



Report of the Administrative Compliance Audit of Certain Provisions in the State of Minnesota Human Rights Act, Statewide Affirmative Action Program, and Procurement Act

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I. INTRODUCTION

In the first ever audit of its equal opportunity laws the State of Minnesota is reviewing some sections of Minn. Stat. 16C; (The Procurement Act); Minn. Stat. 43A (The Affirmative Action Act); and Minn. Stat. 363A (Human Rights Act). The State is embarking on this review to identify actions it can take, to maximize inclusive participation in the areas of equal economic opportunity for protected groups, and to eliminate problems, barriers and impediments to inclusion.

The motivation for this audit came as a result of a 2013 Wall Street Journal 24/7 Report which identifies Minnesota as the second worst place in America for Black people. The report indicates a typical black household in Minnesota earned less than half the median income of white households in 2013. As a requirement of its duties under Minn. Stat 3.9225, the Council on Black Minnesotans and its executive director at the time, conducted an analysis of the state's equal opportunity laws and found years-long lack of enforcement of the state's contracting, affirmative action and human rights laws.

The Council's analysis revealed that there have not been a net increase in the base funding of the Minnesota Department of Human Rights in nearly two decades; some state departments did not have conforming affirmative action plans; and the Minnesota Department of Administration has not used its authority to correct disparities in contracting when detected. In 2015, the Council attempted to rectify the situation through legislative action but failed.

The Minnesota chapter of the National Association for the Advancement of Colored People (NAACP) became involved and brought the matter to the attention of Senate Majority leader, Tom Bakk, Speaker of the House of Representatives, Kurt Daudt, and Governor Mark Dayton calling on them to agree to financing an independent audit of the administrative

application of Minn. Stat. 16C, 43A, and 363A. “We believe this decade long negligence has stymied the freedoms of Minnesotans of African heritage,” stated WC Jordan, president of the state chapter of the NAACP in a June 12, 2015 press release.

As a result of these engagements and discussions, on Thursday April, 26, 2016, Governor Mark Dayton ordered an independent audit of various sections of the state’s equal opportunity statutes with the ultimate goal of boasting diversity in its workforce and its contracting. “I look forward to finding where those deficiencies are so we can make those improvements and have them in place so when I leave office in two and a half years, these changes are institutionalized in state government”, Governor Dayton said at a State Capitol news conference surrounded by state NAACP leaders.

The State of Minnesota has some of the most forward looking equal opportunity laws in the country. However, there are problems with the application and implementation of these laws. These problems have led to loss of jobs, business opportunities and violations of the rights of protected class people in the state. This audit reviews these statutes and the rules promulgated pursuant to them; it analyses documents presented by state authorities on what they have done to apply these laws; and provides recommendations and best practices for how to maximize inclusive participation in opportunities for protected groups.

II. EXECUTIVE SUMMARY

This audit of the State of Minnesota’s equal opportunity laws assesses the administrative application of certain provisions of the State’s Procurement Act (Minn. Stat. § 16C), Human Rights Act (Minn. Stat. § 363/363A) and Statewide Affirmative Action Program (Minn. Stat. § 43A). The period covered for determining compliance is the past five years, along with an

analysis of the State's appropriation to the Minnesota Department of Human Rights over the past 20 years. This report focuses on the State's efforts to comply with the specific provisions identified in the Request for Proposal and contains the results of our analysis as well as findings and recommendations for improvement.

The audit confirms that the State is engaged in considerable activities to meet the objectives of each of the three statutes. This report explores the effectiveness of those efforts. In the area of procurement, some of the State's efforts include the implementation of the small business program, and targeted group purchasing which is aimed at businesses that are majority owned by women, persons with a substantial physical disability or specific minorities. The State's efforts also include the creation of the Office of Equity and Procurement in 2015 and the Governor's Diversity and Inclusion council in 2016, both of which have undertaken a plethora of activities designed to promote diversity and inclusion. For instance, the State recently implemented changes that provide more prompt pay for subcontractors, allow for the award of specific contracts to targeted group businesses and set forth a new methodology for calculating contracting goals.

Notwithstanding these efforts, deficiencies in proactive measures to promote inclusion in procurement were identified. The goal-setting requirement of 25% of the dollar value of total state procurement of goods and services to small businesses does not allow accountability for the significant specific disparities impacting specific groups that have been identified in the two disparity studies that the State has conducted. Moreover, the State's diverse spend numbers reflect that women business owners comprise by far the largest component of targeted group spend. The numbers remain generally low and are particularly negligible for African Americans, Hispanics, Indigenous Americans and persons with physical disabilities. Our recommendations

include the implementation of a moderate narrowly-tailored race-conscious program of limited duration based upon the statistically significant underutilization of specific groups found in the disparity studies. There are a number of additional recommendations intended to increase the share of the \$2.2 billion of annual State contracting and procurement dollars that go to underrepresented groups.

In the area of Human Rights, our review revealed that a primary impediment for the Department of Human Rights in its efforts to function effectively has been under-funding of the Department. In 1998, the Department received a general fund appropriation of \$3,763,000. In the 2016 fiscal year the appropriation was \$3,723,000. This has impacted the Department's capacity in many ways, including a reduction in staff from 70 in 1990 to 37 at present. The result is increased caseloads per worker handling complaints and an increase in the amount of time it takes the Department to investigate cases. The lack of adequate funding and reduced staff also impede the Department's ability to monitor compliance by contractors and carry out many of its proactive duties.

The latest U.S. census data indicate that 87 percent of recent population growth in the State has come from minority groups. This not only supports more funding for the Department of Human Rights, but also attests to the critical importance of this audit in terms of the State's outlook concerning its future economy and human needs. A key recommendation is that the State should increase the appropriation amount to the Department of Human Rights to match the increase in expenditures and address the need for additional resources to enable the Department to effectively implement Minn. Stat. § 363A. In addition, there is a recommendation to create and staff regional offices in West, South, North and East Minnesota consistent with the patterns

of population growth in the State and particularly among non-English speaking and protected group residents.

While our review confirms that all of the agencies in the Executive Branch have in place affirmative action programs that comply with Minn. Stat. § 43A, the data does not provide numbers for protected-group individuals, namely Blacks, Hispanic, Asian or Pacific Islanders, and American Indians or Alaskan Natives. These groups are lumped in a category of “racial/ethnic minorities,” a label which is not a category in the statutes or rules. By using this label, the State has no information to track the progress of Blacks, Hispanics, Asian or Pacific Islanders, and American Indians or Alaskan Natives. This falls short of the State’s policy of implementing and maintaining an affirmative action program designed to eliminate underutilization of qualified protected group members within the state civil service. There is a recommendation to correct this deficiency by each agency revising its affirmative action plan to include the specific protected groups instead of “racial/ethnic minorities.” The audit also found a lack of procedures that are required to be used in recruiting and selecting persons for unclassified appointments. The statute requires that such procedures take into account the Agency’s affirmative action goals in selecting candidates. There is a recommendation to address this and to provide more oversight authority for the commissioner in this area and a recommendation for improvements with respect to filling positions with protected-group individuals, including persons with disabilities.

There are additional recommendations aimed at expanding the State’s recruitment and outreach programs with respect to various populations, including youth, interns and students, veterans and persons with disabilities. There are recommendations that the State’s Director of Diversity report directly to the Commissioner of Administration and Governor, rather than to the

Assistant Commissioner of Enterprise Human Resources, and that the State clarify its affirmative action plan.

The audit team conducted interviews with 60 individuals. Respondents were recruited through referrals from working group members, community organizations that serve targeted populations, state employees who work in related capacities and through press releases to targeted media. The interview participants relate their experiences with the State relating to procurement, human rights and affirmative action, and offer suggestions in each area.

In addition to making findings and recommendations in each of the three areas, the audit suggests some best practices that have been implemented in other jurisdictions to help improve outcomes and stimulate improvements.

III. THE AUDIT TEAM

This audit was conducted by Michael A. Fondungallah, an attorney with Fondungallah and Kigham, LLC, Pamela D. Kigham, an attorney with Fondungallah and Kigham, LLC, James Hall, an attorney Hall, Bruce & Olsen, S.C, Jennifer Burrs, a legal assistant with Fondungallah and Kigham, LLC and Nancy Clift of Clift Research.

Michael Fondungallah manages a three-attorney law firm and has experience in Immigration law, Employment Law, Personal Injury, international transactions and general civil litigation. He is currently a contract administrative hearing officer, hearing and deciding housing, animal control, licensing, construction, zoning, environmental, health and safety violation cases and other violations of city codes and ordinances. Mr. Fondungallah has represented clients in state and federal courts in Minnesota in a wide variety of areas including employment discrimination, discrimination in housing, auto accidents, fair housing act violations, equal pay act violations, disability discrimination, and civil rights violations. He is a member of the board

of directors of the Ramsey County Bar Association; the Work Force Innovation Board of Ramsey County; the Minnesota Black Chamber of Commerce; and a founding member of the Multi-Ethnic Coalition, ALANA (African, Latino, African American and Native American).

Pamela Kigham is a partner with Fondungallah and Kigham, LLC. She has experience in Family Law, Immigration Law, and Personal Injury and has provided assistance to her partner in Employment Discrimination Cases. Ms. Kigham provides free legal services with the Volunteer Lawyers Network in the area of family law. She sometimes provides free translation with the Volunteer Lawyers Network from French to English. She is a panel attorney with the Judicare Program in Anoka County. Ms. Kigham also does some Guardian ad litem work with the First Judicial District in Minnesota.

James Hall is a partner at Hall, Burce & Olson S. C. in Milwaukee, Wisconsin. He practices in the areas of Business Planning and Counseling, Employment, General Litigation and Civil Rights. Mr. Hall has been involved in matters relating to these areas for over 25 years. He has represented and advised many clients in obtaining certification to compete for and receive contracts with various units of City, County and State government. He represented the interests of a coalition of community organizations, including minority groups, in connection with the response of the City of Milwaukee to the 1989 Supreme Court decision in *City of Richmond v. J. A. Croson Co.* and that city's efforts to craft a new ordinance. He has successfully challenged Milwaukee County's participation ordinance in litigation in Milwaukee County Circuit Court on behalf of a minority contractor.

He is the current board of director for the NAACP in Milwaukee, ACLU in Wisconsin and Tanzanian Economic Development Initiative, the Haggerty Art Museum, the Milwaukee Museum of Fine Art and the Milwaukee Public Schools Foundation. James Hall has some

auditing experience. In 1994 he was retained by the United States Department of Housing and Urban Development to review and analyze the disparate impact standard as it pertains to insurance practices under the Fair Housing Act and to report the results of that review and analysis to the Office of Fair Housing and Equal Opportunity of the Department of Housing and Urban Development.

Nancy Clift is the owner of Clift Research. Her research firm provided assistance with conducting outreach and interviews. Nancy Clift has been conducting qualitative research since 1990. Nancy earned her MBA in marketing at Indiana University and her MA in Educational/Counseling Psychology at the University of Minnesota. She completed the coursework toward a doctorate in Clinical Psychology at Indiana, as well as the coursework in another PhD program in Counseling Psychology. Nancy began her marketing research career with General Mills, Inc. In her early years, her specialty was statistical analysis, but she preferred qualitative research and eventually started her own business in this area.

Jennifer Burrs is a recent law school graduate of Mitchell Hamline School of Law. She worked part time as a legal assistant with Fondungallah and Kigham, LLC while attending law school. She provided assistance with this audit.

IV. HISTORICAL BACKGROUND, ENVIRONMENT AND CONTEXT

The State of Minnesota has expressed a commitment to diversity and inclusion and has undertaken various efforts, initiatives and programs to promote and expand opportunities to under-represented individuals and groups. The State conducted its first disparity study in 1989, and has conducted subsequent studies approximately every ten years thereafter to determine if disparities exist in State's procurement and if contracting methods and processes are affected by race and gender. The findings of the studies have been used to provide guidance in formulating

policies intended to address the opportunity gap faced by women, protected class people and persons with disabilities.

Specifically, the 1999 disparity study by Mason Tillman and the 2009 study by MGT of America, found statistically significant disparities, showing underutilization of businesses owned and operated by African Americans, Hispanic Americans, Asian Americans, Native Americans and Caucasian females in certain areas, and a 1990 study also found an underutilization of businesses owned and operated by disabled persons. The State has operated programs aimed to improve contracting opportunities for protected groups including a program focusing on small businesses, businesses owned by members of targeted groups and businesses located in economically disadvantaged areas that went into effect in 1990.

The program was expanded to include veteran-owned businesses in 2009. The legislature enacted Minn. Stat. §16C, providing that the Commissioner of Administration could certify certain businesses as “targeted group businesses” for contracting purposes. The Commissioner may use set-asides and percentage preferences, and may set goals, among other things, to increase contracting with targeted group businesses. After each disparity study, the State has enacted and amended legislation and refreshed the designations of groups that are included as targeted group businesses consistent with the study findings.

In 2015, Governor Dayton established the Diversity and Inclusion Council to improve the recruiting and retention of state employees from diverse backgrounds, improve the contracting process for businesses owned by Minnesotans from diverse backgrounds, and promote civic engagement for all in the State of Minnesota. The Department of Administration (Admin), created the Office of Equity in Procurement which has undertaken a range of actions and initiatives, including a 2017 Joint Disparity Study with several partner agencies.

The legislature also enacted the Human Rights Act, Minn. Stat. §363A, to implement a program to promote human rights throughout the State, to research and study discriminatory practices based upon race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, familial status, sexual orientation, or other factors. The Commissioner of Human Rights is to, among other things, develop data, receive reports, implement training, receive and resolve complaints, and collaborate with other Human Rights offices around the State.

In addition, the legislature enacted Minn. Stat. § 43A which provides for a statewide affirmative action program. It empowers the Commissioner of Minnesota Management and Budget to, among other things, set statewide affirmative action goals, establish a recruiting program, receive reports, require State departments and agencies to develop affirmative action plans, and take disciplinary action for non-compliance.

Consistent with its commitment to diversity and inclusion and with the goal to ensure compliance and create broader opportunities for under-represented groups, the State, along with the Minnesota chapters of the National Association for the Advancement of Colored People (NAACP), issued a Request for Proposal (RFP) in April of 2016 for an independent third party audit of Minnesota Statutes §§ 16B and C, §363 and §43A. The goal of the audit is to identify actions for the State “to maximize inclusive participation in the areas of equal economic opportunity for protected class people and to eliminate problems, barriers and impediments to inclusion.” The third party auditor, working in partnership with a stakeholder workgroup, is to provide a report to the Governor on the findings of the audit and its recommendations that includes, but is not limited to, the following:

- If the laws are being administered as required;

- Ways the administrative application of the laws can be improved to expand protected class groups' participation in State contracting, employment and eradicating marketplace disparities;
- Additional steps that can be taken to address oversight, coordination, and administration of the laws; and
- Identification of what skills training is required for staff charged with administering the laws.

