competitive disadvantage as more than one in five Minnesotans will be over 65 years old and 43% of the Twin Cities metropolitan area will identify as a person of color in 15 years.
WORKFORCE CERTIFICATES

All contractors that enter into agreements over $100,000 with the State of Minnesota, Minnesota Sports Facility Authority, Metropolitan Council, Metropolitan Airports Commission, or the Metropolitan Mosquito Control Commission must have a workforce certificate from the Department if they employ at least 40 employees in Minnesota or another state within the United States for at least one single day.

Contractors obtain a workforce certificate by submitting their affirmative action plan and an application fee to MDHR. Contractors may receive an expedited review if their affirmative action plan has been recently approved by another governmental entity. On average, the Department issues a workforce certificate in less than 11 days. If the workforce certificate is not issued, the contractor receives instruction on how to revise their plan. Workforce certificates are valid for four years.

The Department has issued more than 2,000 workforce certificates in the past four years. Due to the breath and complexity of the work in state government, the range of goods and services provided by businesses with workforce certificates is diverse.

While the majority of the businesses with a workforce certificate call Minnesota home, approximately 15% of the businesses with a workforce certificate have their principal place of business located outside of the State.
ASSESSING INCLUSIVE EFFORTS FOR ALL CONTRACTORS

The Department audits every contractor within the four-year time period the workforce certificate is valid. The scheduled audit for a contractor may be expedited when the Department receives information that discrimination may be occurring in the workplace. The Department asks standardized questions and conducts interviews to determine if the contractor is providing equal employment opportunities.

Currently, audit questions focus on the commitment of senior leadership to create an inclusive workforce, whether the contractor is evaluating and meaningfully measuring equal opportunity activities, whether identified strategies are being implemented, and whether barriers exist in the hiring process.

In addition, all contractors are required to annually provide information on their efforts to implement equal employment opportunities and to successfully implement their affirmative action plan. Construction contractors are required on a monthly basis to provide data concerning the hours worked by those employed in trade positions.

Additionally, the Department may evaluate and take into consideration adverse judicial decisions or administrative decisions concerning claims of discrimination issued against a contractor.

Of contractors, 20% receive an audit finding with no deficiencies. Contractors with their principal office outside of Minnesota were twice as likely to have an audit without any deficiencies.

The vast majority of contractors receive a compliance letter from the Department to address issues uncovered during the audit. If the Department finds several issues to be addressed, the Department will enter into a conciliation agreement with the contractor. If identified deficiencies are not promptly remedied, the Commissioner may suspend or revoke the contractor’s workforce certificate.
AUDIT RESULTS

The following audit results are based upon responses from slightly more than 500 contractors. We have identified some of the audit responses of contractors to highlight some of the most impactful actions that an employer can undertake to create an inclusive workforce.

In the future, the Department will evaluate the value of publishing reports that disaggregate data by industry cluster, geographical location of principal place of business and the number of employees employed by the contractor.

The success of an organizational initiative such as creating an inclusive workforce requires leadership, regular evaluation of progress and daily commitment to the execution of the plan.
SENIOR MANAGEMENT COMMITMENT IS CRITICAL TO SUCCESS

Successful organizations meet challenges when leaders clearly identify issues creating barriers to success, articulate strategies to address identified issues, regularly communicate to the organization the importance of the work that needs to be completed and supervises how the work is done.

33% of contractors audited had no communication from their CEO or President about the importance of providing equal employment opportunity or only provided employees with a copy of their equal employment opportunity statement.

Creating an inclusive workforce is no different. A commitment from top leadership, including the CEO (Chief Executive Officer) or President, is crucial for every organization in its efforts to meet inclusion goals. Employees are far more likely to report having positive views on diversity and inclusion when the CEO or President delivers frequent diversity messages to middle managers and external media. The CEO’s commitment to create a diverse and inclusive workforce is vital to creating lasting change.

Nearly half the CEOs said their most important role was to set the tone for the organization’s culture by demonstrating a commitment to inclusion.

Perhaps the most meaningful way to do that is by dedicating time to work personally on diversity and inclusion initiatives. A quarter of the CEOs we interviewed mentioned direct involvement with diversity programs, such as meeting regularly with employee resource groups and diversity councils.

By pointing the way, CEOs will help their organizations attract and develop the best, most diverse talent, giving them the edge they need to succeed.

HUMAN RESOURCES MUST ANALYZE AND KEEP MANAGEMENT INFORMED

An organization can only be successful in creating equal employment opportunities if the person responsible for human resources is analyzing company efforts and keeping senior management updated on progress. Most contractors are analyzing their efforts to implement their affirmative action plan.

87% of contractors audited analyzed their strategies toward providing equal employment opportunities in their workplace.

