

CHAPTER 1230

DEPARTMENT OF ADMINISTRATION

STATE CONTRACTS

1230 0100	SCOPE	1230 1700	CERTIFICATION OF ELIGIBILITY
1230 0150	DEFINITIONS	1230 1805	PROCUREMENTS FROM SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESSES
1230 0300	SOLICITING RESPONSES		
1230 0400	ADVERTISED SOLICITATIONS	1230 1810	PROPORTIONAL UTILIZATION OF SOCIALLY DISADVANTAGED BUSINESSES
1230 0500	SECURITY	1230 1820	REQUIRED SUBCONTRACTING FOR CONSTRUCTION OR PROFESSIONAL OR TECHNICAL SERVICES
1230 0600	RESPONDER ERRORS	1230 1830	PREFERENCE PROCUREMENTS FROM ECONOMICALLY DISADVANTAGED SMALL BUSINESSES
1230 0700	RECEIPT AND OPENING OF RESPONSES	1230 1850	REMOVAL FROM SOCIALLY DISADVANTAGED OR ECONOMICALLY DISADVANTAGED AREA SMALL BUSINESS PROGRAM
1230 0750	ORGANIZATIONAL CONFLICTS OF INTEREST	1230 1860	LIMITS TO PROGRAM PARTICIPATION
1230 0800	AWARD OF CONTRACTS	1230 1900	GENERAL TERMS AND CONDITIONS
1230 0900	TIED BIDS	1230 1905	NOTICE OF CHANGES
1230 1000	CONTRACT PERFORMANCE	1230 1910	PROFESSIONAL AND TECHNICAL PROCUREMENTS
1230 1100	FAILURE TO PERFORM		
1230 1150	AUTHORITY TO DEBAR OR SUSPEND VENDORS		
1230 1175	REINSTATEMENT AND PROBATION		
1230 1180	TERMINATION OF DEBARMENT OR AWARD DURING DEBARMENT		
1230 1200	CONTRACT CANCELLATION		
1230 1300	REHABILITATION FACILITY		
1230 1400	PURPOSE		
1230 1450	SCOPE		
1230 1600	ELIGIBILITY FOR SOCIALLY DISADVANTAGED OR ECONOMICALLY DISADVANTAGED AREA SMALL BUSINESS PROGRAM		

1230.0100 SCOPE.

Pursuant to Minnesota Statutes, chapters 16B and 16C, parts 1230.0100 to 1230 1910 govern the procurement of materials and services for the state.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.0150 DEFINITIONS.

[For text of subps 1 and 2, see MR]

Subp. 2a. **Best Value.** “Best value” describes a result intended in the acquisition of all goods and services unless otherwise provided for by law. Except as otherwise provided by law, price must be one of the evaluation criteria when acquiring goods and services. Other evaluation criteria may include, but are not limited to, environmental considerations, quality, and vendor performance.

Subp. 2b. **Bid.** “Bid” means an offer extended by a vendor in response to a request for bids.

Subp. 3. **Broker.** “Broker” means a business that does not take legal title to the product, does not add value to the product, and has no written authorization to represent the manufacturer of the product.

[For text of subp 4, see MR]

Subp. 4a. **Competitive bidding.** “Competitive bidding” means a process by which an award is made to the lowest responsible bidder meeting all terms, conditions, and specifications of the solicitation document.

Subp. 5. **Contractor.** “Contractor” means a business that is engaged in construction such as general, mechanical, or electrical contracting, or that provides a specific service such as trash removal, snow removal, janitorial services, or professional or technical services.

[For text of subp 6, see MR]

Subp. 7. **Debarment.** “Debarment” means the disqualification of a person from receiving solicitations, the award of a contract by a governmental body, or selling any products or services to state agencies for a specified time commensurate with the seriousness of the offense, the failure, or the inadequacy of performance.

[For text of subps 8 to 10, see M.R.]

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 economically disadvantaged area businesses.

[For text of subps 12 to 14, see M.R.]

Subp. 15 **Material variance or material deviation.** "Material variance" or "material deviation" means a variance in a response from specifications or conditions that allows a responder a substantial advantage or benefit not enjoyed by all other responders or gives the state something significantly different from what the state requested in the solicitation document.

Subp. 16 **Open market.** "Open market" means purchases made in the marketplace without the need for competitive solicitations.

Subp. 17. **Person.** "Person" means a natural person or a business and includes both if the natural person is engaged in a business.