V. THE REQUEST FOR PROPOSAL

The Request for Proposal drafted by the State of Minnesota directed the auditors to do the following:

Procurement Act

- An audit of the administrative application of Minn. Stat. §16B.875 as it relates to Department of Human Services, Economic Development and the Department of Transportation, and their efforts as it relates to protected class groups and targeted business groups' utilization.
- An audit of the administrative application of Minn. Stat. §16C.05 subd. 5 as it relates to protected class groups and targeted business groups' utilization in Saint Paul, Minneapolis, Rochester, Duluth, Saint Cloud and Mankato.
- An audit of the administrative application of Minn. Stat. §16C.06 subds. 1, 2, 6 as it relates to protected class groups and targeted business groups' utilization.
- An audit of the administrative application of Minn. Stat. §16C.16 subds. 1-13 as it relates to protected class groups and targeted business groups' utilization.

- An audit of the administrative application of Minn. Stat. § 16C.16 subd. 5 as it relates to protected class groups and targeted business groups' utilization to correct disparities.
- An audit of the administrative application of Minn. Stat. §16C.16 subd. 1 for compliance and recommendations.
- An audit of the administrative application of Minn. Stat. §16C.18 as it relates to protected class groups and targeted business groups' reports requested by the Commissioner of Administration and a summary of findings.
- An audit of the administrative application of Minn. Stat, §16C.32 as it relates to protect class groups and targeted business groups' utilization.
- An audit of the administrative application of Minn. Stat. §16C.35 as it relates to protect class groups and targeted business groups' utilization.

Human Rights Act

- An analysis of state appropriation over a 20 year period to the Minnesota Department of Human Rights and appropriations impact Minn. Stat. §363/363A (Human Rights Act) administrative and enforcement abilities.
- An audit of the administrative application of Minn. Stat. §363A.06 subd. 1(2) to determine if it could support offices in Greater Minnesota.
- An audit of the administrative application of Minn. Stat. §363A.06 subd. 1(4) to determine if it could support additional staffing.
- An audit of the administrative application of Minn. Stat. §363A.06 subd. 1(8) to determine compliance and make recommendations.

Statewide Affirmative Action Program

- An audit of the administrative application of Minn. Stat. §43A.04 subd. 3 (4) as it relates to compliance with documenting each protected class group's utilization.
- An audit of the administrative application of Minn. Stat. §43A.04 subd. 4 as it relates to procedural changes on each protected class group's availability by job category and under-utilization, and report findings.
- An audit of the administrative application of Minn. Stat. §43A.09 as it relates to research to address utilization of targeted business groups and protected class groups in employment and to assist with outreach and report findings.
- An audit of the administrative application of Minn. Stat. §43A.04 subd. 7 as it relates to each protected class group's utilization and report findings.
- An audit of the administrative application of Minn. Stat. §43A.15 subds. 1-15 as it relates to each protected class group's utilization and report findings.
- An audit of the administrative application of Minn. Stat. §43A.19 for compliance and recommendations.
- An audit of the administrative application of Minn. Stat. §43A.191 for compliance and recommendations.

The auditors were also required to meet and confer with the Governor's Stakeholder Workgroup throughout the auditing process, write and publish an accessible report that include, but are not limited to, the following:

- If the laws are being administered as required;

- Ways the administrative application of these laws can be improved to expand protected class groups participation in state contracting, employment and eradicating marketplace disparities;
- Additional steps that can be taken to address oversight, coordination, and administration of these laws; and
- Identification of what skills training is required for staff charged with administering the abovementioned laws.

VI. METHODOLOGY AND APPROACH

This audit is to provide independent, objective assurance of administrative compliance with Minn. Stat. §§16B and C, 363 and 43A. A compliance audit provides key information to stakeholders and the public to maintain accountability; to help improve program performance and operations; to facilitate decision making; and to stimulate improvements. The scope of the audit encompasses the examination of the adequacy and effectiveness of the State's implementation of the pertinent statutory provisions and the quality of performance in carrying out assigned responsibilities. The audit evaluates the consistency and efficiency of the State's practices compared to the applicable policies to determine the effectiveness of policy implementation.

Generally Accepted Government Auditing Standards (commonly referred to as "Yellow Book" standards) as promulgated by the U.S. Government Accountability Office (GAO) are applicable to the process and procedures employed in connection with the audit. Those standards include criteria pertaining to the auditor's independence, internal controls, field work, testing for compliance, findings and reporting.

The audit examined the processes and controls for procurement transactions processed by the Department of Administration. The audit also assessed Admin's implementation of the statewide Affirmative Action Program and the Department of Human Rights' enforcement of the Human Rights Act.

The audit methodology included the audit team initially reviewing the applicable sections of the law to develop an understanding of the statutory requirements. At the outset of our investigation, we also reviewed various studies and reports that contained related background information. We sent a set of document requests to the State relating to each of the three statutes seeking documents to be reviewed during our investigation. We met with the Governor's staff and the stakeholder working group to discuss our process and approach to the audit and to receive input from them.

After meeting with the stakeholder working group, we widely distributed and published notice of our interest in interviewing individuals regarding the audit and developed a survey tool to gather information. We interviewed representatives of under-represented groups, members of the stakeholder workgroup, State employees and others. The interviews were conducted in-person or by telephone, with each person offered an in-person interview. During the interviews, we focused on each of the three areas and documented anecdotal information reflecting the interviewees' experiences in the areas of procurement, human rights and the affirmative action program.

The audit team systematically reviewed the documents that we received pursuant to our initial document request and made a second request to the State for select items. The next phase of our work involved analyzing the data to determine whether the processes and procedures employed by the State departments and agencies comply with the statutory provisions. The audit

includes a narrative discussion in each area and identifies areas of compliance and areas where compliance was revealed to be lacking.

A preliminary draft of the report was provided on November 16th and we received comments, feedback and input from the stakeholder group on November 18th, which was taken into consideration by the audit team.

The Audit recommends processes and actions that may be taken, consistent with the statutes, to eliminate existing barriers, promote greater inclusion for protected groups and expand equal opportunity in the areas of contracting, employment and human rights in the State of Minnesota. The audit recommendations include best practices from other states and jurisdictions.

VII. AUDIT OF IMPLEMENTATION OF SPECIFIC STATUTORY PROVISIONS

A. AUDIT REGARDING CERTAIN PROVISIONS OF MINN. STAT. §363/363A

(HUMAN RIGHTS ACT)

1. An analysis of state appropriation over a 20 year period to the Minnesota Department of Human Rights and appropriations impact §363/363A (Human Rights Act) administrative and enforcement abilities.

The Department of Human Rights was established by the legislature to administer and enforce the Minnesota Human Rights Act. The department's primary purpose is to investigate and resolve charges of discrimination, to ensure equal opportunity is provided by contractors and to use education and outreach to eliminate discrimination and disparate outcomes. The department responds to individuals who have filed claims alleging violations of their human rights in the areas as enumerated by Minn. Stat. Chapter 363A. It also ensures that businesses seeking state contracts are in compliance with equal opportunity and affirmative action plan

requirements. The department issues equal pay certificates to contractors to ensure that they provide equal pay to their female workers. The department further issues certificates of compliance to those businesses that have an affirmative action plan approved by the commissioner of Human Rights. Municipalities that received state money for any reason are encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the qualified disabled and submit the plan to the commissioner. Minn. Stat. §363A.36 (1) (a).

ANALYSIS

The audit team requested Biennium Budget for MDHR for the past 20 years, House Research budget analysis and reports on MDHR for the past 5 years, Legislative Auditors MDHR reports for the past 5 years, MDHR, Department of Administration and Department of Management and Budget Staffing Reports on the Department of Human Rights for the last 5 years, MDHR Commissioner's report to the legislature and governor on activities and budget proposals and budget expenditures for the last 5 years, and MDHR Commissioner's policy and budget recommendations to the governor and the legislature for the past 5 years.

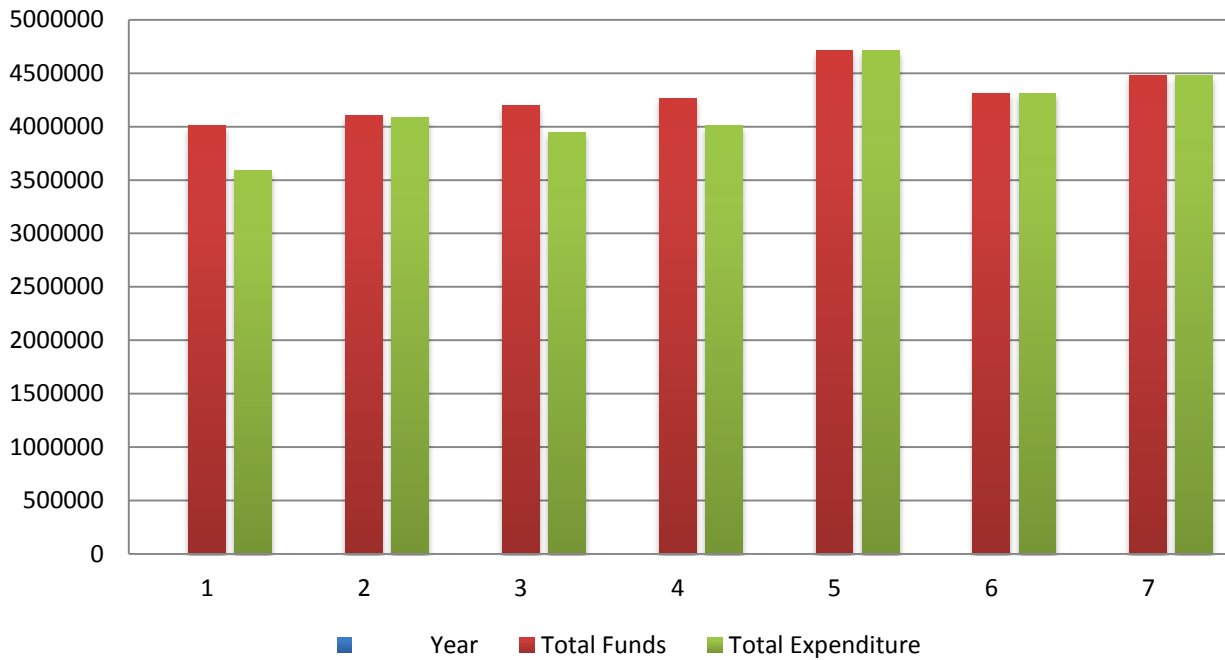
The department provided budget proposals and expenditure of the department. The file contained appropriations for the fiscal years 2012-2017 Governor's Budget, FY 16-17 Biennial Budget Change, Office of the Legislative Auditor's (OLA) audit for the fiscal year 2011-2013. The department did not provide appropriation information for 1997-2001. It provided a spreadsheet of expenditures. The audit team was able to locate OLA financial audits reports for the periods of July 1997-2004 and the Department of Human Rights Budget Overview for the years 2008-2013. The department also produced expenditure from 1968-2015, for its Saint Paul office

and payroll and lease information from 2012-2016 for its Saint Cloud office. They also produced management financial reports and Appropriation Summary from 2011-2016.

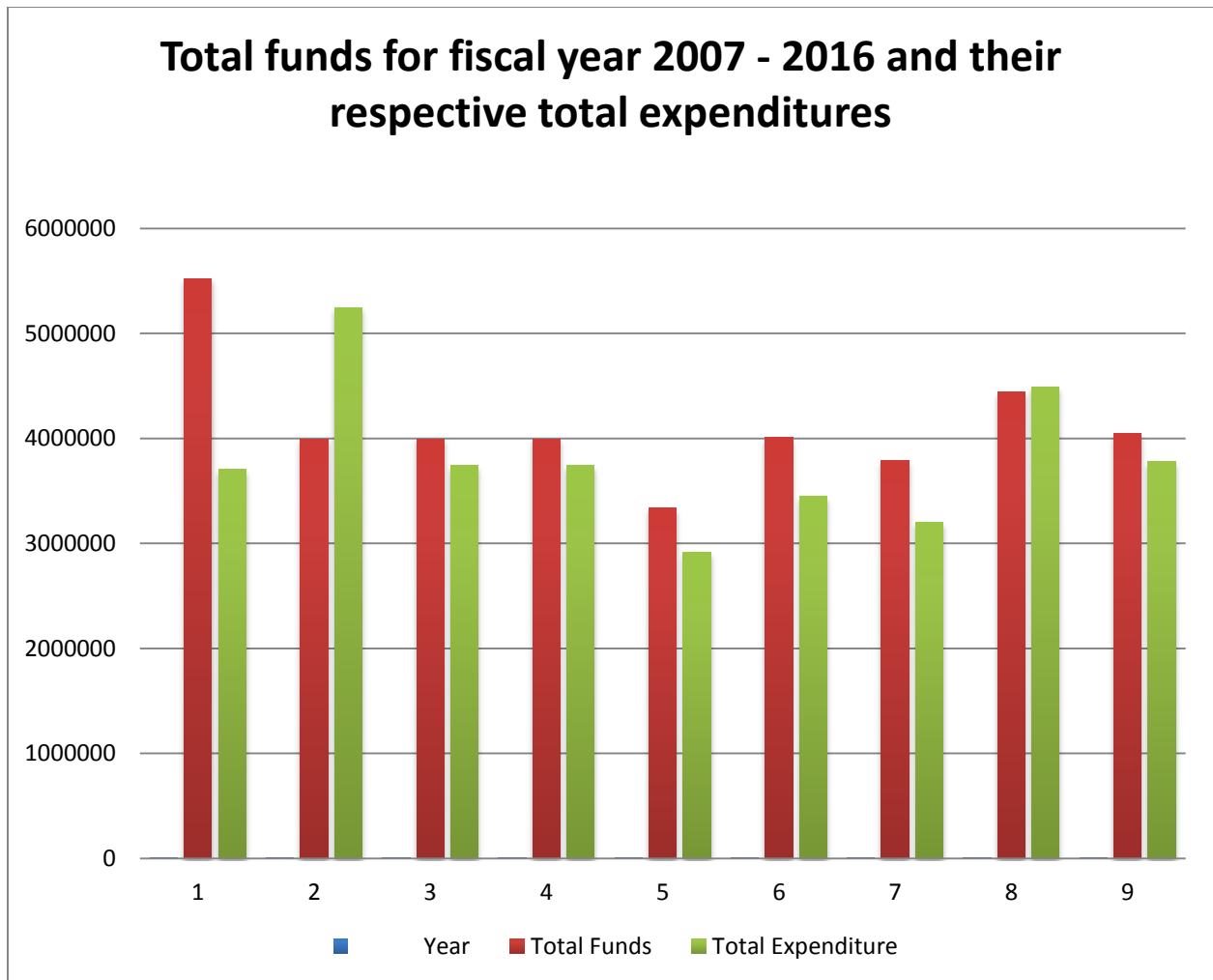
i. Appropriations

A review of the documents provided to the audit team, revealed the department's primary source of funding is from the general fund appropriations. The department also receives private grant funds and earns revenue from the Federal Equal Employment Opportunity Commission for investigating case. In 1998, the department received general fund appropriations of \$3,763,000. In 1999, the amount was increased to \$3,890,000. The general funds stayed within this range until 2002 when it increased to \$4,208,836. In the fiscal year of 2004, the department experienced a decrease in the general fund appropriation to \$3,843,582. The amount was increased to \$4,986,000 in 2008 due to a one-time appropriation for a new database system. In 2009 the amount of general fund appropriation dropped to \$3,584,000. This amount remained within the mid to lower \$3million range until 2014 when it rose again to \$4,021,000. In the current fiscal year of 2016, it decreased to \$3,723,000. The graph below summarizes the department's financial activity for the fiscal years 1997-2004.

