

14, Township 115, Range 20, together with that part of Government Lot 1, Section 10, Township 115, Range 20, lying easterly of the centerline of Galaxie Avenue as traveled, together with that part of the Northeast Quarter of Section 15, Township 115, Range 20, lying easterly of the centerline of Galaxie Avenue as traveled, together with that part of the north one-half of the Southeast Quarter of Section 15, Township 115, Range 20, lying easterly of the centerline of Galaxie Avenue as traveled, all in Dakota County, Minnesota and containing 478.5 acres, more or less.

Sec. 13. This act takes effect the day following its final enactment.

Approved June 4, 1975.

CHAPTER 383—H.F.No.710

[Coded]

An act relating to state procurement; requiring the commissioner of administration to set aside certain state procurement from normal bidding procedures for first offering to small businesses; requiring the commissioners of administration and economic development to publicize the set-asides and assist small businesses; appropriating money.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[16.081] STATE GOVERNMENT; SMALL BUSINESS PROCUREMENT ACT; APPROPRIATION; CITATION.** Sections 1 to 8 may be cited as the "Minnesota small business procurement act."

Sec. 2. **[16.082] DEFINITIONS.** Subdivision 1. For the purposes of sections 1 to 8 the following words and phrases shall have the meanings set forth in this section, except where the context clearly indicates that a different meaning is intended.

Subd. 2. "Small business" means a business entity organized for profit, including an individual, partnership, corporation, joint venture, association or cooperative which has its principal place of business in Minnesota and which is not (a) dominant in its field of operation or (b) an affiliate or subsidiary of a business dominant in its field of operation.

Subd. 3. "Dominant in its field of operation" means exercising a controlling or major influence in a business activity in which a number of businesses are engaged. In determining if a business is dominant, the following criteria, among others, shall be considered: number of employees; volume of business; financial resources; competitive status or position; ownership or control of materials, processes, patents, li-

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cense agreements and facilities; sales territory; and nature of business activity. The following businesses shall be deemed dominant in their field of operation:

(a) Manufacturing businesses which employ more than 100 persons and have in the preceding three fiscal years exceeded a total of \$15,000,000 in gross receipts.

(b) General construction businesses which in the preceding three fiscal years exceeded a total of \$6,000,000 in gross receipts.

(c) Specialty construction businesses which in the preceding three fiscal years exceeded a total of \$3,000,000 in gross receipts.

(d) Nonmanufacturing businesses which employ more than 25 persons and have in the preceding three fiscal years exceeded a total of \$3,000,000 in gross receipts.

Subd. 4. "Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in that field of operation, or by partners, officers, directors, majority shareholders, or their equivalent of a business dominant in that field of operation.

Subd. 5. "Socially or economically disadvantaged person" means a person who has been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantage. This disadvantage may arise from cultural, social or economic circumstances or background, physical location if the person resides or is employed in an area declared as a labor surplus area by the United States department of commerce, or other similar cause.

Sec. 3. [16.083] PROCUREMENT FROM SMALL BUSINESSES.

Subdivision 1. **SMALL BUSINESS SET-ASIDES.** The commissioner of administration shall for each fiscal year designate and set aside for awarding to small businesses approximately ten percent of the value of anticipated total state procurement of goods and services including construction. The commissioner shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from small businesses. In making his annual designation of set-aside procurements the commissioner shall attempt to vary the included procurements so that a variety of goods and services produced by different small businesses shall be set aside each year. The failure of the commissioner to set aside particular procurements shall not be deemed to prohibit or discourage small businesses from seeking the procurement award through the normal solicitation and bidding processes.

Subd. 2. **NEGOTIATED PRICE OR BID CONTRACT.** The commissioner may elect to use either a negotiated price or bid contract

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procedure in the awarding of a procurement contract under the set-aside program established in this act. The amount of an award shall not exceed by more than five percent the commissioner's estimated price for the goods or services, if they were to be purchased on the open market and not under this set-aside program. Surety bonds guaranteed by the federal small business administration shall be acceptable security for a construction award under this section.

Subd. 3. DETERMINATION OF ABILITY TO PERFORM. Before announcing a set-aside award, the commissioner shall evaluate whether the small business scheduled to receive the award is able to perform the set-aside contract. This determination shall include consideration of production and financial capacity and technical competence.

Subd. 4. PREFERENCE TO SMALL BUSINESSES. At least ten percent of the value of the procurements designated for set-aside awards shall be awarded, if possible, to businesses owned and operated by socially or economically disadvantaged persons. In the event small businesses owned and operated by socially or economically disadvantaged persons are unable to perform at least ten percent of the set-aside awards, then the commissioner shall award the balance of the set-aside contracts to other small businesses.