[For text of subp 18, see M.R.]

Subp. 18a **Proposal.** "Proposal" means an executed document submitted by a vendor in response to a request for proposals.

Subp. 19 **Reinstatement.** "Reinstatement" means a process by which a debarred vendor is restored to the state vendor list.

Subp. 19a **Responder.** "Responder" means a person who provides an offer in response to a solicitation.

Subp. 20. **Responsible vendor.** "Responsible vendor" means a vendor who

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

C can demonstrate a satisfactory credit standing, lack of delinquent tax liability, and the financial capability to perform a contract as evidenced by the ability to obtain bonding when required; and

D has no unresolved record of failure to perform, or of unsatisfactory performance of, contracts for the state or other customers, and

E is not currently debarred by another government entity for any cause including defaults on contracts, late deliveries, products not meeting specifications, substandard installation, or service, and

F. is otherwise qualified under rule and law, including incorporation in or registration to do business in Minnesota, and

G. has not engaged in unlawful practices, associated with organized crime, or operated under false names or fronts as a small business or a socially or economically disadvantaged small business, and

H is in compliance with all tax laws of Minnesota, as evidenced by timely filing of all required returns, reports, payments, and possession of all applicable stamps, licenses, or other permits, and freedom from any judgment, lien, or seizure of assets or property to satisfy tax payments or duties, and

I is willing to furnish all information necessary to determine responsibility as outlined in items A to H within 30 calendar days or less or within a reasonable amount of time determined by prior consensus between the bidder and the division.

Subp. 21 **SIC or Standard Industrial Classification and NAICS or North American Industry Classification System.** "SIC" or "standard industrial classification" and "NAICS" or "North American Industry Classification System" are systems 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 compara-

bility in the presentation of statistical data relating to those establishments and their fields of endeavor

Subp 21a **Solicitation.** "Solicitation" means a request for bids or a request for proposals.

Subp 22. **Suspension.** "Suspension" means to be temporarily suspended by the director of materials management 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.** "Targeted group businesses" 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 provide goods, products, or services within purchasing categories designated by the commissioner

Subp. 24 **Terms governing socially disadvantaged persons.** The terms in items A to C have the meanings given them for purposes of administering the small business procurement program.

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

(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

B "Women" means persons of the female gender

C. "Substantial physical disability" means with respect to an individual:

(1) a physical impairment that substantially limits one or more major life activities;

(2) a record of such an impairment, or

(3) being regarded as having such an impairment

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

Subp 26 **Small business eligible for certification as socially disadvantaged business or economically disadvantaged area business.** "Small business eligible for certification as socially disadvantaged business or economically disadvantaged area 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 operation-

ally 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 27 **Vendor.** “Vendor” means a natural person or a business and includes both if the natural person is engaged in a business

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.0300 SOLICITING RESPONSES.

Subpart 1 **Publication.** Notice of solicitations estimated to exceed the limits established by Minnesota Statutes, section 16C.06, subdivision 1, must be advertised at least seven calendar days prior to the opening date. Responses must also be solicited by announcing solicitations to prospective responders registered with the division pursuant to subpart 3.

Subp 2. [Repealed, 28 SR 499]

Subp. 3 **Vendor list.** A record of potential responders must be maintained by the division for various commodities and services. Persons desiring to sell commodities or provide services to the state may request a vendor registration application. Upon approval of the application by the division as meeting the requirements in part 1230.0150, subpart 20, the vendor’s name must be placed on appropriate lists to receive solicitations. The name of a vendor who fails to respond to three consecutive solicitations may be removed from the vendor list. The name of the vendor so removed will be restored only through specific written request from the vendor.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.0400 ADVERTISED SOLICITATIONS.

Subp 2. **Solicitation conditions.** General terms and conditions applicable to all state purchases must be stated in the standard solicitation document. Special terms and conditions applicable to specific commodities or types of purchase must also be stated in the solicitation document. In the event of conflict between general terms and conditions and special terms and conditions, the special terms and conditions will govern.

Statutory Authority: *MS s 16B.04, 16C.03, 16C.16, 16C 19*

History: 28 SR 499

1230.0500 SECURITY.

Subpart 1 **Payment.** Each solicitation must set forth the security required by the division, if any. The security may be a bid bond or a security check, such as a certified check, cashier’s check, or money order, made payable to “State of Minnesota” and must be made upon the condition or guarantee that in the event the responder’s offer is accepted, the responder must enter into a contract in accordance with the solicitation. Solicitations may stipulate that a security check may also be held as supply security for delivery or acceptance of merchandise, or satisfactory completion of the contract. A successful responder may substitute a supply bond or an irrevocable letter of credit from a bank for a security check.