Total funds for fiscal year 1998-2004 and their respective total expenditures



This graph summarizes the department’s financial activities for the fiscal years 2007-2016. A close review of the graph below indicates the department spent most of what it received.



Within the fiscal years 2010-2016 the department received 4375 new charges and closed 4249 cases but had 4531 cases pending. The increase in charges and pending cases was not matched by an increase in the general fund appropriation the department received in those years. Instead the general fund appropriation dropped from \$4,906,000 in 2008 to 3,171,000 in 2012 and stayed in the lower \$3 million range through 2015.

It should be noted that the department's budget is biennium meaning it is issued every two years. Sometimes money that is not spent in the first year of the biennium may be carried over to the next year but money not spent in the second year is returned to the general fund.

Therefore when there is an increase in the amount in the second year it means money not spent during the first year of the biennium was transferred to the next year. In 2002, a balance of \$113,161 was forwarded from the previous year. In 2003, \$578,518 was forwarded from the fiscal 2002; in 2004 a balance of \$115,024 was forwarded from the fiscal year 2003. In 2012 the department had a balance of \$338,000. This money was forwarded into the 2013 fiscal year. The general fund appropriation for 2013 increased by \$338,000 and was not used for that year. In addition there were other special receipts coming into the department.

Given this drop in the fund's appropriations, the department had to reduce its staff by more than half because payroll is the department's largest administrative expenditure category as shown below. The department also has to meet yearly payroll adjustment to keep up with labor agreements. The reduction of employees resulted in the decreased in the department's capacity to receive charges, investigate and issue decisions within one year as required by Minn. Stat. 363A. It also impacted the department's ability to monitor compliance by contractors and carry out many of its proactive duties outlined in Minn. Stat. 363A.06. The table below shows how a huge part of the department's expenditure is payroll.

ii. Expenditures

Year	Payroll	Administrative & Other	Total Expenditure
1998	\$2,666,183	\$922,412	\$3,588,596
1999	\$3,028,353	\$938,789	\$4,087,111
2000	\$3,116,486	\$833,204	\$3,949,691

2001	\$3,207,841	\$800,795	\$4,008,636
2002	\$3,248,000	\$1,452,861	\$4,710,861
2003	\$3,319,642	\$993,230	\$4,312,812
2004	\$2,949,500	\$1,530,823	\$4,480,323
2008	\$3,076,000	\$630,000	\$3,706,000
2009	\$3,254,000	\$1,994,000	\$5,248,000
2010	\$3,128,000	\$616,000	\$3,744,000
2011	\$3,119,000	\$627,000	\$3,746,000
2012	\$2,276,000	\$640,000	\$2,916,000
2013	\$2,345,000	\$1,102,000	\$3,448,000
2014	\$2,524,000	\$673,000	\$3,197,000
2015	\$3,055,000	\$1,439,000	\$4,494,000
2016	\$3,039,000	\$742,000	\$3,781,000

Due to lack of increase in the net amount of general appropriation fund, the department has lost its capacity to function effectively. The department has reduced the size of its staff by more than half the capacity it had in the 90s. In 1990, the department had its highest employment level of 70 staff. In 1996, the department conveyed to the Office of Legislative Auditor that with 56 full time staff, it did not have adequate resources to audit contractors. Yet the number of staff continued to drop to 46 in 2004 and 44 in 2009. In 2010, the department had 42 staff and 40 in 2011. During this period, the department experienced a 10% decrease in its budget due to government shut down. As the years went by, the number of employees decreased. Currently the

department has about 37 employees, one of its employees have given notice to quit. The department is currently interviewing for 4 positions.

As the number of employees dropped, the average case load per worker increased to 76 in 2011 and stayed in the 70's until 2014 when it dropped to 34. In 2011-2012, the department had only five staff working at its compliance unit. The five person staff was responsible for reviewing affirmative action plans, issuing workforce certification and auditing good faith efforts of contractors. The current case load per worker has increased to 53 in 2016. This account for the increased in the amount of time it took the department to investigate a case.

During the audit, members of the public were interviewed and majority stated that the Human Rights process often takes a long time, and the charging party is not given information about the result of their complaint, leading to dissatisfaction with the process. The chart below shows the department's investigative history from the years 2010-2016.

Year	CF	D	CC	PC	AC	ATC	CO1	IM	ADR
2010	380	416	429	559	37	423			
2011	856	21	542	701	76	514	51	170	149
2012	869	22	710	842	76	357	228	429	144
2013	700	40	790	732	73	387	143	790	75
2014	564	50	891	436	34	327	31	400	20
2015	620	24	619	472	39	254	18	400	39
2016	386	7	268	588	53	247	38		29

1). CF Charges Filed 2). D-Dismissals 3). CC-Cases Closed 4). PC-Pending cases 5). AC Average case load 6). ATC- Average time to close 7). CO1-Cases over 1 yr 8). IM-Investigative memos 9. ADR

The latest U.S. Census estimates created by the Minnesota State Demographic Center, indicates Minnesota's population is near the 5.5 million mark, with the number of "minorities" growing four times as fast as whites. The census figures from July 2014 showed the state's population has increased by nearly 3 percent since the 2010 census. Minorities now account for more than 1 million of the state's residents, at almost 20 percent of the total population, with Hennepin and Ramsey counties among the most diverse. While 4.4 million of Minnesota's 5.2 million residents are white, 87 percent of population growth last year came from people who are African-American, Asian, American Indian or Hispanic.

With the growth in the protected class and immigrant population also comes the need for more money to run the department. More charges will be filed, more business owned by protected groups will be formed, more certificates of compliance will be filed and more contractors will have to be monitored for compliance. The growth in the protected group population supports the need of an increase in the general fund appropriation, so that the department can effectively administer and enforce Minn. Stat §363A.

iii. Outreach and Education Programs

One of the department's primary responsibilities is to use education and outreach to eliminate discrimination and disparate outcomes. The department has conducted lots of outreach and educational programs during the last five years with the majority of them occurring in the 2011-2012 fiscal years. The commissioner has participated in over 500 events and has spoken at about 450 during the last five years. The programs include Human Rights Symposium, Diversity and Inclusion summit, photo identification/ same sex constitutional amendment ballot initiatives,

ban the box, Human Rights Commissions and Colleges/schools/Social Justice Advocacy Groups/Community Organization.

The Commissioner and the department staff have served as keynote speakers and panelists on a wide range of issues such as employment discrimination, best practices in human resources, school bullying, election reforms and creating a more inclusive society for individuals in the protected group. However, recently the department has slowed down in its outreach and educational programs effort due to lack of resources. Most of the outreach and educational programs/symposiums were conducted within the Twin Cities and some outer cities such as Albert Lee, Bemidji, Morehead, Duluth, Orono, Red Wing, Rochester, Saint Cloud and Worthington.

One of the comments from the interviews done by the audit team is that there is lack of outreach/public education/cross-cultural work in different communities. There are no clear materials, radio and TV programs in heavily policed communities that get a lot of complaints. The department does not have staffs that are specialized in racial discrimination. People want to talk to someone who looks like them. Minnesotans wants clarity, more outreach, and a more timely response. Although the department has organized some outreach and education forums, comments from interview indicates they are usually made up of small groups of individuals.

The department in it legislative reports has requested for more money to conduct outreach and educational programs. The department revealed during an interview with their management that they are aware the public wants more outreach, education and seminars. Due to lack of resources the department is not able to do more than they have done.

iv. Trainings

The department's Enforcement and Compliance unit has participated in trainings from management on recent changes in law, such as pregnancy accommodation, disparate impact analysis in housing discrimination and retaliation claims. Senior management reviews memoranda to identify training issues. Staffs also receive external trainings such as attending seminars conducted by federal agencies and legal organizations such as Minnesota State Bar Association and EEOC. Enforcement officers participate in webinars provided by federal agencies. Management acknowledges there is a need for more training, given the changes in laws, increased population and diversity. With the lack of resources the department cannot support additional trainings.

FINDINGS

The amount of appropriation the department receives is not enough to effectively perform its duties to investigate and resolve charges of discrimination, ensure that businesses seeking state contracts are in compliance with equal opportunity and affirmative action plan, to conduct outreach and education programs on discrimination and provide the necessary trainings to its employees. Most grants that the department received were for specific trainings, education and outreach projects and not for operational functions of the department. The department does well in investigating cases from English speaking filers. The department faces difficulties with cases filed by non-English filers. The department needs resources to hire compliance officers to monitor compliance with affirmative action plans and workforce compliance. More resources are needed for education outreach and to resolve language and cultural barriers.

RECOMMENDATIONS

1. Increase the appropriation amount to match the increase in expenditures and need for increased resources to enable the department to have the resources necessary to implement §363A state wide.
2. Use more social media such as radio stations and TV for education and outreach programs. Employ culturally diverse staff with more language diversity and the cultural agility to be more effective in all communities.
3. Repeal the priority focus on the duties of the commissioner (§363A.06 POWERS AND DUTIES OF COMMISSIONER. Subdivision 1)

2. Research and analysis of the State of Minnesota’s administrative application of Minn. Stat. §363A.06 subd. 1(2) to determine if it could support offices in Greater Minnesota.

The law grants the commissioner the power to formulate policies to effectuate the purposes of this chapter and to establish and maintain a principal office in St. Paul, and any other necessary branch offices at any location within the state. Minn. Stat. §363A.06 subd. 1(2).

ANALYSIS

The audit team requested MDHR and Department of Admin analysis and reports on the need for additional branch offices within the state (last 5 years); a list of all major Minnesota Cities with Human Rights offices and their budgets; staffing and function challenges; a list and duties of the Human Rights Advisory Committees throughout the State; MDHR Commissioner’s written report on the activities over the last 5 years; and MDHR Commissioner’s recommendations to the governor and the legislature.

The department in its response to request for documents directed the team to look into specific files to get reports to the legislator and recommendations to the governor. The folder contained a list of Minnesota human rights advisory commissions but the response stated that the department does not have jurisdiction over the various human rights advisory commissions or departments created by cities and counties in the state of Minnesota. In their response to the team's second request for documents, the department provided leases and payrolls to Saint Cloud Office. The department also provided its 2015-2017 Biennial budgets.

The documents reviewed indicate the department convenes the various advisory commissions to do education outreach. Management reports they would like to do more work together but are limited because of lack of resources. The department works more with the human rights department in Saint Paul and Minneapolis who have paid staff. The other cities have commissions who are volunteers but lack the necessary resources to work effectively with the department.

The commissioner has the power to assess whether there is a need for human rights offices in greater Minnesota areas on an annual basis. In 2010, due to increase in protected group population in Saint Cloud, housing discrimination issues faced and the high level of work share agreement with the City of Saint Cloud, a grant was awarded to facilitate the opening of a human rights office in Saint Cloud. This grant was issued with a termination date in 2015 and currently the grant has elapsed. There is no evidence that the Commissioner has conducted an analysis of the human rights office needs in greater Minnesota communities.

Documentation provided indicates the department's 2015-2017 budget proposal recommended \$900,000 funding to staff a team of individuals responsible for coordinating education and enforcement activities to ensure that the Human Rights Act is being followed.

The team would work on issues in the area of systemic and institutional bias, discrimination, and community distrust. The funding would be used to hire an enforcement officer in St. Cloud, staff to travel throughout the state to address these issues, and additional staffing to maintain quality assurance in enforcement activities and appeals reviews. The \$900,000 in funding for this proposal would come from the State's General Fund. The sum of \$900,000 would be allocated for FY2017, and \$800,000 would be allocated annually thereafter. The Legislature did not appropriate the full funding requested but awarded \$150,000 and across the board 1.8% increase to in operating budget to all agencies.

The Saint Cloud office needs to continue to operate but lacks the resources. The department hired two (2) staff during the summer to work at the Saint Clouds office. Currently there are two (2) full time enforcement officers working there.

Given the increase in protected group members and immigrant population in the Greater Minnesota, especially Duluth, Faribault, Willmar, Williston, Rochester, Mankato and Olmstead County areas, the State should analyze the need for increased human rights enforcement service in those areas

Interviews were conducted with a number of individuals throughout the State of Minnesota. The information gathered indicates people lack knowledge of the discrimination enforcement system process. This is particularly true amongst the immigrants and residents from non-metro areas; in particular who do know that they can file complaints. There were also complaints of cultural norms that prevent some people from complaining and the fear of being bullied and harassed for doing so.

FINDINGS

According to the League of Minnesota Cities, the state of Minnesota has 87 counties

and 853 cities with a population of 5 million and 19 immigrant communities. The protected group now accounts for more than 1 million of the state's residents, at almost 20 percent of the total population. Despite this population growth and increase in diversity, the state of Minnesota has only three full functioning Department of Human Rights Office all within the cities of Saint Paul and Minneapolis, a temporal/small regional office in Saint Cloud. Saint Cloud office has only one staff.

Residents in the non-metro cities find it difficult to access the department and are unaware of its procedures. For the past five years the department's office in Saint Cloud was funded by a grant from the City of Saint Cloud. The city used Federal Community Development Block Grant funds to support the office in violation of federal block grant policies and was forced to end the practice and refund the block grant funds used.

Representative Jim Knoblach of Saint Cloud was able to convince the state to appropriate \$180,000 in 2015 to operate Saint Cloud office for two years. The Governor's 2016 budget proposed funding for a regional office in Saint Cloud. There are 66 commissions created by the local units of government in the State of Minnesota but these commissions have no operational resources and no enforcement authority.

RECOMMENDATIONS

1. Discrimination is an important area of concern and the Department of Human Rights was created by the Human Rights Act to eliminate discrimination. If the State is really committed to eliminating discrimination then the Legislature should fully fund the Saint Cloud office.

2. Create and staff regional offices in the West, South, North and East of Minnesota especially to aid non English speaking and protected group residents in non-metro areas who

need the assistance to prevent discrimination and need assistance with the filing of charges when discrimination occurs.

3. Create a relationship between the department, the statewide advisory commissions and other human rights offices in the twin cities. Award grants to the various statewide advisory commissions and other organizations to work with the department on human rights education and efforts to prevent discrimination.

3. Research and analysis of the State of Minnesota's administrative application of Minn. Stat. §363A.06 subd. 1(4) to determine if it could support additional staffing.

The law grants the commissioner the power to employ attorneys, clerks, and other employees and agents as the commissioner may deem necessary and prescribe their duties.

ANALYSIS

The team requested the Department of Administration and Human Resources staffing reports for the last 5 years and MDHR organizational chart for the last 5 years. The team received salary expense for the fiscal years 2012-2016 and the departments' organizational chart of August 2016, the department's Management financial report and salary/payroll for Saint Cloud office.