Honest conversations about the need to implement new or different strategies are critically important to creating and maintaining an inclusive workplace. Human resources should regularly keep senior management updated on the progress of the company in achieving equal employment opportunity in the organization.

40% of audited contractors failed to educate their senior leadership on their efforts to create and provide an inclusive workforce for all.

Approximately 80% of contractors provide some training to their employees who are responsible for making hiring decisions. Unconscious bias training is becoming more common as 60% of contractors now provide training on recognizing and addressing hidden bias.

Good human resource practices are good for a company’s bottom line. The multi-year research of consulting firm McKinsey “shows that gender–diverse companies are 15% more likely to outperform their peers and ethnically–diverse companies are 35% more likely to do the same.”

ADVERTISING, APPLICATIONS AND STAFFING AGENCIES

Contractors may be sending unintended messages about how inclusive they are as employers in their communications to the public and their business partners. Contractors should periodically review their external communications to determine if potential employees and business partners would believe that the company is inclusive. Companies should periodically examine their recruiting materials, job applications and communications with third parties to ensure they are conveying they are an equal employment opportunity employer.

Contractors that used job advertisements failed to depict women 37% of the time and failed to depict people of color in 55% of their advertisements.

15% of contractors had an illegal question on their employment application.

30% of contractors failed to require an equal employment opportunity clause in their staffing agency agreement.

Contractors should use people of color and female employees in the recruiting brochures that they use in school and career programs. Contractors should also regularly include media that is specifically targeted to reach people of color and women.

– Minn. R. 5000.3480, Subp. 5.
INTERNSHIPS, APPRENTICESHIPS AND COMMUNITY PARTNERS

Internships and apprenticeship programs are valuable to individuals as they can explore career opportunities, acquire new skills and develop the joy of lifelong learning through real-world experience.

Today, 49% of all children in public schools are children of color.
– Minnesota Department of Education

By 2040, people of color will represent approximately 50% of the adult workforce population within the Twin Cities Metropolitan Area.
– Minnesota State Demographer

Employers who create successful internship programs create inroads to educational and vocational schools as well as opportunities to recruit from communities in which they may not have traditionally enjoyed success. A properly implemented internship or apprenticeship program can build a talent pipeline for an employer to ensure a constant stream of capable workers. Contractors are required to identify community partners within their affirmative action plan that can assist them in helping to achieve their goals.

The Department found that 80% of audited contractors were working with the community partners identified within their affirmative action plan.

While Minnesota law does not require contractors to create or provide an apprenticeship or internship program, 75% of contractors had created an apprenticeship or internship program.

30% of audited contractors failed to implement their internship or apprenticeship program to ensure a stream of talented applicants.

The Minnesota Department of Labor & Industry has grants for businesses to expand registered apprenticeship programs in the following industries: advanced manufacturing, agriculture, health care services, information technology and transportation. http://www.dli.mn.gov/
USING CRIMINAL BACKGROUND HISTORY INFORMATION

Contractors need to be mindful of employment practices that appear to be neutral but when applied actually have a disproportionate and detrimental impact on a class of individuals. The Department and the Equal Employment Opportunity Commission (EEOC) have identified the use of criminal background checks as a facially neutral employment practice that can result in disparate discrimination. The use of criminal background checks is widespread among contractors as 74% request criminal history information.

In reviewing the employment practices of contractors, MDHR sought to determine if: (1) contractors are complying with the provisions of the Criminal Rehabilitation Offenders Act known as ban–the–box and (2) contractors are using criminal history information in a manner that may violate the Minnesota Human Rights Act.

The Department referred 11% of the employment applications received for additional review and analysis concerning a possible violation of ban–the–box.

The Department initiated enforcement proceedings against 5% of the contractors because their process suggested disparate discrimination.

The indiscriminate use of criminal history information is exacerbating the workforce shortage that employers are experiencing as it is estimated that between 65 and 100 million individuals in the United States have a criminal history.

Employers who wish to learn more about the proper use of criminal history information in the hiring process are encouraged to review the April 25, 2012, EEOC Enforcement Guidance on Consideration of Arrest and Conviction Records in Employment Decisions. https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.
RECOGNIZING THE TALENTS OF PEOPLE WITH DISABILITIES

Contractors must actively recruit and retain individuals with disabilities. Individuals with disabilities are an underutilized source of talent to help meet workforce needs and help meet the projected workforce shortage. In order to be competitive in the global economy, employers in the State of Minnesota must use the talents and important contributions of individuals with disabilities.

Contractors are required to contact the Department of Employment and Economic Development (DEED) to seek the names of qualified individuals with disabilities when they have positions that they are looking to fill.

In reviewing the hiring practices of contractors, MDHR found that 67% failed to take advantage of the assistance of DEED to obtain referrals of qualified individuals with disabilities.

The Department sought information from contractors concerning how they responded to reasonable accommodation requests. The Department found that 74% of contractors had responded to at least one reasonable accommodation request in the prior 12 months and had granted more than 90% of the requests.