Subp 2. **Forfeit.** Bid bonds or security checks of successful responders constitute liquidated damages for failure of a responder to enter into a contract. Security checks of successful responders that are held as supply security constitute liquidated damages for failure of the successful responder to make delivery, to have merchandise accepted, or to satisfactorily complete the contract.

Subp. 3 **Return.** Security checks of unsuccessful responders must be returned to the responder by placing them in the mail within five working days after an award is made. Security checks of successful responders must be returned upon receipt of

required supply bond or payment and performance bonds. Security checks of successful responders that are held as supply security must be returned within five working days after delivery is completed and notification to the division that acceptance is made by the agency, or the contract is satisfactorily completed. No interest may be paid on any money held as security.

Subp. 4 [Repealed, 28 SR 499]

Subp. 5 [Repealed, 28 SR 499]

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.0600 RESPONDER ERRORS.

Prior to the date and time responses are due, any person may withdraw a response or any part of a bid by notifying the director in writing of the desire to withdraw, by appearing in person at the division office and withdrawing the response, or by an electronic writing or facsimile received by the director requesting withdrawal of the response.

Subsequent to the date and time responses are due, a person may withdraw a response or any part of a bid only upon a showing that an obvious error exists in the response. The showing and request for withdrawal must be made in writing to the director within a reasonable time after the opening of the responses and prior to the state's detrimental reliance on the response.

Statutory Authority: *MS s 16B 04, 16C.03, 16C 16, 16C 19*

History: 28 SR 499

1230.0700 RECEIPT AND OPENING OF RESPONSES.

Subpart 1. Treatment of responses to solicitations. Upon receipt, all bids and proposals must be time stamped, showing the date and hour received. Responses must be opened publicly and read aloud in accordance with Minnesota Statutes, section 13.591, subdivision 3, at the time and place established in the solicitation. Bids and proposals received after the time set for the opening must not be opened or considered. Written notification of a late response must be provided to the responding vendor. The division must, at the vendor's request, return the unopened response to the vendor at the vendor's expense if the request is made within ten working days of the opening.

Subp. 3 Rejection of responses. The state may reject any or all responses or portions thereof. Responses must be rejected for good and sufficient cause, including but not limited to, abandonment of the project by the state, insufficient state funds, correction of a process error, disclosure or discovery of an organizational conflict of interest, or a determination that the responder is not a responsible vendor. A vendor whose response is rejected must be given notice of the rejection and the reason(s) for rejection of the response.

Subp. 4. Informalities and minor deficiencies. The state reserves the right to waive minor deficiencies or informalities in responses. Minor informalities must be waived if, in the judgment of the director, or delegate, the best interest of the state would be served without prejudice to the rights of the other responders. Examples of minor deficiencies include, but are not limited to, omission of the title of the signatory, failure to furnish required catalog cuts; and minor detail omissions.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.0750 ORGANIZATIONAL CONFLICTS OF INTEREST.

Subpart 1. Disclosure requirements. A vendor who is aware of an actual or potential conflict of interest as defined in Minnesota Statutes, section 16C 02, subdivision 10a, prior to the submission of a response to a solicitation or who becomes aware

of an actual or potential conflict of interest during the term of a contract shall disclose the following information to the director of the division:

- A. the identity of the parties involved in the actual or potential conflict,
- B. the facts that give rise to the actual or potential conflict, and
- C. any measures the vendor proposes to avoid, mitigate, or neutralize the conflict if possible.

Subp. 2. Cooperation required. In the event an actual or potential organizational conflict of interest is identified with respect to a pending or existing contract, the vendor shall cooperate with the director to explore potential measures to avoid, mitigate, or neutralize the conflict. These measures include, but are not limited to, amending the scope of work to exclude the tasks that give rise to the conflict or disclosing information for distribution to other responding vendors.