In 1990, the department had its highest employment level of 70 staff. The number of staff dropped to 65. In 2004, the department had 46 staff and 44 staff in 2009. In 2010, the department had 42 and 40 in 2011. As the years went by, the number of employees decreased. Currently the department has about 37 employees. As the number of employees dropped, the average case load per worker increased to 76 in 2011 and stayed in the 70's until 2014 when it dropped to 34. The current case load per worker has increased to 53 in 2016. In 2012, the department adjusted its workforce goals. It had only five (5) officers responsible for reviewing the affirmative action plans, issuing workforce certificates and auditing good faith efforts of contractors and

encouraging municipalities receiving state money for any reason to prepare and implement an affirmative action plan. This affected the department's ability to perform periodic on site reviews of construction projects. This account for the increase in time it took the department to investigate and issue a decision on a case.

Although the Department has incurred cuts in its general fund appropriation over the years, it has reduced the average time it takes to close a case. In 2010 it took 430 days. The following year, the department experienced an increase in the number of days it took to investigate a case due to government shut down. The department has gradually reduced the average time to close a case to 247 days in 2016. Cases over a year have reduced from 169 days in 2012 to 38 days in 2016.

In the biennial year of 2014-2015, the department also took an additional task of monitoring equal pay compliances. The Legislature funded the start-up expense only. The department was also responsible for the Ban the Box for private employers, serving on School Safety Technical Assistance Council and serving on the Minnesota Emerging Entrepreneur Board, the marriage amendment, inclusion and diversity with no additional funding. In 2015, despite the Governor's proposal of an increase in the department's base funding of \$900, 000, the Legislature provided only \$150,000. In 2016 the Legislature provided \$180, 000 specifically for the Saint Cloud office.

The organizational chart reviewed shows that the department currently has 33 filled positions. From the department 2016 financial report and an interview with staff on December 19, 2016, the department currently has 37 full time employees. One is moving out of state and has issued a two-week notice to quit. The number of staff at the Saint Clouds office has fluctuated between one and two full time employees. This office as previously noted was

funded by a five (5) year grant from the City of Saint Cloud. The City of Saint Cloud no longer funds the Human Rights office in Saint Cloud. The department previously used enforcement officers from its main office in Saint Paul to work in the Saint Cloud. Recently, the department has hired two (2) staff to work solely at its Saint Cloud office. About 9,857.75 hours of work was done in the Saint Cloud office for the fiscal years 2012-2016.

With growing diversity in the state, issues of alleged bias will continue to increase and this will lead to the need for an increase in the number of staff to meet the needs of the state to police human rights enforcement, monitor compliance by contractors and carry out many of its proactive duties outlined in Minn. Stat. §363A. The department's budget together with the additional responsibilities and with limited resources cannot be expected to perform its functions effectively as required by statute. The organizational chart indicates the positions for office support, enforcement officer in the twin cities and Saint Cloud, legal director and legal analyst are vacant.

FINDINGS

The department's inventory has expanded over the years and in addition to its expanded responsibilities for auditing equal pay compliance, the department it has acquired new responsibilities such as enforcing the Ban the Box for private employers, marriage amendment, equal pay, serving on School Safety Technical Assistance Council and Serving on Minnesota Emerging Entrepreneur Board. This increase in responsibility did not come with an increase in resources to perform the responsibility. Instead the Statewide budget has caused the department's staff to half the number it had in the 90's. The City of Saint Cloud's grant to operate the Human Rights office in Saint Cloud has ended. That office needs about two or more full time staff to function. The department

does not have staff to engage in outreach and education programs.

RECOMMENDATIONS

The department should return its staff levels to at least the levels in the 90's and early 2000s. The additional staff will be assigned to regional offices and travel throughout the regions of the state to address discrimination and employ initiatives that prevent discrimination, maintain quality assurance in enforcement activities and conduct appeal reviews. Adding staff to the department's enforcement and compliance unit and administrative support will increase the department's capacity to complete investigations and move cases to final resolution. It will provide increased geographic accessibility to MDHR's services outside of the Twin Cities Area and make departmental resources more accessible to non-English speaking people.

4. Research and analysis of the State of Minnesota's administrative application of Minn. Stat. §363A.06 subd. 1(8) to determine compliance and make recommendations.

Pursuant to this statute, the Commissioner has the power to issue complaints, receive and investigate charges filed alleging unfair discriminatory practices, and make a determination whether or not probable cause exists for hearing to be conducted.

ANALYSIS

An administrative rule 5000.0300-5000.0900 was established to implement the provision of this section. The law gives the commissioner the power to issue a complaint when the commissioner has determined that probable cause for discrimination exists and after attempts to eliminate the unfair discriminatory practice by conciliation have been terminated, or when the commissioner has reason to believe that a person is engaging in an unfair discriminatory practice. Minn. Admin. Rules. 5000.0900 Subp 1. The commissioner may also bring a civil action seeking to redress unfair discrimination in the district court. Minn. Stat. §363A. 33 Subd

1.

We requested MDHR commissioner reports on complaint enforcement for the last 5 years, MDHR list of discrimination complaints for the last 5 years by complaint category, MDHR Commissioner's programs that aid in determining human rights compliance throughout the state (major population centers) with the provisions of this chapter for the last 5 years, MDHR Commissioner's research and studies of discriminatory practices based upon race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, familial status, sexual orientation, or other factors over the last 5 years, MDHR Commissioner's development accurate data on the nature and extent of discrimination and other matters as they may affect housing, employment, public accommodations, schools, and other areas of public life over the last 5 years, MDHR Department of Labor Apprenticeship Training Reports for the last 5 years, MDHR Labor unions' affirmative action program reports for the last 5 years, MDHR State Departments affirmative action plans and reports for the last 5 years, MDHR general and subcontractors affirmative action plans (samples) and list of modifications over the last 5 years, MDHR report on the implementation of general contractors and subcontractor affirmative action plans for the last 5 years, MDHR Website review for accessible compliance reports for the last 5 years and MDHR State Technology and Facility Accessibility reports for the last 5 years.

We also requested a list and random sample (all contracting categories) of complaints made to MDHR by contracting companies for the last 5 years and the resolution of those complaints, MDHR Work Share Agreement with the Equal Employment Opportunity Commission and Reports for the last 5 years, MDHR Process Improvement Initiatives launched by the Department to decrease the number of cases older than one year and reduce the average

time to issue a determination and results reports over the last 5 years, MDHR activities and reports at the St. Cloud Office over the last 5 years, MDHR interagency agreements with other human rights offices in the state and reports related to the agreements, MDHR list of probable cause cases for the last 5 years and MDHR report on collaboration efforts with local Fair Employment Practices Agencies for the last 5 years.

The team received 2012 diversity report on affirmative action plans, a list of compliance certificates issued for the last five years, workforce certificate holder's list, a 2016 equal pay audit report, MDHR workforce audit 2016, symposium, projects over 10000 hours, MDHR complaint handling chart, enforcement case summary report, list of no probable and probable cause determinations for the last five years, MDHR legislative reports from 2011-2016, workshare agreements with EEOC, salary and lease agreement report for Saint Cloud office, MDHR Attorney General litigation report and MDHR complaint handling chart,

i. The Department's Investigations Process

When a charge is filed, the department determines if it falls under the Human Rights Act. If the charge is covered under the act it sends the charge to the respondent. At this point mediation is optional. The parties may choose to mediate and if successful close the case. If mediation is declined the department then interviews identified individuals with knowledge of the charges and reviews documents provided that are relevant. The department also reviews applicable laws and administrative rules and makes a determination.

If the department makes a determination of no probable cause the case is closed with an option to appeal. When the department issues a no probable cause determination it informs the charging party that he or she may file a legal action within 45 days. When the department makes a probable cause determination it tries to settle the dispute through conciliation. The majority of

the probable cause determinations are resolved through the conciliation process. When the department is unable to resolve the dispute through conciliation, the department refers this cases to the Attorney General's office to be litigated in compliance with M. S. §363A. 32. Although this section requires cases to be referred to the attorney General, the Commissioner can still file a charge directly with the district court. *Minn. Stat. §363A. 33 Subd 1*

ii. Strategies Implemented

In 2010 the department was using the "Docket and Dismiss" program where cases were administratively dismissed without investigation if determined to be without merit. The average time it took the department to investigate a discrimination charge was about 423 days. Under this program about 416 charges were dismissed in 2010. In 2011 the department instituted the "Rocket Docket" program to give expedite cases that could be resolved quickly. This program allowed the department to resolve non-complex cases with few issues and witnesses. The department eliminated the "Docket and Dismiss" program which resulted in an increase in the number of pending cases for the next three years. This was due to the fact that older cases were added to the department's inventory. The Department eliminated sending out questionnaires to individuals as part of the charge drafting process. The elimination of questionnaires resulted in the Department completing the drafting of more than 95 percent of its initial charges in less than a week. By 2014 the "Rocket Docket" program paid off and the number of pending cases dropped. Currently the average time to investigate a charge is 247 days.

The department also focused on eliminating older cases and by 2015 charges above one year dropped from about 228 to 18 in 2015 and 38 in 2016. From 2011 through 2016 the department issued about 2627 no probable cause determination, 268 probable cause determinations cases and settled about 198 cases in conciliation. The department currently has

about 14 active litigation matters with the Attorney General's office. Given that the Attorney General is overwhelmed with cases to litigate and other responsibilities, the department exerted effort to get respondents to settle in conciliation court. The department currently receives charges by phone and uses a sign language staff. The department has contracted with a language line for non-English speakers.

From interviewing attorneys who have had experience filing cases with the department, they complain that transfers of file from EEOC to the department create major delay. Attorneys' also complained that more experienced mediators are needed for mediation. They complain that coordination between the EEOC and MDHR is lacking.

FINDINGS

The department is following its procedure and this reflects in the outcomes. The department has reduced its case inventory. Cases over the years have dropped to its lowest since the department was created. The department has settled the majority of the cases in which probable cause was determined. The department forwarded the cases it could not resolve to the attorney general's office. Although the Attorney General is attorney for the commissioner, they are sometimes overwhelmed with cases.

The Attorney General has about 14 active litigation matters. Not all cases referred to the attorney general are taken by that office. The Attorney General has other cases and responsibilities. This has forced the department to aggressively pursue conciliation to settle or close cases for charging party to pursue litigation in court. The department acknowledges the need for legal representation.

RECOMMENDATIONS

1. Legislature should give the commissioner the power to hire its own attorneys as part of his staff to litigate probable cause cases.
2. Introduce a grading system for employers/companies for whom discrimination charges have been brought against just as Better Business Bureau does.
3. Improve coordination with EEOC so that file transfer from EEOC to MDHR will occur smoothly. Closing of the files should simultaneously between the two organizations to avoid confusion for clients.

5. INTERVIEWS - HUMAN RIGHTS ACT:

FINDINGS

Many people are not aware of the role of the Department of Human Rights. This was particularly so with immigrants and people in rural areas of the state. People do not know what to do or who to call if they have been discriminated upon. People, who know about the department, do not know how to access it.

There is a lack of faith in the agency. People who have been involved with the agency in the past tell their stories to others and they do not bother to file complaints with the agency assuming that nothing will be done.

There were complaints about how long the complaint process is taking and some indicated that they do not know what the decisions are in their cases or if any decisions have been made at all leading to dissatisfaction with the process and a possible belief that the respondent did not get punished because they were white or had a relationship with the investigators.

There are forces in some communities that pressure people to be silent in the face of discrimination. These include cultural norms that work against complaining or that avoid drawing attention to the group; and bullying/social shunning of people who complain about discrimination. It's hard to stay in a workplace or live in a small town if people won't talk to you because you stood up for your rights.

Human Rights Commissions in most cities in greater Minnesota have no funds or are under-funded and lack staff. Members of the commissions are volunteers and do not show up for meetings resulting in a lack of quorum to make any meaningful decisions.

There is a lack of enforcement of human rights laws, even when determinations have been made. Some said it is particularly hard in small towns where buy-in might be weaker. For example, building codes are not enforced in smaller communities. Disabled people cannot get into buildings with their wheelchairs. Building renovations or add-ons do not meet the code requirements for basic accessibility and nobody seems to be enforcing that. If you living in a small town and you raise these issues, you get ostracized. People are fearful of retaliation and losing friends.

We found that people were frustrated with the data privacy laws used to deny them information about their case. If you file a complaint, you should know the details of the investigation and what the outcome is.

The department should be able to tell people upfront if they have a case or not. People get high hope when the department accept their complaints and take long to investigate it. Their hopes are then dashed when they are informed that there is no probable cause. Everyone who files a complaint ought to feel that the department bent over backwards for them.

RECOMMENDATIONS

Recommendations proposed include the following: outreach/public education/cross-cultural work in different communities. The department should be at community events, have their table with materials and staff who can talk to people in the community about what the department does. There should be radio and TV programs in communities that get a lot of complaints. There needs to be more education of what human rights violations are and what people need to do if they feel their rights have been violated.

The department should hire people who look like the people who live in the communities. Most people want to talk to someone who looks like them. Somali person would want to speak to a Somali person.

The State should find ways to strengthen the Human Rights Department and the community's faith in its ability to help by increasing its staffing and resources. The Human Rights Department needs to have more transparency, open communication and a presence in the communities throughout the state.

Evaluate the state's system of Human Rights Commissions to make sure they are aligned with the department, in action, and effectiveness. Consider further empowering these groups to enact programs to prevent discrimination rather than only responding after the fact. If possible, encourage people to report discrimination anonymously or privately so their community does not need to find out.

B. AUDIT REGARDING CERTAIN PROVISIONS OF M.S. § 43A (AFFIRMATIVE ACTION PROGRAM)

1. The administrative application of Minn. Stat. §43A.04 Subd. 3(4) as it relates to compliance with documenting each protected class group's utilization.

Under Minn. Stat. §43A.04 Subd. 3(4), the commissioner is required to adopt rules under the Administrative Procedure Act to implement the provisions of the chapter that directly affect the rights of or processes available to the general public. The rules have the force and effect of law and may include but are not limited to a statewide affirmative action program to include requirements for agency affirmative action plans, statewide policies and procedures, reporting requirements, accountability and responsibility of employees in the executive branch, and overall objectives of the program.

Pursuant to this section of the statute, the Commissioner adopted Rule 3900.0400. Subp.2 which defines affirmative action as “a management point of view that all barriers to employment opportunity that are not based on specific job requirements should be identified and removed and that initial employment and advancement opportunities for persons in protected groups shown to be underutilized in an agency's work force should be facilitated so that the imbalance is redressed.” Affirmative Action Plan is defined in Subp. 3 as “a coherent set of management policies and procedures designed to find any barriers contributing to imbalance in an agency's work force and to foster the correction of any imbalances which exist.”

The Rule also defines "Goal" in Subp. 10 as “a numerical objective designed to correct an identified deficiency in the utilization of protected group members.” The Rule further defines “underutilization” in Subp. 21 as “the employment in a goal unit of fewer qualified protected group members than would reasonably be expected from their workforce participation in the labor market area.” The term “Protected groups” is defined in Minn. Stat. §43A.02, Subd. 33 as

“females, persons with disabilities, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native.”