Subd. 5. RECOURSE TO OTHER BUSINESSES. In the event that subdivisions 1 to 4 do not operate to extend a contract award to a small business, the award shall be placed pursuant to the normal solicitation and award provisions set forth in chapter 16. The commissioner shall thereupon designate and set aside for small businesses additional state procurements corresponding in approximate value to the contract unable to be awarded pursuant to subdivisions 1 to 4.

Subd. 6. PROCUREMENT PROCEDURES. All laws and rules pertaining to solicitations, bid evaluations, contract awards and other procurement matters shall apply as consistent to procurements set aside for small businesses. In the event of conflict with other rules, the provisions of sections 1 to 8 and rules promulgated pursuant thereto shall govern.

Sec. 4. [16.084] ENCOURAGEMENT OF PARTICIPATION. The commissioners of administration and economic development shall publicize the provisions of the set-aside program, attempt to locate small businesses able to perform set-aside procurement awards, and encourage participation. When the commissioner of administration determines that a small business is unable to perform under a set-aside contract, he shall so inform the commissioner of economic development who shall assist the small business in attempting to remedy the causes of the inability to perform a set-aside award. In assisting the small business, the commissioner of economic development in cooperation with the commissioner of administration shall use any management or financial assistance programs as may be available by or through the department of economic development, other state or governmental

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agencies, or private sources.

Sec. 5. [16.085] RULES. The commissioner of administration shall promulgate by rule standards and procedures for certifying that small businesses and small businesses owned and operated by socially or economically disadvantaged persons are eligible to participate under the requirements of this act. The procedure for determination of eligibility may include self-certification by a business, provided that the commissioner retains the ability to verify a self-certification. The commissioner shall promulgate other rules as may be necessary to carry out the duties set forth in this act.

Sec. 6. [16.086] REPORTS. Subdivision 1. **COMMISSIONER OF ADMINISTRATION.** The commissioner of administration shall submit an annual report pursuant to section 3.195 to the governor and the legislature with a copy to the commissioner of economic development indicating the progress being made toward the objectives and goals of this act during the preceding fiscal year. This report shall include the following information:

(a) The total dollar value and number of potential set-aside awards identified during this period and the percentage of total state procurement this figure reflects;

(b) The number of small businesses identified by and responding to the set-aside program, the total dollar value and number of set-aside contracts actually awarded to small businesses with appropriate designation as to the total number and value of set-aside contracts awarded to each small business, and the total number of small businesses that were awarded set-aside contracts;

(c) The total dollar value and number of set-aside contracts awarded to small businesses owned and operated by economically or socially disadvantaged persons with appropriate designation as to the total number and value of set-aside contracts awarded to each small business, and the percentages of the total state procurements the figures of total dollar value and the number of set-asides reflect;

(d) The number of contracts which were designated and set-aside pursuant to section 3 but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business and the price at which these contracts were awarded pursuant to the normal procurement procedures.

Subd. 2. **COMMISSIONER OF ECONOMIC DEVELOPMENT.** The commissioner of economic development shall submit an annual report to the governor and the legislature pursuant to section 3.195 with a copy to the commissioner of administration. This report shall include the following information:

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(a) The efforts undertaken to publicize the provisions of the set-aside program during the preceding fiscal year;

(b) The efforts undertaken to identify small businesses including those owned and operated by socially or economically disadvantaged persons, and the efforts undertaken to encourage participation in the set-aside program;

(c) The efforts undertaken by the commissioner to remedy the inability of small businesses to perform on potential set-aside awards; and

(d) The commissioner's recommendations for strengthening the set-aside program and delivery of services to small businesses.

Sec. 7. The sum of \$40,000 is appropriated to the commissioner of administration for the purpose of implementing this act.

Sec. 8. This act is effective July 1, 1975, except section 3 which shall become effective January 1, 1976.

Approved June 5, 1975.

CHAPTER 384—H.F.No.715

An act relating to public welfare; clarifying the definition of vendor of medical assistance to cover public health nurses; amending Minnesota Statutes 1974, Section 256B.02, Subdivision 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 256B.02, Subdivision 7, is amended to read:

Subd. 7. **PUBLIC WELFARE; MEDICAL ASSISTANCE; NEEDY PERSONS; PUBLIC HEALTH NURSES.** "Vendor of medical care" means any person or persons furnishing, within the scope of his respective license, any or all of the following goods or services: medical, surgical, hospital, optical, visual, dental and nursing services; drugs and medical supplies; appliances; laboratory, diagnostic, and therapeutic services; nursing home and convalescent care; screening and health assessment services provided by public health nurses; and such other medical services or supplies provided or prescribed by persons authorized by state law to give such services and supplies.

Approved June 4, 1975.

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