Subp. 3. Remedies. If an organizational conflict of interest for a particular contract cannot reasonably be avoided, mitigated, or neutralized, a vendor may be disqualified from participation in the solicitation process for that contract. If the conflict is identified after the contract has become effective, the contract is subject to immediate cancellation. Pursuant to Minnesota Statutes, section 16C.04, subdivision 3, paragraph (b), the commissioner may waive the requirement to avoid, mitigate, or neutralize an organizational conflict of interest if vital operations of the state will be jeopardized. Vital operations include contracts relating to public health, welfare or safety, or contracts that are necessary to avoid a disruption in essential state functions.

Subp. 4. Public data. Data generated under this part becomes public in accordance with Minnesota Statutes, section 13.591.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.0800 AWARD OF CONTRACTS.

Award of contracts must be made in conformity with Minnesota Statutes and with no material variance from the terms and conditions of the solicitation document. Unless otherwise provided for by law, awards for all acquisitions, except building and construction contracts, must be based on best value. Building and construction contracts must be awarded in accordance with Minnesota Statutes, sections 16C.25, to 16C.29.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19.*

History: 28 SR 499

1230.0900 TIED BIDS.

Subpart 1. Resolving tied bids. Tied low bids for less than \$2,500 must be resolved by a coin toss among the tied low bidders, except as provided in subpart 2.

Except as provided in subpart 2, tied low bids for \$2,500 or more must be referred to the director for disposition. The methods used to resolve tie bids may include requesting second pricing from the vendors or negotiating with the tied low bidders.

[For text of subp 2, see M.R.]

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1000 CONTRACT PERFORMANCE.

Subpart 1. Shipment. The director or authorized agents of state agencies shall place orders with successful responders using official state contract documents. Upon award, shipment must be made in accordance with delivery instructions in the ordering document.

Subp. 2. Inspection. The state may require that the vendor permit inspection of the goods prior to shipment at the factory, plant, or establishment where produced,

manufactured, or stored. Unless provision for inspection is made in the solicitation, costs incurred must be paid by the state

Subp. 3 Grounds for rejection. All deliveries must conform to all terms, conditions, and specifications of the solicitation. Failure in this respect is cause for rejection of the goods. Goods that fail to comply with specifications, fail to conform to the vendor's sample, are not as provided on the purchase order, or arrive in an unsatisfactory condition must be rejected except as provided in subpart 7

Subp. 4 Notice of rejection. Notice of rejection, based upon apparent deficiencies disclosed by ordinary methods of inspection, must be given by the receiving agency to both vendor and the carrier (if f.o.b. shipping point) within a reasonable time after delivery, with a copy of this notice to the division. A revocation of acceptance for latent deficiencies that would make the goods unsatisfactory for the purpose intended must be given by the state within reasonable time after discovery. The contractor shall satisfactorily repair or replace such goods within a reasonable time

Subp. 5 Removal of rejected goods. The vendor shall remove at the vendor's expense any goods rejected by the state. If the vendor fails to remove the goods and instead forwards shipping instructions to the agency concerned, the state need not comply, but may sell the goods and remit the proceeds of sale, less the expense involved, in accordance with law, including, but not limited to, Minnesota Statutes, section 336 2-603.

Subp. 6 Replacing rejected goods. If the needs of a state agency do not permit time to replace rejected goods, or if deliveries are not made within the time specified in the contract, the agency may, with the approval of the director, buy on the open market goods of the nature required. The vendor shall be liable for all additional costs and expenses.

Subp. 7. Adjusting price of nonconforming goods. If it is determined that goods do not conform strictly to specifications, but can be used satisfactorily, the director, with written acquiescence of the vendor, may adjust the price and authorize the agency to keep and use that part of the order when it is determined by the director to be in the best interest of the state.

Subp. 8. Laboratory tests. The director may require that a laboratory analysis or other tests be made to determine the acceptability of the delivered goods and to ensure that those goods meet specifications. When analyses or tests are required, acceptance by the state must not occur nor be deemed to have been made until testing is completed and affirmative results are obtained. Any discount time applicable begins after affirmative results are obtained. Vendors must be notified of unsatisfactory test results. Unless provisions for laboratory analysis or tests are contained within the solicitation document, costs incurred for them must be paid by the state

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1100 FAILURE TO PERFORM.