Across Minnesota, about 593,700 persons have one or more disabilities, roughly 10.9% of the population, according to the U.S. Census Bureau's 2015 American Community Survey. In 2015, the unemployment rate for persons with disabilities in Minnesota was 9.6%, compared to 3.7% for those without a disability (among those ages 18-64 for both groups). This represents a huge pool of underutilized talent.

– Darlene Zangara, Olmstead Implementation Office
INCREASED INCLUSION IN CONSTRUCTION

In the area of construction, the Commissioner sets forth construction workforce participation goals in Minnesota for contractors to strive to achieve. Workforce participation goals reflect the percentage of the total hours of employment and training for women and people of color on a construction project.

The Commissioner last adjusted workforce participation goals in construction in April 2012, when workforce participation goals for people of color were adjusted from 11% to 32% in the counties of Hennepin and Ramsey and from 11% to 22% in the counties of Anoka, Carver, Dakota, Scott and Washington.

When the Commissioner adjusts construction workforce participation goals, the Commissioner seeks to spur the additional allocation of resources in education and workforce development; encourage new recruiting, training and retention strategies within construction; reengage the commitment of industry leaders to eliminate explicit and implicit barriers that create disparate outcomes; and raise awareness within disenfranchised communities to opportunities within the industry.

The Department has seen a dramatic increase in workforce participation for people of color and women in construction since 2011.

• Workforce goals for people of color were exceeded throughout Minnesota—in the Northeast, Northwest, Southeast, Southwest and Central regions of our state.

• Goals for women were exceeded in Hennepin and Ramsey counties.

• In the seven-county metro area, workforce participation substantially improved. The workforce participation rates for people of color in construction increased from 11% to 28% in Hennepin and Ramsey counties, and from 11% to 18% in the counties of Anoka, Carver, Dakota, Scott and Washington.

The Minnesota State Capitol exterior restoration and preservation project exceeded workforce participation goals with 34.89% minority workforce hours and 21% female workforce hours.

JE Dunn Diversity Manager Christa Seaberg proudly discusses the accomplishment of the State Capitol restoration project as well as her entire team to meet and exceed workforce goals. “We brought new people into the industry, placed them in meaningful jobs and were able to keep them— with more than 80% still in the trades to date,” Seaberg said. “Not only did we take on the toughest project in the state because of the high level of restoration, but we proved that it could be done the right way on all levels.”
U.S. BANK STADIUM PROJECT

FROM RECESSION AND UNEMPLOYMENT...
In 2011, the Twin Cities was in an economic recession in which the unemployment rate was well above 25% for people of color. The adjustment of the workforce goals by the Department coincided with the efforts of the Minnesota Legislature to stimulate Minnesota’s economy by passing funding legislation for the construction of the U.S. Bank Stadium. The building of the stadium, the largest construction project in the history of the State of Minnesota, also called for business inclusion goals and for contractors working on the project to recruit from areas within the region with the highest levels of unemployment.

...TO EXCEEDING WORKFORCE PARTICIPATION GOALS.
The construction companies working on the U.S. Bank Stadium achieved levels of workforce participation for people of color of 37% and female workforce participation levels of 9%. The project also saw 400 workers hired from the targeted zip codes in the region. The project also exceeded business inclusion goals for business owners of color and women business owners.

We have always maintained that the construction of the new stadium would offer thousands of Minnesotans a chance for work, but we are very proud to see that equity within the hiring process has been such a significant focus. This new stadium not only has the potential to set the standard for inclusion with women and minorities, but also to establish a foundation for veteran-hiring within public-private projects.”

– Mark Wilf, Vikings Owner/President
CONCLUSION

The Department is encouraged by the many innovative ideas contractors are successfully implementing to recruit, train and retain strong workforces that came to light during the Department’s review of employment practices. Some of the leading businesses in the nation on the issue of diversity and inclusion reside in Minnesota and are among the contractors doing business with the State and its major metropolitan agencies. However, we collectively have not achieved a level of consistency in which we can be satisfied as illustrated by the results discussed above.

The Department will continue meeting with community organizations, educational leaders and businesses throughout Minnesota to raise awareness on how to create more inclusive work settings and how to build partnerships between businesses and historically disenfranchised communities. There is no reason that the positive inclusive growth that has recently occurred can’t be replicated in other industries and geographic locations in Minnesota.

We believe that we are in a unique transformative moment in time to create meaningful change in society. We look forward to continuing to make the State of Minnesota an inclusive place for all to work and be successful.

— Kevin M. Lindsey, Commissioner
Minnesota Department of Human Rights
Building an Inclusive Workforce for All in Minnesota

Upon request, this information can be made available in alternative formats for individuals with disabilities by calling MDHR at the phone numbers listed on this page.