

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; 16B.18; 16B.19; 16B.22; 16C.03; 16C.16; 16C.19*

History: *16 SR 194; 28 SR 499*

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