Subpart 1 Penalties. If a responder who is awarded a contract fails to perform as specified, the security as described in part 1230 0500, subpart 1, must be retained by the state as liquidated damages. The vendor may also be determined not to be a responsible vendor and may be subject to suspension or debarment pursuant to part 1230 1150. The state may also pursue all other remedies permitted by rule or provided by law

If the security is in the form of a bond, the bonding company must be notified in writing of the default. A vendor awarded a contract who fails to enter into the contract may be determined not to be a responsible vendor regardless of whether security was required. The state may seek further damages and shall not be limited by the absence or existence of a bond. In all cases of default, the vendor may be determined not to be a responsible vendor and may be subject to suspension or debarment pursuant to part 1230 1150

[For text of subp 2, see MR]

Subp 3. **Types of failure to conform to contract requirements:** A vendor must be held in default for failure to conform to contract requirements, solicitation terms, conditions, and specifications, or standard commercial practices including, but not limited to, the following

[For text of items A to D, see MR]

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: *28 SR 499*

1230.1150 AUTHORITY TO DEBAR OR SUSPEND VENDORS.

Subpart 1. **Suspension.** After written notice to the person involved and providing for a reasonable opportunity for that person to be heard, the director shall have the authority to suspend a person from eligibility to receive solicitations, the award of contracts, or selling any products or services to state agencies if the director determines that the person has engaged in an activity that might lead to debarment. A suspension must not exceed six months unless the vendor is proposed for debarment by the federal government and in that event, the suspension must not exceed the length of time necessary for the federal government to issue a final order.

Subp 2 Debarment causes.

A A person shall be debarred if one or more of the following occurs

(1) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract,

(2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that affects responsibility as a state vendor,

(3) conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(4) violation of contract provisions, as set forth in units (a) and (b), of a character that is regarded by the director to be so serious as to justify debarment action

(a) failure without good cause to perform according to the specifications, time limits, or any terms or conditions in the contract, or

(b) a record of failure to perform, or of unsatisfactory performance, according to the terms of one or more contracts or as measured by standard commercial practices, provided that this failure to perform or unsatisfactory performance was not caused by acts beyond the control of the contractor, or

(5) any other cause the director determines to be serious and compelling including, but not limited to, threatening, abusive, or intimidating behavior, collusion with other vendors to restrain competition, giving false information on a vendor's registration application or response to a solicitation, violating terms of suspension, and all acts that would disqualify the person as a responsible vendor, as defined in part 1230.0150, subpart 20, including debarment by another governmental entity

B The following must occur in cases in which a vendor is debarred by other governmental entities

(1) Any vendor debarred by the federal government, the state of Minnesota, or any of its departments, commissions, agencies, or political subdivisions, is automatically debarred by the division under the same terms and limits of the original debarment.

(2) If the vendor is debarred by any other governmental entities, it is cause for suspension until a determination can be made by the division under normal suspension procedures as to whether the debarment applies under Minnesota statutes and rules

Subp. 3. **Written notice.** A written notice of debarment or suspension must be furnished to the affected parties and must:

- A. state the reasons for the action taken;
- B. give the length of time the vendor will be debarred or suspended, and
- C. inform the debarred or suspended person of the person's rights to administrative and judicial review according to subpart 4

Subp. 4. **Suspension or debarment appeals.** If suspended or debarred, a person may file an appeal in writing with the commissioner of administration within 30 calendar days of receipt of a decision to suspend or debar. The commissioner shall, within 45 calendar days, decide whether the actions taken were according to statutes and regulations and were fair and in the best interest of the state.

Any person receiving an adverse decision from the commissioner may appeal in any appropriate court of the state.

Subp. 5 **Length of debarment.** A vendor may be debarred from receiving solicitations and submitting responses for not less than one year, nor more than three years unless a longer time is in effect under subpart 2, item B, subitem (1). The length of the debarment must depend on the vendor's past performance, the number and seriousness of the current complaints, and the cost to the state associated with correcting the problem.

Subp. 6 **Public list of debarred and suspended.** The division shall maintain a master list of all suspensions and debarments. The master list must retain all information concerning suspensions and debarments as a public record. The records must be maintained for at least three years following the end of a suspension or debarment. Such public information may be considered in responsible vendor determinations according to part 1230.0150, subpart 20.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1175 REINSTATEMENT AND PROBATION.