ANALYSIS

The Statewide Affirmative Action Program is found in Chapter 3905 of Minnesota Administrative Rules. All agencies in the executive branch of government are required to have an affirmative action plan administered by the head of the agency. The rules lay out a plan for agencies with more than 25 employees and another for those with less than 25 employees. There is a requirement that the affirmative action plans have a complaint procedure, goals and timetables. For the requirements of goals and timetables, each agency is required to determine underutilization of protected groups based on types of jobs within each agency and agency subdivision; number of employees in those jobs, by state class title, and by protected group; availability of protected group workers having the qualifications for those jobs; and geographic locations and applicable labor market areas for each type of job in each agency and agency subdivision. Agency heads are required to establish numerical goals and goals for each goal unit by protected group. There is a reporting requirement for agencies with more than 25 employees to submit a report on their affirmative action efforts every quarter and for agencies of fewer than 25 employees to do so semiannually. Each agency is also required to submit to the commissioner a report of the results of its affirmative action plan biennially.

FINDINGS

The documents submitted to us following our document request reveal that all the agencies in the executive branch have in place affirmative action programs that comply with the requirements of Minn. Stat. §43A.04 Subd. 3(4). In all agencies affirmative action plans that we reviewed, the job category availability, utilization, annual goals, and underutilization data shows

numbers for women and individuals with disabilities. There is no data for each of the protected groups of Black, Hispanic, Asians or Pacific Islanders, and American Indians or Alaskan Native as defined in the administrative rules. In all of the plans protected groups are lumped under a new category of “racial/ethnic minorities” which is not a category of people in the statutes or rules. By using the “racial/ethnic minorities” label, for Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan Native, the State has no information to track the progress of Blacks, Hispanics, Asian or Pacific Islanders, and American Indians or Alaska Indian as is done for women and individuals with disabilities.

This falls short of the State’s policy of implementing and maintaining an affirmative action program designed to eliminate underutilization of qualified protected group members within the state civil service through a series of specific, result-oriented procedures combined with good faith effort. We found this consistent in 2010-2012, 2012-2014, 2014-2016, and the 2016-2018 Affirmative Action Plans. Below is a sample report done by Minnesota Department of Human Services.

DHS**JOB CATEGORY AVAILABILITY/UTILIZATION/UNDERUTILIZATION ANALYSIS & ANNUAL GOALS**

Worksheet for comparing incumbency to availability and setting goals to correct underutilization.

WOMEN									
Job Categories	Total Employees in Job Group	Total Number of Women in Group	% of Women in the Group	Availability %	Availability Number	AAP 2014-2016 Number Underutilize	AAP 2012-2014 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	264	155	58.71%	0.40	106	0	0	Same	0
Professionals	2712	1961	72.31%	0.56	1511	0	0	Same	0
Paraprof/Technicians	2350	1791	76.21%	0.57	1344	0	0	Same	0
Protective Services	732	239	32.65%	0.35	256	17	0	Not Improved	17
Office/Clerical	348	314	90.23%	0.63	221	0	0	Same	0
Skilled Craft	58	1	1.72%	0.06	4	3	4	Improved	-1
Service Maintenance	142	76	53.52%	0.44	63	0	0	Same	0
Totals	6606	4537	68.68%						

MINORITIES									
Job Categories	Total Employees in Job Group	Total Number of Minorities in Group	% of Minorities in the Group	Availability %	Availability Number	AAP 2014-2016 Number Underutilize	AAP 2012-2014 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	264	23	8.71%	0.11	29	6	10	Improved	-4
Professionals	2712	333	12.28%	0.13	339	6	126	Improved	-120
Paraprof/Technicians	2350	296	12.60%	0.13	294	0	77	Improved	-77
Protective Services	732	51	6.97%	0.12	89	38	53	Improved	-15
Office/Clerical	348	54	15.52%	0.12	43	0	1	Improved	-1
Skilled Craft	58	1	1.72%	0.12	7	6	5	Not Improved	1
Service Maintenance	142	10	7.04%	0.17	24	14	9	Not Improved	5
Totals	6606	768	11.63%						

INDIVIDUALS WITH DISABILITIES									
Job Categories	Total Employees in Job Group	Total Number of Indiv./ with Disabilities	% of Indiv. w/ Disabilities in the	Availability %	Availability Number	AAP 2014-2016 Number Underutilize	AAP 2012-2014 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	264	19	7.20%	7.00%	18	0	9	Improved	-9
Professionals	2712	167	6.16%	7.00%	190	23	157	Improved	-134
Paraprof/Technicians	2350	59	2.51%	7.00%	165	106	192	Improved	-86
Protective Services	732	14	1.91%	7.00%	51	37	74	Improved	-37
Office/Clerical	348	19	5.46%	7.00%	24	5	16	Improved	-11
Skilled Craft	58	3	5.17%	7.00%	4	1	5	Improved	-4
Service Maintenance	142	3	2.11%	7.00%	10	7	12	Improved	-5
Totals	6606	284	4.30%						

Source: American Fact Finder, operated by the U.S. Census Bureau. Labor Statistics for women and minorities compiled from the American Community Survey (2006-2010)., released in March of 2013. Statistics for individuals with disabilities are taken from OFCCP (Office of Federal Contract Compliance Programs) and are based upon data derived from the American Community Surveys (2006-2010).

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RECOMMENDATIONS

Each agency Affirmative Action Plan should review and provide numbers for each of the protected group- Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native. This will help the State know whether it is addressing disparities in each of these groups and be able to design targeted programs or solutions to deal with their underutilization.

There should be a revision of all Affirmative Action Plans to include the protected groups of Black, Hispanic, and Native American instead of “racial/ethnic minorities” to adequately account for these groups individually. An example of best practice in reporting can be found in the City of Saint Paul utilization report. The City tracks and reports quarterly on its workforce utilization by race, sex and disability. Below is a table of the City of Saint Paul Workforce utilization.

TOTAL UTILIZATION REPORT



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

DEPARTMENT OF HUMAN RESOURCES
Angela Nalegry, Director

Citywide Total
10/4/2016

FULL TIME EMPLOYEES		PERSONS OF COLOR																				%F	%PoC	%DIS	%WM
		WHITE			BLACK		HISP.		ASIAN		N. AMER		P. ISLANDER		TWO OR MORE		DISAB.								
		Total	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F							
Administration	87	54	33	48	28	4	3	1	0	1	1	0	0	0	0	0	1	0	1	37.93	12.64	1.15	55.17		
Administrative Support	352	66	286	45	206	9	20	0	14	7	28	1	2	0	1	4	15	4	10	81.25	28.69	3.98	12.78		
Professional	408	189	219	151	185	17	7	3	3	14	19	0	0	0	4	5	7	1	53.68	17.65	1.96	37.01			
Protective Service - Nonsworn	61	53	8	18	3	12	2	7	0	14	2	1	1	0	1	0	1	0	13.11	65.57	1.64	29.51			
Protective Service - Sworn	1001	889	112	680	96	53	1	52	2	52	4	16	5	1	35	4	25	1	11.19	22.48	2.60	67.93			
Service Maintenance	402	339	63	265	56	26	5	17	0	6	1	4	0	0	21	1	16	0	15.67	20.15	3.98	65.92			
Skilled Craft	145	143	2	125	2	6	0	5	0	1	0	4	0	0	2	0	6	0	1.38	12.41	4.14	86.21			
Technical	299	214	85	173	63	12	7	6	1	14	11	0	1	0	9	2	12	2	28.43	21.07	4.68	57.86			
Totals	2755	1947	808	1505	639	139	45	91	20	109	66	26	9	1	1	76	28	71	29.33	22.18	3.12	54.63			

OTHER THAN FULL TIME EMPLOYEES		PERSONS OF COLOR																%F	%PoC	%DIS	%WM	
		WHITE			BLACK		HISP.		ASIAN		N. AMER		P. ISLANDER		TWO OR MORE		DISAB.					
		Total	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M					F
Administration	8	5	3	4	3	0	0	0	0	1	0	0	0	0	0	0	0	0	37.50	12.50	0.00	50.00
Administrative Support	95	30	65	13	28	7	11	1	6	7	19	0	0	0	1	1	5	3	68.42	55.79	8.42	13.68
Professional	8	2	6	1	4	1	0	0	0	2	0	0	0	0	0	0	0	0	75.00	37.50	0.00	12.50
Service Maintenance	67	46	21	14	11	16	5	3	0	10	3	1	1	0	2	1	0	0	31.34	62.69	0.00	20.90
Technical	3	2	1	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	33.33	0.00	0.00	66.67
Totals	181	85	96	34	47	24	16	4	6	18	24	1	1	0	3	2	5	3	53.04	54.70	4.42	18.78

An Equal Opportunity Employer

2. The administrative application of Minn. Stat. §43A.04 subd. 4 as it relates to procedural changes on each protected class group’s availability by job category and under-utilization.

Minn. Stat. § 43A.04, Subd.4 requires the Commissioner to develop administrative procedures and make them available to agencies, employees and other appropriate representatives for at least 15 days prior to implementation in: maintenance and administration

of a plan of classification for all positions in the classified service and for comparisons of unclassified positions with positions in the classified service; 2) procedures for administration of collective bargaining agreements and plans established pursuant to section 43A.18 concerning total compensation and the terms and conditions of employment for employees; 3) procedures for effecting all personnel actions internal to the state service such as processes and requirements for agencies to publicize job openings and consider applicants who are referred or nominate themselves, conduct of selection procedures limited to employees, noncompetitive and qualifying appointments of employees and leaves of absence; 4) maintenance and administration of employee performance appraisal, training and other programs; and 5) procedures for pilots of the reengineered employee selection process.

The commissioner will provide public notice of any pilot directly affecting the rights of and processes available to the general public and make the administrative procedures available for comment to the general public, agencies, employees, and appropriate exclusive representatives certified pursuant to sections 179A.01 to 179A.25 for at least 30 days prior to implementation.

ANALYSIS

Rules promulgated pursuant to this statute, authorize appointing authorities to make appointments to unclassified positions without public notice and appointment to an unclassified position any person they consider qualified. This rule gives appointing authorities a lot of discretion on who to hire for unclassified appointments.

There is no mandate for appointing authorities to consider their affirmative action goals when making these appointments. For appointments to positions for which compensation is established by statute, the appointing authority is required to submit the person's resume to the

commissioner. The rule does not indicate what the commissioner must do with the resume and whether the commissioner has authority to overrule the selection decision of the appointing authority. This leaves the appointing authority with a lot of discretion in the appointment of unclassified positions. *See* Rule 3900.9100.

In routine service appointments, the commissioner through public notice designates the routine service classes and describes the procedures to be used in recruiting and selecting persons for these appointments. This action by the commissioner controls and guides how appointing authorities make routine service appointments. *See* Rule 3900.8700.

The administrative rules state that appointments in the classified service must be filled from the applicant pool with some exceptions under chapters 3900 and 3905 of the statutes. An appointing authority may select an applicant from the applicant pool after comparing the knowledge, skills, and abilities of the applicant with the specific needs of the position and agency. The rule defines specific needs to include meeting the agency's affirmative action goals.

The appointing authority is required to submit to the Commissioner appropriate appointment forms which must include the effective date of the appointment. There is no directive on what the commissioner does with the forms and whether the commissioner has review authority to make sure the appointing authority has taken into consideration the specific needs of the agency, especially the agency's affirmative action goals.

FINDINGS

No information was provided or found on whether the state made any procedural changes to M.S. 43A.04 subd. 4 to affect protected class groups' availability by job category and under-utilization.

RECOMMENDATIONS

Appointing authorities should be required to give notice of openings in unclassified positions and be required to consider the agency's affirmative action goals in selecting candidates for these positions.

The commissioner should have more oversight on this process beyond the requirement that the appointing official send in the resume of the appointee. The commissioner should be given approval authority to verify that affirmative action goals were taken into consideration before these appointments are made.

3. The administrative application of Minn. Stat. §43A.09 as it relates to research to address utilization of targeted business groups and protected class groups in employment and to assist with outreach and report findings.

Minn. Stat. §43A.09 requires the commissioner in cooperation with appointing authorities of all state agencies to maintain an active recruiting program publicly conducted and designed to attract sufficient numbers of well-qualified people to meet the needs of the civil service, and to enhance the image and public esteem of state service employment. The statute also require that special emphasis be given to recruitment of veterans and protected group members to assist state agencies in meeting affirmative action goals to achieve a balanced work force.

ANALYSIS

Youth Recruiting

To implement this section of the statute, the state through Minnesota Management and Budget has partnered with Right Track (Saint Paul) and STEP-UP (Minneapolis) to develop a pipeline of diverse talent to meet its future workforce needs.

Right Track has four programs- YJ01, which subsidizes jobs in parks, libraries, nonprofits, recreation, gardening, the arts, and more; YJ02, which provides employer-paid internships and professional skills training; YJPro, which connects youth and young adults with advanced internships and training opportunities through strategic partner organizations that build skills for specific careers; and Genesys Works, where young professionals work an average of 20 hours per week at one of nearly 50 corporate clients, including companies like 3M, Cargill, Xcel Energy, UnitedHealth, Medtronic, Target and Best Buy in IT-internships.

Step-Up Achieve provides work-readiness training, great on-the-job experience, and connections with adult professionals who can support youths in achieving their career and college goals. The organizations helps youths in Minneapolis gain greater confidence and learn how to succeed in a professional environment. Step-Up was created in 2004 to serve Minneapolis youth and young adults who faced barriers to employment, including youth from lower economic backgrounds, youth of color, and youth with disabilities. Since the program was launched, it has provided over 18,000 internships. STEP-UP interns explore diverse career interests, gain valuable on-the-job skills, make strong professional connections, and prepare for meaningful careers.

FINDINGS

Our review of these partnerships reveals Right Track and Step-Up are important partners in the State's recruitment efforts and provides a pipeline for cultivating youth's interest in public sector careers and jobs. However, in the case of Right Track, the state only works with the YJ02 program and does not work with the YJ01, YJPro and the Genesys Works programs. There is a lot of potential in the YJPro and Genesys Works Programs that the state needs to explore if it wants to compete with corporations for the best talents. We did not see similar partnerships with

organizations in greater Minnesota. Cities like Duluth, Austin, Rochester, and Mankato, do have youths and young protected group people who could benefit from a similar partnership between the state and a youth organization.

RECOMMENDATIONS

Expand youth recruitment and employment programs to include YJ01, YJPro and the Genesys Works programs. These youth programs should be expanded beyond Minneapolis and Saint Paul to greater Minnesota to attract talents from these localities.

Interns and Student Workers

The state also indicates that it will provide internships and student work positions to secondary or post-secondary students so that they can get on-the-job experience and an introduction to state government. This program requires that state agencies post internships and student work opportunities on the State of Minnesota Career website, to allow students to easily locate job opportunities by going to the “search for jobs” section of the website.

The state also has the Star of the North Fellowship Program open to applicants who have or will soon attain advanced degrees, and who demonstrate an interest in a career in public service. Each year the program provides 18 fellowship opportunities across 8 agencies for 12 months salaried positions focused on Policy analysis and development; technology investment management; business process improvement; statistical and data analysis; development of data analytics tools; public procurement; plain language principles; financial analysis; new budgeting approaches; best practice research; and technology change and business implications.

