

5000.3400 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5000.3400 to 5000.3600 the following terms have the meanings given them.

Subp. 2. **Affirmative action policy.** "Affirmative action policy" means a managerial objective to eliminate all barriers to employment opportunity that are not based on specific job requirements. It refers also to the identification of barriers in the use of action-oriented programs to advance employment opportunities for women, minorities, and qualified disabled persons.

Subp. 3. **Affirmative action program.** "Affirmative action program" means a coherent set of goal-oriented management policies and procedures which implement a contractor's affirmative action policy including the contractor's self-examination of its workforce and entire employment practices and policies, availability and utilization analyses, and the establishment of goals and timetables for the correction of any underutilization of women, minorities, and qualified disabled persons identified in the self-analysis.

Subp. 4. **Availability.** "Availability" means the percentage of minorities and women among those persons who may reasonably be considered eligible currently or may reasonably be considered eligible during the term of the affirmative action program.

Subp. 5. **Civilian labor force.** "Civilian labor force" means persons 16 years old and older who are either:

- A. at work during the reference week; or
- B. with a job but not at work during the reference week.

"At work" means that the person works as a paid employee, or in that person's own business or profession, or on that person's own farm; or who works 15 or more hours as an unpaid worker on a family farm or in a family business, during the reference week.

"With a job but not at work" means any person who does not work during the reference week but who has a job or business from which that person was temporarily absent due to illness, bad weather, industrial dispute, vacation, or personal reasons.

Members of the armed forces are not included in the civilian labor force.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Rights.

Subp. 7. **Construction work.** "Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing

utility services. The term also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

Subp. 8. **Contract.** "Contract" means any agreement or modification of an agreement between a contracting agency and a business or firm for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services," as used in this definition includes, but is not limited to the following services: utility, construction, transportation, research, insurance, and fund depository.

Subp. 9. **Contractor.** "Contractor" means a firm or business that has employed more than 40 full-time employees in Minnesota on a single working day during the previous 12 months, and that executes, holds, or submits a bid or proposal for a covered state contract.

Subp. 10. **Covered state contract.** "Covered state contract" means a state contract for goods or services in excess of \$100,000.

Subp. 11. **Department.** "Department" means the Minnesota Department of Human Rights.

Subp. 12. **Deficiency.** "Deficiency" means an underutilization of women, minorities, and qualified disabled employees or a failure to take corrective action to eliminate barriers to equal employment opportunity identified in the contractor's self-analysis.

Subp. 13. **Disabled person.** "Disabled person" means a person who has a physical, sensory, or mental impairment that materially limits one or more major life activities or has a record of or is regarded as having such an impairment. For purposes of this subdivision, "impairment" excludes any condition resulting from alcohol or drug abuse that prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

Subp. 14. **Good faith effort.** "Good faith effort" means a reasonable effort undertaken by a contractor to accomplish the goals and implement the corrections identified in the self-analysis.

Subp. 15. **Immediate labor area.** "Immediate labor area" means that geographic area from which employees and applicants may reasonably commute to the contractor's establishment. The immediate labor area may include one or more contiguous cities, counties, or Standard Metropolitan Statistical Areas or parts thereof, in which the establishment is located.

Subp. 16. **Life activity.** "Life activity" includes communication, ambulation, self-care, socialization, education, vocational training, employment, transportation, or adapting to housing. For the purpose of this item, primary attention is given to those life activities that affect employability.

Subp. 17. **Minorities and women with requisite skills.** "Minorities and women with requisite skills" means minorities and women who have demonstrated that they possess the skills for the job in question. For example, through performance on another job, those who have completed training or educational programs designed to provide skills for the job in question, and those who could reasonably be expected to acquire the skills within a relatively short time after placement.

Subp. 18. **Minority.** "Minority" means:

A. Black, persons having origins of any of the Black African racial groups not of Hispanic origin;

B. Hispanic, persons of Mexican, Puerto Rican, Cuban, Central American, South American, or other Spanish culture or origin, regardless of race;

C. Asian and Pacific Islander, persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; and

D. American Indian or Alaskan Native, persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

Subp. 19. **Modification.** "Modification" means an alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

Subp. 20. **Promotable or transferable.** "Promotable or transferable" means, within the context of developing data for availability, those employees who are currently employed in a job group or groups which serve or could serve as a source from which selections are or could be made for another job group.

Subp. 21. **Qualified disabled person.** "Qualified disabled person" means a disabled person who is capable of performing the essential functions required of all applicants for the job in question, with or without reasonable accommodation to that person's disability. For purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse that prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

Subp. 22. **Relevant recruitment area.** "Relevant recruitment area" means the geographic area from which the contractor may reasonably recruit its employees. It is at least the area from which the contractor recruits, and may include geographic areas not contiguous with the immediate labor area.

Subp. 23. [Repealed, 24 SR 273]

Subp. 24. **Utilization analysis.** "Utilization analysis" means a comparison of the availability of minorities and women in the immediate labor area to their presence in a contractor's workforce.

Subp. 25. **Workforce analysis.** "Workforce analysis" means a listing of job titles as they appear in applicable collective bargaining agreements or payroll records, not job group, ranked from the lowest paid to the highest paid within each department or other similar organizational unit including departmental or unit supervision.

Statutory Authority: *MS s 363.074; 363A.37*

History: *9 SR 2748; 17 SR 1279; 24 SR 273*

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