Subpart 1 **Review of reinstatement applications.** The director shall review vendor applications for reinstatement

[For text of subp 2, see MR]

Subp. 3. **Information in reinstatement application.** A request for reinstatement must be made to the director in writing and include:

A. all information necessary to qualify as a responsible vendor, as defined in part 1230.0150, subpart 20;

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

C. evidence of successful completion of at least four other contracts, including contracts with two public entities in the same commodity class, field, or type of work; and

[For text of item D, see MR]

Subp. 4 **Actions following decision.** The director shall determine if the person can be reinstated as a responsible vendor and be added to the vendor list. If, after investigation, the applicant's request for reinstatement is denied, the person cannot reapply for reinstatement for one year from the date of denial. If reinstated, the applicant must be placed on the vendor list and be subject to a one-year probationary period.

Subp. 5. **Probationary periods and conditions.** Vendor probationary periods apply to formally debarred persons who have been reinstated as responsible vendors.

The length of the probationary period is one year from the date of reinstatement.

During the probationary period, the party on probation must respond to all solicitations received from the division. An indication of an intent not to respond is considered a response for purposes of this subpart.

If a response from a vendor on probation is accepted and the vendor refuses to perform or enters into a contract and performance is substandard, the performance or supply bond, if any, will be retained and the vendor must be deemed not to be a responsible vendor and must be permanently removed from the vendor list.

Statutory Authority: *MS s 16B.04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1180 TERMINATION OF DEBARMENT OR AWARD DURING DEBARMENT.

The commissioner may terminate a debarment by order or may award a contract to a debarred or suspended vendor when.

A. the vendor is the sole supplier of a material or service required by the state;

B. the commissioner determines that an emergency exists as defined in Minnesota Statutes, section 16C 10, subdivision 2; or

C. the commissioner determines that the vendor's ineligibility would cause the state undue hardship.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C.19*

History: 28 SR 499

1230.1200 CONTRACT CANCELLATION.

The director may cancel a purchase or contract under any one of the following conditions including, but not limited to

A. the vendor agrees to the cancellation;

B. the vendor has obtained the contract by fraud, collusion, conspiracy, or in conflict with any statutory or constitutional provision of the state of Minnesota;

C. failure to conform to contract requirements or standard commercial practices including, but not limited to, all instances of failure to perform in part 1230.1100, subpart 3;

D. the existence of an organizational conflict of interest is identified; or

E. funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

Statutory Authority: *MS s 16B.04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1300 REHABILITATION FACILITY.

Any rehabilitation facility wishing to apply to receive notice of available solicitations shall apply in writing to the director of the Minnesota Association of Community Rehabilitation Organizations.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

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 economically disadvantaged area small businesses. These programs are administered by the Materials Management Division, Department of Administration, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1450 SCOPE.

In the event of irreconcilable conflict between the general procurement rules in parts 1230 0100 to 1230 1399 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.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: *28 SR 499*

1230.1600 ELIGIBILITY FOR SOCIALLY DISADVANTAGED OR ECONOMICALLY DISADVANTAGED AREA SMALL BUSINESS PROGRAM.

[For text of subps 1 and 2, see MR]

Subp 3 Revenue or sales limitations; Socially Disadvantaged or Economically Disadvantaged Area Small Business Program. For the purpose of identifying businesses eligible to participate in the program, the preference and set-aside programs for targeted group small businesses, or for small businesses located in economically disadvantaged areas, the qualifying parameter must be expressed in terms of gross annual revenues or sales as an upper limitation, i.e. "not to exceed." In no case may the limitation for any category of business enterprise be set at less than \$1,000,000.

A. Classification codes SIC or NAICS must be used in classifying limitations among the variety of businesses potentially eligible for participation in the program.

B. Limitations and standards must be set for each major, two-digit, group based on the following procedure

[For text of subitems (1) to (3), see MR]

(4) Where the three-digit code data treated in subitems (1) to (3), varies significantly from the two-digit aggregated data or the four-digit data varies significantly from the two- or three-digit classes, a specific limitation must be established for that three- or four-digit class

[For text of units (a) and (b), see MR]

(5) The Department of Administration shall annually reexamine one-third of the groups for appropriate limitations and redefinition

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: *28 SR 499*

1230.1700 CERTIFICATION OF ELIGIBILITY.

Subpart 1 Required information. To qualify for the programs authorized by Minnesota Statutes, section 16C 16, each business shall file with the division the information in items A, B, C, D, and H; and E, F, and G as applicable on the application forms provided

A. The name and address of the applicant, the name of the business, and the principal place of business

B. Which type of designation, small business, socially disadvantaged small business, or economically disadvantaged area small business is being applied for.