During the time that these students work for the agencies, they participate in monthly fellow meetings, informational interviews with senior state executives and managers, networking opportunities, and training events. This is an essential pipeline for getting students interested in

state employment opportunities and should be expanded to include more state agencies. The state directs agencies to use college resources such as the MNSCU directory and GoldPass-University of Minnesota to post job openings; network with college career services; and join groups like the Minnesota Association of College and Employers (MN ACE).

In the summer of 2016, the State participated in the Urban Scholars program hosting 16 full-time interns focusing on leadership and professional development during their 12 week paid internship. Urban Scholars is a program that seeks to close the employment gap. It is managed and branded through the Equity Division - Minneapolis Department of Civil Rights. To accomplish its goal, Urban Scholars provides undergraduate and graduate students from diverse racial and ethnic backgrounds an employment experience to afford them opportunity to gain skills to begin careers in the public and/or private sectors. The State of Minnesota was able to provide 2 out of 16 interns full-time permanent employment after their 2016 experience. Additionally 7 of the 16 from 2016 interns have indicated to return to the State for the 2017 summer program. The State of Minnesota is committed to 32 Urban Scholars for 2017.

FINDINGS

These programs however do not make it mandatory for all state agencies to post their internships and student work openings on the State of Minnesota Career website. There are other state agencies that post these openings on their agency sites. This makes it difficult for students looking for internships and work opportunities as they have to go through the 206 other state websites to find internships and student work opportunities.

RECOMMENDATIONS

The State should centralize the posting of these positions on State of Minnesota Career website and require all agencies to post the positions on the site.

Persons with Disabilities

For recruitment of persons with disabilities, the state uses the help of Vocational Rehabilitation Services, an organization which provides training, finds qualified candidates and providing the state access to pre-screened applicants. The state also works with the State Services for the Blind, which provides services to individuals who are blind, visually impaired or Deaf/Blind, to match workforce needs with qualified graduates from its program. Talent Acquisition Portal (TAP), an online system, provides a job posting portal for a talent pool of vocational rehabilitation candidates looking for employment.

The state further taps into national resources for recruitment of people with disabilities including the Autistic Self Advocacy Network (ASAN), Career Opportunities for Students with Disabilities (COSD), Disabled person, Disability.gov, Employer Assistance and Resource Network (EARN), National Federation for the Blind (NFB), National Telecommuting Institute, Inc. (NTI), Office of Disability Employment Policy ODEP Employment First Program, Office of Disability Employment Policy ODEP Add Us In Initiative, Ticket for Work Employment Networks and Work Force Recruitment Program.

Starting in 2012, the State has increased its recruitment efforts for persons with disabilities. It participated on the Employer Task Force headed by the Commission on Deaf, Deaf/Blind and Hard of Hearing to strategize on how to improve recruiting and hiring of persons with disabilities. The State has also presented in many disability forums promoting the work of the state and the opportunities and careers available with the state.

FINDING

There is little to nothing we saw from our review that the state is doing to recruit people with mental disabilities to state employment.

RECOMMENDATIONS

The state should create programs specifically targeted to assisting people with mental disability get employment opportunities with the state.

Veterans

Applicants are encouraged to indicate their veteran status on the State of Minnesota Careers website when they submit an application. The state directs agencies to post job openings on Minnesotaworks.net and label them veteran friendly. Department of Employment and Economic Development (DEED) through its Veterans Employment Services matched veterans seeking employment and businesses interested in hiring them. Other resources for veterans included Beyond the Yellow Ribbon and the American Job Center website.

To assess Minnesota's efforts as an employer of veterans, the 2009 Legislature directed Commissioner of MMB to annually collect veteran employment data from each cabinet-level state agency. Executive Order 10-13 also instructs state agencies to report their veteran focused recruitment and retention activities which demonstrates their support and commitment to being a veteran friendly employer. The 2009 law requires state agencies to interview the top five Recently Separated Veterans (RSV) who apply for and meet the minimum qualifications of a vacant position. Eligible veterans may not be terminated from employment, except as permitted by statute. Employers must notify the veteran of their proposed termination and inform the veteran of their right to contest the termination in a formal hearing.

State agencies have conducted veteran focused recruitment and retention activities; provided integration education and guidance; built partnerships with veteran organizations and advocates; provided support to deployed military employees; and retained job classifications whose sole purpose is supporting veterans and in some cases must be filled by veterans.

Various organizations provide assistance to veterans seeking employment. DEED Veteran Workforce Programs/Veteran Employment Services provide individualized assistance with resumes, interviewing skills, networking techniques, referrals to other veteran services, and assistance connecting with employers. The Minnesota Department of Veterans Affairs, DEED and MNSCU have veteran focused positions to support veterans as they reintegrate back into civilian life and the workforce. State agencies conduct veteran focused recruitment activities including “Hire Vets First” Veteran Career Fairs, Camp Ripley Biennial Open House, The Military.com Career Fair, and Veteran Networking Job Club.

FINDINGS

The State has done and is doing a lot in assisting and recruiting veterans. This may be so because veterans have a state department dedicated to them and the resources necessary to assist them in training, recruitment and retention.

RECOMMENDATIONS

We will echo Governor Dayton’s call in 2013 that more needs to be done in recruitment and retention efforts for veterans. More programs and resources need to be dedicated to assisting veterans with mental and post-traumatic stress syndrome.

Protected Group Members:

From 2011 to 2013, the resources the state used for recruitment of protected group members included the Minnesota Community Advisors on Recruitment and Retention Solutions group (MNCARRS), a group comprising 50 community organizations and state agencies; and Workforce Community Email List comprising over 500 diversity contacts and the Minnesota Diversity Councils. MMB compiles all agency job announcements and sends one email to the workforce community email list at the end of each business day.

Apart from the advance notice of job openings and the daily emails sent to these organizations by MMB, we were not provided with any documents showing a program designed to place special emphasis on the recruitment of protected group members as mandated by the statute during those years. If sending emails of job postings each day to a few organizations was what the state did to place special emphasis on protected group member recruiting, the state failed to comply with the second part of the statute.

However, starting in 2013, the State has been taking steps to place special emphasis on the recruitment of protected group members. In 2013 EODI met with individuals from the African American community to learn about their experiences in applying for state jobs. MMB/EODI sent a recruiter from Department of Human Services to represent the state at the Historically Black College Fair in Atlanta. In 2014, the State created a statewide recruiter position and participated in workgroups to redesign the applicant tracking system to ensure inclusive language on applications and that legal requirements were met. In 2015 MMB hired a Statewide Executive Recruiter to focus on hiring individuals of color into executive level positions. In April 2016, Governor Dayton created the Office of Diversity and Inclusion and appointed its first director to oversee efforts to ensure that the state's workforce reflects the rich diversity of Minnesota by increasing economic opportunity for people of color, people with disabilities, and others underrepresented in the workforce. In October 2016, the state participated in the People of Color Career Fair, a networking event aimed at showcasing talented minority professionals for employment.

FINDINGS

There was no special emphasis given to the recruitment of protected group people, disabled and women until recently. In fact there was nothing we saw designed to recruit women in the documents we received.

RECOMMENDATIONS

The state should make the fair for people of color an annual event and institute a fair for people with disabilities and women. Conduct protected group focused recruitment and retention activities for each of the listed protected groups. Mandate Minnesota Management & Budget to annually collect employment data for each of the listed protected groups from each cabinet-level state agency. Institute protected group recruitment initiatives on each MNSCU campus and make information and assistance for recruitment available. Create dedicated web page on each agency's website for posting of positions for which there is underutilization and openings.

MMB should provide protected group recruitment, educational outreach, consultation and training on behalf of all state agencies to promote the state as a diversity employer. Create protected group specific recruitment posters that target protected group communities for employment. These posters can be put in protected group neighborhoods and recreation centers. State should organize seminars on protected group employment for human resources managers, hiring managers, supervisors to share experiences in recruitment and retention.

Except for the state careers website, publication of vacancies is left to the discretion of the various agencies. The state should mandate publication in protected communities and with community/civic organizations of each protected group to publicize recruit and present candidates for underutilized vacancies.

Monitoring the Hiring Process

We looked at the Monitoring the Hiring Process Forms which were submitted by MMB pursuant to our document request. The Monitoring the Hiring Process Form is to be completed by hiring agencies for vacancies where there is underutilization for a protected group in an EEO job category. The form requires the agency to identify the underutilized protected group for the vacancy; check the box on the recruitment that was conducted; indicate who was involved in the recruitment and the cost; indicate the total number of people in the applicant pool; the number of qualified protected group members in the applicant pool; check the box if the appointment was affirmative or non-affirmative; and check the box selecting a reason if the appointment was justified (if the appointee is not a member of a protected group for which there is an underutilization).

The form also requires the agency to check the box indicating whether the pre-appointment/employment review process was followed as stipulated in the agency affirmative action plan and to explain if the process was not followed. Finally the form requires the signature of the human resource staff involved in the hiring and that of the affirmative action officer.

FINDINGS

In an overwhelming majority of the more 1,750 forms we reviewed, recruitment was done for the positions by posting the job openings on the MMB website and the agency website. There were very few job openings that were posted or advertised through community/civic organizations; community newspapers; workforce centers; professional organizations and community newspapers. We also noted in an overwhelming majority of the forms that the hiring officer justified the non-appointment of a protected group member by checking the box “No members of disparate groups were in the Applicant pool.” In nearly all of the forms, the hiring

officer checked the yes box indicating that the pre-appointment/employment review process was followed as stipulated in the agency affirmative action plan.

We found 6 forms that were problematic. Five of the forms were from the Department of Public Safety (DPS). In four forms, DPS was hiring for state patrol officer in Marshall, Eveleth, and Rochester in May of 2014. It identified that there was underutilization of protected groups (women, minorities and people with disabilities) for the positions. There were 38 applicants in the pool. Of this number 3 were females and 5 were minorities. A protected group member was not hired for any of the positions and the justification given for each one of them was indicated as “No members of disparate groups were in the Applicant pool.” In December of 2015, there was an opening for a forensic scientist at the Bureau of Criminal Apprehension (BCA).

DPS identified that there was underutilization of protected groups (women, minorities and people with disabilities) for the position. The opening was posted on internet job boards, the Minnesota Department of Management and Budget website and DPS website. There was only one applicant in the pool and the applicant was a female. The applicant was not offered the position and the justification given was indicated as “No members of disparate groups were in the Applicant pool.”

In January of 2016, there was an opening at the Minnesota Office of Higher Education for an attorney. The Office identified that there was underutilization of protected groups (minorities and people with disabilities) for the position. The opening was posted on the MMB website and the Office’s website. There were 39 applicants in the pool. Of this number 5 were minorities and 3 females. A protected group member was not hired for the position and one of the justifications given was indicated as “No members of disparate groups were in the Applicant pool.”

There is no oversight of the hiring process especially for vacancies where there is underutilization of protected groups.

RECOMMENDATIONS

It is recommended that there be more advertising of job opportunities on other websites apart from the MMB and the hiring agency's websites. Recruiting for vacancies where there is underutilization for a protected group should be conducted in places and websites frequented by members of that protected group. Community newspapers, community centers, community/civic organizations, professional organizations, diversity-focused magazines/journals, workforce centers, and disability/minority councils are resources that should be used if the State wants to have a pool of diverse qualified candidates. Some agencies listed a barrier to recruitment as lack of financial resources. Financial resources should be available for active and targeted recruitment to bridge the gap in underutilization of protected groups.

Except for the state careers website, publication of vacancies is left to the discretion of the various agencies. The state should mandate publication in protected communities and with community/civic organizations of each protected group to publicize recruit and present candidates for underutilized vacancies. MMB should establish a working relationship with the State Workforce Development Board and the county workforce investment boards.

Mandate approval from Minnesota Management and Budget for justified hires where there is an underutilization for a protected group in an EEO job category.

Municipalities

Though not a part of the audit, Minn. Stat. 363A.36 Subd. 1 (a) caught our attention during the writing of this report. This section of the statute encourages municipalities that receive money from the state for any reason to prepare and implement an affirmative action plan for the

employment of minority persons, women, and qualified disabled and submit the plan to the commissioner of human rights. We did not request documents from the Department of Human Rights on its implementation of this section of the statute and do not have findings on whether municipalities that receive money from the state have been submitting affirmative action plans to the commissioner. We want to however recommend that the state amend this section of the statute to mandate municipalities that receive money from the state for any reason to prepare and implement an affirmative action plan for the employment of minority persons, women, and qualified disabled and submit the plan to the commissioner of human rights. We believe mandating rather than encouraging municipalities to prepare and submit affirmative action plans to the commissioner of human rights will go a long way in making the state even more inclusive.

4. The administrative application of Minn. Stat. §43A.04 subd. 7 as it relates to each protected class group's utilization and report findings.

This section of the statute mandates the commissioner to issue a written report every six months period (June 30 and December 31) to the Legislative Coordinating Commission listing the number of appointments made under each of the categories in section 43A.15; the number made to the classified service other than under section 43A.15; and the number made under section 43A.08, subdivision 2a. The categories in section 43A.15 are:

- a. emergency appointments
- b. temporary appointments
- c. provisional appointments
- d. noncompetitive appointments
- e. appointments through transfer or demotion
- f. appointments for unclassified incumbents of newly classified positions

- g. routine service appointments
- h. work training appointments
- i. revenue seasonal employees
- j. on-the-job demonstration process and appointments
- k. reinstatement

The appointments made under Minn. Stat. §43A.08, subdivision 2a are for temporary unclassified positions.

ANALYSIS

Pursuant to our document requests, Minnesota Management & Budget provided us with copies of semi- annual appointment reports for 2011 to 2015 that were sent to the Joint Committee on Employee Relations. A review of these documents indicates the State complied with the mandates of the statute. The State did not only provide the number of appointments made under each of the categories as required by the statute, the State also provided a snapshot of the overall hiring activity for the last three years and analysis on the hiring numbers and what resulted in an increase or a decrease during the reporting period.

FINDINGS

There is nothing in the statute that requires the commissioner to report on protected group utilization to the Legislative Coordinating Commission. Reporting on the utilization of protected groups in number of appointments made under these categories is useful information that can inform the legislature or the state of the State's affirmative action initiatives.

RECOMMENDATIONS

Amend Minn. Stat. §43A.04 subd. 7 to require reporting on the number of each of the listed protected groups appointments made under each of the categories in section 43A.15 and section 43A.08, subdivision 2a.

5. The administrative application of Minn. Stat. § 43A.15 subds. 1-15 as it relates to each protected class group's utilization and report findings.

This section of the statute lists the various types of appointments that can be made by appointing officials. Appointing authorities can make emergency appointments of up to forty five days. The commissioner may authorize an appointing authority to make a temporary appointment of up to six months, grant extensions of temporary appointments, search the employment database for qualified applicants or authorize the appointment of any person deemed qualified by the appointing authority.

