

~~§12 §35~~ a day, whichever is more; and in addition thereto, the sum of \$2.50 a day.

Sec. 2. Minnesota Statutes 1976, Section 192.51, Subdivision 1, is repealed.

Approved March 23, 1978.

CHAPTER 533-S.F.No.1704

[Not Coded]

*An act relating to the city of Minneapolis and the housing and redevelopment authority in and for the city of Minneapolis; establishing a program setting aside a portion of services and materials for small businesses.*

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

Section 1. **DEFINITIONS.** Subdivision 1. For the purposes of sections 1 to 3, the following words and phrases shall have the meanings given them, unless the language or 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, or such smaller geographical area as determined by the city council of the city of Minneapolis, or the board of commissioners of the housing and redevelopment authority in and for the city of Minneapolis except as otherwise provided, 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. Where a federal program prohibits any geographical limitation on the principal place of business of an eligible business, in order for the city or authority to be eligible for funds, the federal requirement shall prevail.

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, license 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 for the three year period.

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

(c) Specialty construction businesses which in the preceding three fiscal years

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exceeded a total of \$3,000,000 in gross receipts for the three year period.

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

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 or businesses dominant in that field of operation, or by partners, officers, directors, majority shareholders, or their equivalent of a business or businesses 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. 2. SMALL BUSINESS PROCUREMENT PROGRAM.** Subdivision 1. AUTHORIZATION. Notwithstanding any provisions of the Minneapolis city charter, Minnesota Statutes, Section 471.345, or any other law to the contrary, the city of Minneapolis and the housing and redevelopment authority in and for the city of Minneapolis may establish and administer a program to set-aside for awarding to small businesses up to ten percent of the value of anticipated total city or authority procurement of goods and services including construction.

Subd. 2. LIMITATIONS. In accordance and consistent with the provisions of Minnesota Statutes, Section 471.345, the city of Minneapolis and the housing and redevelopment authority in and for the city of Minneapolis may proceed under a negotiated price or under a contract bidding procedure in the awarding of a procurement contract under the set-aside program established. The amount of an award shall not exceed by more than five percent the city's or the authority's estimated price for the goods or services, if they were to be purchased on the open market but not under the set-aside program. Such estimate shall be formulated and documented prior to commencement of negotiations for a negotiated contract, and prior to bid opening for a contract to be awarded under competitive bidding. 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 approving a set-aside award to a particular contractee, the city or the authority shall evaluate whether the small business firm or individual being considered is able to perform the set-aside contract. This determination may include, but shall not be limited to, consideration of production and financial capacity and technical competence.

Subd. 4. PREFERENCE TO SMALL BUSINESS. The city of Minneapolis and the housing and redevelopment authority in and for the city of Minneapolis may designate a portion or all of the value of the procurements designated for set-aside awards

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for small businesses owned and operated by socially or economically disadvantaged persons.

Subd. 5. RECOURSE TO OTHER BUSINESS. In the event that the set-aside program does not result in a contract award to a small business for the particular work and materials specified for procurement, procedures for such procurement shall then be carried out pursuant to Minnesota Statutes, Section 471.345.

Subd. 6. PROCUREMENT PROCEDURES. All applicable law pertaining to procurements and competitive bidding evaluations, contract awards and other procurement matters, including Minnesota Statutes, Sections 177.41 to 177.44, shall apply to the extent they are consistent with the provisions of sections 1 to 3.

Sec. 3. STANDARDS AND PROCEDURES. The city council of the city of Minneapolis shall promulgate by ordinance, and the housing and redevelopment authority in and for the city of Minneapolis shall promulgate by regulation, standards and procedures for operation of the set-aside program authorized by sections 1 to 3, including but not limited to procedures for certifying small businesses and small businesses owned and operated by socially or economically disadvantaged persons which are eligible to participate in the set-aside program established under sections 1 to 3. The procedures for determination of eligibility, specifically whether a business is a small business or is owned and operated by a socially or economically disadvantaged person, may include self-certification by a business, provided that the city or the authority shall retain the ability to verify a self-certification.

Sec. 4. Sections 1 to 3 shall be effective only after approval by the governing body of the city of Minneapolis, and upon compliance with the provision of Minnesota Statutes, Section 645.021.

Approved March 23, 1978.

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#### CHAPTER 534-S.F.No.1727

*An act relating to state parks; deleting certain lands from the boundaries of Itasca state park; amending Laws 1976, Chapter 110, Section 2, Subdivision 2.*

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

Section 1. Laws 1976, Chapter 110, Section 2, Subdivision 2, is amended to read:

Subd. 2. **PROPERTY DESCRIPTION.** The commissioner of administration may in accordance with this section acquire the property described as follows:

(a) In the county of Clearwater, ~~that part of the South Half of Section 29 lying southerly of Anchor Matson Road; that part of Section 31 lying southeasterly of Anchor Matson Road; all of Section 32 ; that part of Section 33 lying southerly of the Minnesota~~

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