[For text of subitem (1), see MR]

(2) an individual business which is not a targeted group business but is owned by a socially disadvantaged person, as defined in part 1230.0150, subpart 24, that 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

[For text of units (a) to (c), see MR]

(d) a proportionate share of the market for its goods and services;

(3) the small business is located in an economically disadvantaged area as defined in Minnesota Statutes, section 16C 16, subdivision 7, or

(4) the business is a rehabilitation facility or extended employment provider certified by the Department of Economic Security.

C An indication of the type of business operated and the kinds of service, materials, or supplies which can be delivered.

D A listing of all owners, including percentage of ownership, method of acquisition, ownership in other firms, and copies of the following documents:

(1) Complete financial statements for the business for each of the preceding three fiscal years, or since the inception of the business if established less than three years. Financial statements may be returned to the applicant upon completion of the application process if requested by the applicant. If financial statements are not available, the applicant may submit federal tax form Schedule C (Profit or Loss From Business or Profession).

(2) 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.

(3) A statement indicating whether or not the business is an affiliate or subsidiary of a business dominant in its field of operation.

(4) 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.

[For text of subitem (5); see MR]

[For text of item E, see MR]

F If the business seeking certification under item B, subitem (2), unit (a), (b), (c), or (d), is a contractor, the information in item E must be submitted in all categories except as modified in the following:

[For text of subitems (1) to (3), see MR]

[For text of items G and H, see MR]

Denials of certification under these provisions are subject to appeal under subpart 6.

Subp. 4. [Repealed, 28 SR 499]

Subp. 5 **Grounds for rejecting application.** An applicant must be notified in writing of the acceptance or rejection 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 on any of the following grounds:

[For text of items A to G, see MR]

H ownership of the applicant's business is shared with a previously certified participant who was removed from the vendor list or directory of certified businesses by operation of Minnesota Statutes, section 16C 19, paragraph (c), and part 1230.1850; and

[For text of item I, see MR]

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:

[For text of item A, see MR]

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.

[For text of items D to F, see MR]

G. In addition to the standards in items A to F, the following circumstances will be given special consideration in determining eligibility:

[For text of subitems (1) and (2), see MR]

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

[For text of item H, see MR]

I. 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).

[For text of subitems (1) to (4), see MR]

(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 of application. After an applicant has received written notice of rejection of the application for certification as a socially disadvantaged small business or economically disadvantaged area 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.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1805 PROCUREMENTS FROM SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESSES.

Subpart 1. **Directory.** A directory of eligible 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 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

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1810 PROPORTIONAL UTILIZATION OF SOCIALLY DISADVANTAGED BUSINESSES.

The division shall attempt to achieve utilization of socially disadvantaged 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 businesses

A. When it is likely that three responses will be obtained from certified targeted group 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 small businesses

(2) The division shall reject any response from a business not certified as a targeted group small business.

(3) Where there are no responses or no acceptable responses, unsatisfactory responses, if any, must be recorded and the solicitation must be reissued

B. A certified targeted group 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 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 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 small business

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

(4) In the event the state is using a solicitation method other than competitive bidding, including requests for proposals and bids awarded based on best value criteria, where price is not the only factor considered in making an award, the preference shall be applied as stated in the solicitation document

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

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 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 small businesses open to subcontracts from the prime contractor

[For text of item B, see MR]

[For text of subp 2, see MR]

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

A The prime contractor may request a waiver for some or all specialties based on a documented unsuccessful effort to obtain certified targeted group subcontractors. The request for waiver with documentation showing the effort and steps taken to secure certified targeted group 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 certified targeted group subcontractor cannot or will not fulfill the 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 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 subitems (1) to (4), see MR]

[For text of item B, see MR]

C 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. 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).

D 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 subcontractors are willing and able to do the work.

Statutory Authority: *MS s 16B 04, 16C 03; 16C 16, 16C 19*

History: *28 SR 499*

1230.1830 PREFERENCE PROCUREMENTS FROM ECONOMICALLY DISADVANTAGED SMALL BUSINESSES.

A certified economically disadvantaged small business may be awarded up to a six percent preference for commodities and services and a four percent preference for construction projects

A The division shall include a statement on the solicitation document informing all vendors that certified economically disadvantaged vendors will receive a preference in the amount offered and the amount of the preference to be awarded

B. Unless awarded pursuant to item E, when the lowest acceptable response from a certified economically disadvantaged small business is within the specified percent of the lowest acceptable response from another vendor, award must be made to the lowest responsible certified economically disadvantaged small business