The commissioner may authorize an appointing authority to make a provisional appointment for a maximum of 12 months if no applicant is suitable or available for appointment. At the request of an appointing authority, the commissioner may authorize the probationary appointment of a provisional appointee who has performed satisfactorily for at least 60 days and has completed the licensure or certification requirement.

The commissioner may also authorize an appointing authority to promote an incumbent with permanent or probationary status to a reallocated classified position; the transfer or demotion of an employee in the classified service within an agency or between agencies; the probationary appointment of an incumbent who has passed a qualifying selection process and who has served at least one year in an unclassified position which has been placed in the classified service by proper authority; the administration of a qualifying selection process if a

class is of a routine, service nature involving unskilled tasks, the performance of which cannot be directly related to qualifications beyond a minimum competency level; the probationary appointment of persons who successfully complete on-the-job state training programs which have been approved by the commissioner; and the administration of a qualifying selection process for the filling of seasonal positions in the Department of Revenue used in the processing of returns and providing information during the tax season.

The commissioner is further mandated to establish qualifying procedures for applicants whose disabilities are of such a severe nature that the applicants are unable to demonstrate their abilities in the selection process, providing up to 700 hours on-the-job trial work experience for which the disabled person has the option of being paid or unpaid. These qualifying procedures allow the applicants to demonstrate their job competence through the on-the-job trial work experience selection procedure. The commissioner may authorize the probationary appointment of an applicant based on the request of the appointing authority that documents that the applicant has successfully demonstrated qualifications for the position through completion of an on-the-job trial work experience. The implementation of this subdivision may not be deemed a violation of chapter 43A or 363A.

An appointing authority may directly reinstate a person who is a former permanent or probationary employee of the job class, within four years of separation from the class.

The administrative rules state that applicants with disabilities may request that an assessment procedure be altered to accommodate their disabilities on the written or electronic application form. Once this request for accommodation is made, the appointing official shall review the request and decide whether to make the requested accommodations or to deny the request for accommodations. If the request is denied, the applicant has the choice of appealing

the decision to the commissioner, participating in the assessment procedure offered to other applicants or, if the commissioner determines that the applicant meets the eligibility criteria in Minnesota Statutes, section 43A.15, subdivision 14, participating in an on-the-job demonstration process. See Rule 3900.5100.

The on-the-job demonstration process shall consist of an on-the-job trial work experience of up to 700 hours. An applicant admitted for an on-the-job demonstration process must be given a list of agencies having positions in the class and written authorization by the commissioner to seek a vacant position in the class. The applicant, with the help of a placement and referral specialist in a rehabilitation program recognized by the state, may contact the agencies to develop a suitable placement.

An on-the-job demonstration process may be successfully completed at any time during the 700 hours of work experience if the appointing authority notifies the commissioner that the applicant can satisfactorily perform the essential duties of the position and is eligible for probationary appointment according to Minnesota Statutes, section 43A.15, subdivision 14. An on-the-job demonstration process may be terminated at any point during the 700 hours of work experience, except for the first 30 scheduled work days from the date of the start of the process, if the appointing authority notifies the commissioner that the applicant cannot satisfactorily perform the essential duties of the position.

An applicant terminated from an on-the-job demonstration process shall be authorized to seek placement in other positions in the class if the commissioner decides that the applicant's inability to perform was limited to duties essential to the specific position in which the applicant was placed but which are not essential for other positions in the class. See Rule 3900.5200.

The appointing authority shall notify an applicant with a disability and, upon request, provide a written statement of the reasons for the decision to provide or deny a request for assessment accommodations except when the accommodation is unnecessary due to the selection process format. The commissioner shall notify an applicant with a disability and, upon request, provide a written statement of the reasons for the decision to admit or deny admission to an on-the-job demonstration process. See Rule 3900.5300.

ANALYSIS

We received information on the 700-Hour Program following our document request. The 700 Hour Program (On-the-Job Demonstration Selection and Appointment) is a program designed for qualified individuals with disabilities. The program provides an opportunity to assess the ability of qualified individuals to perform the job, with or without accommodations, by observing the individual during an on-the-job work experience. The program may be used as a selection alternative for any job class and must be used when hiring for the Supported Employment Worker class, a job class specifically established for individuals with severe disabilities. Under Minn. Stat. §43A.421, the legislature authorized the State to establish 50 full-time supported employment positions, each of which can be shared by up to three persons with disabilities, with assistance from their job coaches.

The state also provides The State of Minnesota's QDE 700-Hour program to ensure that qualified individuals with disabilities have a fair and equal access to employment in state service. All state agencies have an obligation to make this alternative examination process known to all applicants and to consider all applicants who request the program. If suitable placement can be made for a specific vacancy, based on job requirements, a qualified applicant may be appointed

to fill the vacancy and work up to 700 hours on-the-job. This trial work experience is then used to assess the individual's skills and abilities to perform the essential duties of the position.

The QDE 700-Hour program is also available for people who are prelingually deaf in successful placement within state government. The 700- Hour On-the-Job Demonstration was changed to Connect 700 and in July 2016, the State issued a Program Guide to expand its efforts to reduce barriers and increase hiring of qualified job seekers with disabilities. The Guide provides instructions to help state agencies implement each phase of Connect 700.

To be eligible for Connect 700, individuals complete an application for eligibility through the Equal Opportunity, Diversity and Inclusion (EODI) Team at Minnesota Management and Budget (MMB) and receive a Proof of Eligibility notice that can be used to apply for state positions for up to four years. The State Director for EODI in MMB is now charged with the responsibility of actively working with public and private agencies, educational institutions, and organizations to encourage eligible individuals with disabilities to apply for state employment and to inform them about Connect 700.

FINDINGS

Though these programs are being brandished as key mechanisms for removing barriers to employment for people with disabilities and achieving diversity, only 23 current state employees entered state service through these programs. None of the current employees who entered state service through these programs remain in supported programs-each has since been promoted or transferred into other positions. The State's own data indicate that over the past ten years, the percentage of employees with disabilities in state government has decreased from 10% to 4%. Following these findings, Governor Mark Dayton on August 4, 2014 signed Executive Order 14-14, providing for increased state employment for people with disabilities. Through this executive

order, the State seeks to remove barriers to employment for people with disabilities and has established a 7% hiring goal by August 2018.

The semi-annual appointment reports from July 1, 2011 to August 1, 2016 show there has been no appointment through the on-the-job demonstration process for qualified disabled individuals in the past five years.

RECOMMENDATIONS

If the State intends to achieve the 7% hiring goal by August 2018 set by Governor Dayton, the Enterprise Human Capital Division of Minnesota Management and Budget needs to be fully staffed. The current director for EODI was hired February 3, 2016 and an Affirmative Action Officer was just hired in October while we were doing this audit.

A lot of outreach is needed in the various agencies and training of agency hiring managers if the Connect 700 Program is going to achieve its target. The Program Guide is a good start but hiring managers may need training on the processes outlined in the guide for achieving the hiring and retention of people with disabilities.

Greater cooperation is needed between EODI and the various programs and services that support people with disabilities. The State Accommodation Fund, Minnesota Star Program, Vocational Rehabilitation Services, Minnesota Council on Disability, Deaf and Hard of Hearing Services, State Services for the Blind and the Minnesota Governor's Council on Developmental Disabilities are all programs and services that can help the State achieve its goal of hiring and retention of people with disabilities.

Minn. Stat. §43A.191 subd. 2(d) requires agencies in their affirmative action plans to identify positions in the agency that can be used for supported employment of persons with

disabilities. The EODI team should be responsible for extracting this information from the agencies and affirmatively using these identified positions for the Connect 700 Program.

Minn. Stat. §43A.191 subd. 2(d) also requires an agency that hires more than one supported worker in the identified positions must receive recognition for each supported worker toward meeting the agency's affirmative action goals and objectives. EODI should be made in-charge of this recognition program. A well-publicized yearly diversity award event will not only recognize managers and agencies meeting their affirmative action goals but will also highlight the State as a leader in employing people with disabilities.

6. The administrative application of Minn. Stat. §43A.19 for compliance and recommendations.

Minn. Stat. §43A.19 requires the commissioner to adopt and periodically revise, if necessary, a statewide affirmative action program to ensure accessibility to all qualified persons, and to eliminate the underutilization of qualified members of protected groups. The statute also requires the statewide affirmative action program to consist of objectives, goals and policies, analysis of separation patterns and annual objectives.

Pursuant to this section of the statute, the Commissioner adopted Rule 3905.0100. The Rule states “It is the policy of the state of Minnesota to implement and maintain an affirmative action program designed to eliminate underutilization of qualified protected group members within the state civil service through a series of specific, result-oriented procedures combined with good faith effort. A good faith effort minimally includes consideration of affirmative action goals on all staffing and personnel decisions”.

ANALYSIS

To analyze Minn. Stat. §43A.19 for compliance, we sent document requests to Minnesota Management and Budget for documentation indicating the statewide affirmative action program and the periodic revisions that have been done to it within the last 5 years. In response to that document request, Minnesota Management and Budget directed us to various statutes: 43A.19 (Affirmative Action); 43A.191 (Agency Affirmative Action Program); 43A.07 (Classified Service); 43A.071 (Service Worker); 43A.08 (Unclassified Service); 43A.10 (Selection Process); 43A.111 (Noncompetitive Appointment of Certain disabled veterans); 43A.11 (Veteran's Preference); 43A.121 (Ranking of Applicant Pool); 43A.14 (Appointments) and 43A.15 (Noncompetitive and qualifying appointments).

From the documents provided by the State, it appears the State's affirmative action program is its collection of affirmative action rules under Chapter 3905, affirmative action plan template for various agencies which is discussed in detail under M.S 43A.191, planning guides and various worksheets for analysis.

Minn. Stat. §43A.19, Subd.1 (d) requires the Commissioner to designate a State Director of Diversity and Equal Employment Opportunity who may be responsible for preparing, revising, implementing and administering the State's Affirmative Action Program. We requested that the State indicate the current State Director of Diversity and Equal Employment Opportunity as required by Minn. Stat. §43A.19, Subd.3 (d). The State provided a document which listed the current Director thus the State is compliant under the Statute. From the document provided, it appears for the last 5 years the position of Director of Diversity and Equal Employment Opportunity has been filled and not left vacant.

FINDINGS

It appears that the Director of diversity and equal employment opportunity only reports back to the Assistant Commissioner of Enterprise Human Resources. According to Rule 3905.0300, the agency head is accountable for affirmative action compliance to the Governor and to the Commissioner.

RECOMMENDATIONS

It is recommended that the Director should also report back to the Commissioner and Governor, to provide for more accountability and compliance. The State should also clarify what its affirmative action program is in more detail rather than referring to various rules and its sample plan.

7. The administrative application of Minn. Stat. §43A.191 for compliance and recommendations.

In order to analyze Minn. Stat. §43A.191 for compliance, we dived into the various subdivisions of the statute. Minn. Stat. §43A.191, Subd.1 (a) requires an agency with 1000 or more employees to have at least one full time affirmative action officer. Minn. Stat. §43A.191, Subd.1 (b) requires that agencies with fewer than 1,000 employees assign affirmative action officers or designees. The language from the statute requires agencies to have either an affirmative action officer or designee.

Minn. Stat. § 43A.191, Subd.2 requires heads of agencies to prepare and implement an affirmative action plan. This section requires affirmative action plans to include provisions of reasonable accommodation in hiring and promoting qualified disabled persons. It requires an agency affirmative action plan be prepared with the assistance of an affirmative action officer.

The subdivision also requires that an agency affirmative action plan identify any positions that can be used for supported employment for persons with severe disabilities and recognition for agencies that hire more than one supported worker.

ANALYSIS

Based on the requirements on Minn. Stat. §43A.191, subdivision 1, we requested and received documents from Minnesota Management and Budget, which showed that there has not been an affirmative action officer (4) since March 9, 2012 in the Equal Opportunity, Diversity & Inclusion Unit.

The documents received showed that in the Minnesota Management & Budget Enterprise Human Capital Division, there were other important vacancies apart from that of the affirmative action officer. There were vacancies for employee management division director in HR systems Projects, state program coordinator, and employment management director in human resource management section. These positions should not have vacancies because they are necessary for effective recruitment and smooth running of affirmative action programs.

Pursuant to Minn. Stat. § 43A.191, Subd.2, Rule 3905.0400 was created, which requires the heads of each agency with 25 or more employees to submit to the commissioner an affirmative action plan for the agency. We requested and received various agencies affirmative action plans from 2010-2018. The statute does not require cities, school districts and local entities to have affirmative action plans. Thus, there were no affirmative action plans provided by Minnesota Management and Budget from cities, counties or school districts.

Minn. Stat. §43A.191, subdivision 2(d) requires that an agency affirmative action plan identify any positions that can be used for supported employment for persons with severe

disabilities. From looking at various agencies affirmative action plans, they have this language: *“The agency supports the employment of individuals with disabilities and will review vacant positions to determine if job tasks can be performed by a supported employment worker. We will work with community organizations that provide employment services to individuals with disabilities to recruit for these positions.”* This language in various agencies’ affirmative action plans does not identify any positions that can be used for supported employment for persons with severe disabilities.

Minn. Stat. §43A.191, subdivision 3(a) requires the commissioner to annually audit the record of each agency to determine the rate of compliance with affirmative action requirements. The Commissioner is also required by March of each odd-number year to submit a report on affirmative action progress to the Governor and to the Finance Committee of the State and others. Based on that requirement of the statute, we requested copies of the annual audit reports conducted by the Commissioner within the last 5 years. We received a 2011 audit report of randomly selected agencies. The only documents received were from a 2011 audit; either there were more audit reports that were not turned in as requested or there were no audits done after 2011. This random selection of agencies is a violation of the statute as the statute requires an annual audit of each agency by the commissioner.

Minn. Stat. § 43A.191, subdivision 3(a) also requires an audit of each agency, not randomly selected agencies. The Commissioner does not comply with the statute by randomly selecting certain agencies for its annual audit of affirmative action as shown in the 2011 audit report. In the 2011 audit report received from Minnesota Management and Budget, of the five MNSCU schools randomly selected, four responded that they had not informed their employees

of their internal compliant policy and procedure pertaining to harassment and discrimination. This is a violation of the statute.

FINDINGS

There needs to be more oversight from the Commissioner in making sure those agencies create and implement their affirmative action plans. It also appears that agencies are not doing more to create or list supported employment for people with severe disabilities.

There is no program to recognize an agency that has made significant and measurable progress in implementing an affirmative action plan as required by statute.

The agency affirmative action biennial report required by Minn. Stat. 43A.191 subd.3(b) report on the affirmative action progress of each agency and the state as a whole. Apart from a compilation of agency complaints reported, hiring data, places where job announcements were posted, and ADA annual report summaries, there is nothing that reports on the progress of each agency.

As of June 2016, there were five vacancies in the top management of Enterprise Human Capital Division of Minnesota Management & Budget including one affirmative action officer. This is the division directly responsible for affirmative action.

RECOMMENDATIONS

Every agency with over 1000 or more employees should have an affirmative action officer. That position should not be left vacant.