C Unless awarded pursuant to item E, when there is no acceptable response from a certified economically disadvantaged small business within the specified percent of the lowest acceptable response from another vendor, award must be made to the lowest responsible vendor

D Unless awarded pursuant to item E, when the division awards a different percentage preference to a certified targeted group small business and a certified economically disadvantaged small business on the same solicitation, the lowest acceptable response must be determined by deducting the appropriate preference percent awarded from the acceptable responses by the certified small businesses

E In the event the state is using a solicitation method other than competitive bidding, including requests for proposals and bids awarded based on best value criteria, where price is not the only factor considered in making an award, the preference must be applied as stated in the solicitation document

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: *28 SR 499*

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

Subpart 1 **Removal for failure to fulfill contract.** A business may be removed from the certified directory and the vendor list and may be ineligible to be awarded contracts when it fails to satisfactorily fulfill the terms and conditions of a contract as specified in parts 1230.1000 and 1230.1100

Subp. 2. **Reinstatement.** An otherwise eligible business that was removed under subpart 1 may apply for reinstatement and participation in the preference program according to part 1230.1175

Subp. 3. **Removal from Socially Disadvantaged or Economically Disadvantaged Area Small Business Program when a business no longer qualifies.** A business must be removed from the Socially Disadvantaged or Economically Disadvantaged Area Small Business 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 Small Business 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 or a formal review under item B 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

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 Disadvantaged or

Economically Disadvantaged Area 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.

- (1) reinstate the business to the Socially Disadvantaged or Economically Disadvantaged Area Small Business Program,
- (2) affirm the removal of the business; or
- (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.

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.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

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.

B. Eligibility for set-aside or preference for a specific business participating in the Socially Disadvantaged or Economically Disadvantaged Area Small Business 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 MR]

C. No business may participate in the Socially Disadvantaged or Economically Disadvantaged Area Small Business Program indefinitely. A business shall graduate from the program when one of the following circumstances exists:

- (1) if certified under part 1230.1700 according to Minnesota Statutes, section 16C 16, subdivision 5, designation of targeted groups, and a new study conducted by the commissioner of administration finds the original conditions defining eligibility and certification no longer exist,

[For text of subitems (2) and (3), see MR]

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1900 GENERAL TERMS AND CONDITIONS.

Subpart 1. **Inability to perform.** An eligible business that finds it cannot produce, supply, or construct according to the terms and conditions of a contract shall immediately notify the division in writing of the reasons therefore. When the commissioner determines that the business is unable to perform for the reasons stated, the division shall notify the Department of Employment and Economic Development so that the commissioner of employment and economic development can assist the small business in attempting to remedy the causes of the inability to perform. The division shall notify

the business of the referral to the Department of Employment and Economic Development and the notice must include a statement that any records of the Department of Employment and Economic Development in assisting the small business may be discoverable in a contested case or judicial procedure. Failure to enter into a contract, to accept an offered award, or to satisfactorily complete a contract for documented reasons beyond its control will not automatically disqualify a business from future participation in the solicitation process

[For text of items A and B, see MR]

Subp 5 Dividing solicitations. The director of the division shall divide solicitations by dollar amounts, units of production, or duration of contract to facilitate awarding set-aside or preference contracts where economically feasible

Subp 7 Reporting requirements. The following reporting requirements apply to the Socially Disadvantaged or Economically Disadvantaged Area Small Business 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 to the division. The information on file with the division will include:

[For text of subitems (1) to (4), see MR]

(5) all other relevant or supporting information necessary for verifying status resulting in eligibility under certification procedures if requested in writing by the division, before or after the reporting requirement date

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 Small Business Program

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499

1230.1905 NOTICE OF CHANGES.

All businesses shall notify the division in writing of any changes in information submitted in an application for certification or attached information within 30 calendar days of the changes. This section applies to changes in information occurring at any time and is not limited to changes occurring while an application is pending approval.

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16; 16C 19*

History: 28 SR 499

1230.1910 PROFESSIONAL AND TECHNICAL PROCUREMENTS.

Subpart 1 **Applicability.** Parts 1230.1400 to 1230.1910 apply to the award of professional and technical procurements under Minnesota Statutes, section 16C 16, subdivision 3.

[For text of subp 2, see MR]

Statutory Authority: *MS s 16B 04, 16C 03, 16C 16, 16C 19*

History: 28 SR 499