Each agency affirmative action plan must identify supported employment for persons with severe disabilities. A good example of how to identify positions in an agency for supported employment for persons with severe disabilities as required by Minn. Stat. §43A.191, subdivision 2(d) can be found in Minnesota Lottery's 2014-2016 affirmative action plan which states :

“The Lottery currently contracts with the following organizations employing persons with disabilities to provide services: Accessibility-provides general maintenance and cleaning to the Roseville location. Midwest Special Services - performs mailing assembly services for our Point-of-Purchase kits and for retailer mailings.”

The commissioner should audit each agency annually for compliance with affirmative action requirements as required by Minn. Stat. §43A.191, subdivision 3(a). There should not be random selection of agencies for compliance; rather all agencies should be audited. Agencies like the Metropolitan Airport Commission are not required to submit reports to the MMB. It should be required that all agencies submit annual reports to MMB.

Minn. Stat. §43A.191 should be amended to require cities, counties, local entities and school districts to prepare and implement affirmation action plans. These various entities should be required to have affirmative action plans because they have hiring powers which effects their diverse populations. These counties and school districts do not have affirmative action ordinances or programs, yet they receive hundreds of millions of dollars of state aid.

For example, the Mayo Clinic in the city of Rochester unveiled in 2012 the Destination Medical Center, the clinic's effort, to stay competitive with other world-class medical centers. See Star Tribune Article Dated 6/8/2016. According to the Star Tribune, *“the 20-year plan blends billions of dollars in Mayo and private-sector investment with \$585 million in taxpayer support to expand Mayo's campus and remake downtown Rochester into a destination in its own*

right.” As discussed in the article, tax payer money is being used for this project yet the city of Rochester is not required to create or implement an affirmative action plan. This project should provide of a lot of jobs in the City. Thus if there is no affirmative action plan in place, protected groups might not get the benefits of these jobs.

Some in the community recommended state should institute an award and acknowledgement program to showcase companies and agencies that have embrace inclusion and ensure retention of women, disabled and protected group people.

The state should rethink the report to account for each agency’s progress in affirmative action recruitment and retention, complaint resolution, diversity initiatives, ADA and reasonable accommodation. Grade agencies on their compliance with affirmative action plan. Institute a cabinet level statutory reporting requirement for protected group people, disabled and women similar to veterans as stated in Art. 3, Sec. 22 of Chapter.

Some community members recommended that the vacant positions in the Human Capital Division should be filled with qualified members of the protected group.

8. INTERVIEWS - AFFIRMATIVE ACTION

FINDINGS

The job application process is complex and can be challenging even for people with a lot of education and English as a first language. The online application process is not accessible to people who cannot see. Some communities struggle more than others. For example, Somali people come from an oral tradition and a different alphabet, so using a written process and a complex structure is culturally challenging. A participant with physical disabilities, who also is

an advocate for the disabled, described the process of applying for a state job using a screen reader.

A new website, which the State has spent millions of dollars to make to aid in this type of application process, is not accessible. Currently, if an applicant applies through a screen reader, the system can reformat documents—changing the appearance, sentence structure, etc. The applicant won't even be considered if the documents are formatted correctly.

There were several other factors mentioned as barriers for the disabled to be considered for State employment—arranging a personal care assistant, transportation, etc.

While it seems many efforts are being made to increase the number of applications by targeted groups, and some of these have been successful, it still appears that people are screened out by job descriptions that contain unnecessary requirements. Several people mentioned a need for resumes that are written with “code words” or key words that will survive initial screening.

The State's minimum qualifications prevent certain individuals with experience and knowledge to apply for certain positions. Three Native American tribes are located near Bemidji. There are also MN DNR positions available in the area but they must have a Bachelor's degree. Many of the Native Americans have knowledge and could be extraordinary in fisheries but can't apply for the positions because they don't have a degree.

Subjective measures such as “interview score” are often used as justification for hiring a majority race candidate over someone in a targeted group. It is natural for people to gravitate towards those who are similar to themselves. Some people indicated the desire or even the act of changing their name so their resume did not reveal their ethnicity. One applicant reported that she was thinking of changing her last name to her father's middle name because it is a Christian name. She thought it would help her get interviews.

People also expressed difficulty with retention following hiring. After a protected group person is hired the person then finds out that there many challenges integrating into the workplace. There is lack of knowledge and often a mistrust of government in some protected group communities.

RECOMMENDATIONS:

Simplify the application process, and offer outreach to communities that are targeted. More training and follow through on refining job descriptions and hiring criteria to include only criteria that are necessary for the job.

The State should consider ways to recognize hiring managers who meet their affirmative action hiring goals. Suggestions for such incentives were vacation days or extra pay. For positions that the state has determined that there is underutilization, it should structure the hiring process in favor of diverse applicants.

The State should train hiring managers and all its employees in cultural competency and empathy immersion. Hiring managers and state employees should be committed to diversity, inclusion and be welcoming to people of different cultures. The state should have a presence at community events, educating about work opportunities as well as helping people navigate the application system. The State should build lasting relationships in these communities.

The State should amend its affirmative action laws to require cities and local government entities to have affirmative action plans.

The SEEDS program at the Minnesota Department of Transportation for students that are minority or economically disadvantaged, needs to be replicated across all State Departments. It is responsible for 70% of the diversity in MNDOT. The program grooms people for specific jobs and helps dispel preconceived notions.

C. AUDIT REGARDING CERTAIN PROVISIONS OF Minn. Stat. §16B AND 16C
(PROCUREMENT ACT)

Minnesota's procurement practices have been deemed to be among the best in the nation. In a 2016 in-depth survey of state purchasing processes conducted by the Governing Institute, the state ranked No. 3 overall among the states. This ranking is based upon a range of factors, such as utilization of technology and having the support of top-level officials, including governor, who view the procurement office as a place to advance the state's goals rather than an enforcer that simply ensures the state is buying by the rules. There are a number of small business programs, initiatives and efforts designed to increase inclusion in contracting for protected groups in Minnesota, all with different audiences and eligibility qualifications. These include, but are not limited to, the Disadvantaged Business Enterprise Program (DBE), a Federal Program which is administered by various agencies in each state pursuant to 49 CFR 26 - Federal Code of Regulations, administered in Minnesota by Minnesota Unified Certification Program (MNUCP); Section 3, a program administered by the U.S. Department of Housing and Urban Development (HUD), that provides a race-neutral preference on certain types of projects for low and very-low income persons or businesses in certain geographic areas served by the project; the CERT Program, a small business program used by the City of St. Paul; the Target Market Program, a new program operated by the City of Minneapolis that provides a priority for eligible small businesses for city contracts up to \$100,000; and the Metropolitan Council Underutilization Business Program (MCUB), a program implemented by the Metropolitan Council.

To focus on the State's efforts in this area, the RFP for this audit requires an evaluation of the administrative application of certain sections of Minn. Stat. §§16B and 16C, known as the

State's Procurement Act. The State administers several programs designed to promote equity and to improve opportunities for protected groups to participate in contracting and procurement. The Targeted Group/Economically Disadvantaged (TG/ED) Small Business and Veteran Small Business Programs went into effect in 1990 and 2009, respectively. Certified TG/ED vendors can be utilized to satisfy subcontractor goals established for construction or consulting contracts. Businesses certified under these programs are also eligible to receive up to a six percent preference that is applied as part of the state's procurement process.

The audit team requested and received from the Department of Administration (the "Department" or "Admin") documents pertaining to how the State has implemented certain sections of Minn. Stat. §§ 16B and C as identified in the audit. We analyzed the data and will discuss what the examination revealed, identify the extent to which compliance was accomplished and make recommendations for improvements.

1. **Minn. Stat. §16B.875**

Minn. Stat. §16B.875 requires the commissioner of administration (hereafter "the commissioner") to regularly review the duties and responsibilities of the various state departments, agencies and boards which have an operational effect upon the safety of the public, and recommend to the governor and the legislature such organizational and statutory policies as will best serve the purpose of Laws 1969, chapter 1129. While this provision is referenced in the RFP, it does not appear to relate to promoting inclusion or participation for protected groups in any specific way. Therefore, the audit team did not devote significant time or attention to this section and makes no findings or recommendations in this area.

2. **Minn. Stat. §16C.05 subd. 5**

Minn. Stat. §16C.05 subd. 5 requires that an “audit clause” is included in all state contracts, provides that all state contracts may be audited and establishes which parties are responsible for the costs of such audits. This is important in order for the State to protect the public interest by having the opportunity to audit contracts for compliance or in specific situations if a situation arises that requires such. This provision (an “audit clause”) is contained in the contracts that were randomly sampled during the audit, and in the sample Professional and Technical Services Contract that we reviewed. We do not believe that further review of this provision will prove pertinent to the goal of the audit. Accordingly, we make no findings or recommendations with respect to this provision.

3. **Minn. Stat. § 16C.06 Subds. 1, 2 and 6**

Minn. Stat. § 16C.06 pertains to procurement requirements. Subdivision 1 provides that public notice of solicitations is required for all purchases of goods and general services, professional and technical service contracts, and construction estimated to be more than \$25,000, or \$100,000 in the case of the Department of Transportation. It provides additional guidance for the manner and methods by which the commission may provide notice, including:

- Solicitations exceeding \$50,000 are advertised in eProcurement system (SWIFT), in State Register and/or on state website
- Professional services contracts over \$25,000 are advertised on State’s website
- Good and services over \$10,000 are processed in state system and publicly advertised.

Subdivision 2 prescribes the solicitation process to be used in contracting. Generally, it requires a formal solicitation to acquire all goods, service contracts, and utilities estimated at or more than \$50,000, or in the case of a Department of Transportation solicitation, at more than \$100,000. The commissioner is authorized to use an informal process when the contract amount is less than \$50,000 or \$100,000 in the case of the Department of Transportation.

The Department's Authority for Local Purchase Manual and State Contracting booklet provide detailed guidance with respect to purchasing policies and procedures, including checklists for denoting when a formal RFP is required and when public notice is required. As indicated above, a certification form and public notice are required for all contracts in excess of \$25,000.00. For contracts valued between \$0 and \$5,000, solicitation is recommended, but not required. For those valued between \$5,000 and \$25,000 Quick Call for proposals is sent to at least three vendors; at least one must be TG/ED/VO. For contracts valued in excess of \$25,000, public solicitation and the RFP are to be posted on the MMD website (\$25,000 - \$50,000) and in the *State Register* (\$50,000 and over) or in *SWIFT*.

Subdivision 6 authorizes the commissioner to use different methods to make contract awards, including requests for bids, requests for proposals, reverse auctions or other methods. The commissioner may use tools determined to be in the best interest of the state, including contract consolidation, product standardization, and mandatory-use enterprise contracts. Awards based on competitive proposals must include an evaluation of price and other considerations; solicitation documents must state relative importance of price and other factors; and awards based on low bid must be to the lowest responsive and responsible bidder.

It is not clear that the commissioner has utilized the complete array of tools available to make awards, or considered whether some of the methods that have not been used would be beneficial to protected groups.

The Authority for Local Purchase Manual and Appendix dated September 2007 was produced. It contains purchasing procedures, as well as guidelines for granting preferences, consistent with the statutory requirements. The 2000 Policy and Procedures for State Contracting were also produced. This document was updated on July 1, 2016. Minnesota Rules Chapter 1230 also contains applicable procedures relating to bids and solicitations.

Admin has done outreach and held training sessions to provide information about procurement opportunities, the Small Business Procurement Program and the Statewide Integrated Financial Tools System (“SWIFT”). The Office of Equity in Procurement has been involved in these activities.

4. **Minn. Stats. § 16C.16**

Minn. Stats. § 16C.16 contains provisions authorizing the commissioner to designate procurements for small business. Subdivision one directs the commissioner to ensure for each fiscal year that small businesses receive at least 25% of the value of anticipated total state procurement of goods and services, including printing and construction. It allows the commissioner to divide the procurements into contract award units of economically feasible production runs in order to facilitate offers or bids from small business. It further directs the commissioner to solicit and encourage State small businesses to submit responses or bids when the commissioner is entering into master contracts, and provides that the commissioner may

negotiate contract terms to allow agencies the option of purchasing from small businesses, particularly those geographically proximate to the entity making the purchase.

It provides that the commissioner shall attempt to vary the included procurements so a variety of goods and services produced by different small businesses are obtained each year and to designate small business procurements in a way to encourage proportional distribution among geographical regions. The commissioner may designate a portion of small business procurement for award to bidders from a specified congressional district or other geographical region specified by the commissioner.

Our document review revealed that the state's tracking system does not accommodate routine measurement of whether the 25% is being achieved. The records pertaining to business spend indicate that a significant number of contractors were not "large" businesses, during each of the past five years. Through a method of extrapolation, it can be determined that the spend with "small" businesses exceeded 25%, both with regard to total spend and for spend excluding highway for each of the past five years.

This method indicates that total spend with small businesses was 82% in 2012, 75% in 2013, 66% in 2014, 64% in 2015 and 34% in 2016. Total spend excluding highway was 59% in 2012, 58% in 2013, 60% in 2014, 59% in 2015 and 61% in 2016. As stated, this method of determining small business spend is imperfect at best, and the inability to accurately track dollars presents a significant impediment to measuring the effectiveness of the Small Business program.

For example during the five year period from 2011 to present, the State has expended \$455,220,874.43 in construction costs, with no tracking for small businesses. Moreover, the data, including anecdotal evidence provided during an interview of a State purchasing employee,

reveals that the 25% purchasing goal is not representative of people of color. The interviewee points out that this emphasis with regard to specified targeted efforts is absent. The interviewee suggests that the governor and commissioner should establish a broader and cleaner defined policy that emphasizes specific levels of participation for each ethnic group by percentage.

FINDING

The State has identified the need to collect quality data in order to demonstrate accountability and measure progress. Admin's tracking data does not appear to clearly reflect the percent of total state procurement received by "small businesses" for purposes of measuring compliance with the 25% requirement of Minn. Stat. 16C.16, subd 1, but rather the state certifies and tracks targeted group businesses. In addition to not providing with clarity information to line up with Minn. Stat. §16C.16, subd1, it would be useful to track activity with targeted group businesses that results from sub-contracts, or with businesses that are not certified (which is not presently tracked) in order to have a more complete measure of participation.

RECOMMENDATION

Admin should implement tracking of procurement spending to line up with the requirement of 16C.16 subd 1, and further, should consider extending tracking to allow measuring activity with targeted group businesses that results from sub-contracts or with businesses that are not certified.

The state has started to award some projects as set-asides for TG; businesses, for example the RECS remodeling project to Reiling Construction Co., Inc. and the State award to Phone Jacks Unlimited, Inc. (d/b/a Alaerea Contractors). However, there does not appear to be

evidence that the commissioner has designated a portion of small business awards to bidders from a specified congressional district or other geographical region.

FINDING

There is no evidence that the commissioner has, pursuant to 16C.16 subd. 1(c), used the authority to designate a portion of small business procurement for award to bidders from a specified congressional district or other geographical region.

RECOMMENDATION

Admin should consider whether designation of a portion of small business procurement for award to bidders from a specified congressional district or other geographical region would enhance opportunities for under-represented groups. This recommendation is also discussed in the MGT America study.

There is evidence of some inclusion of TG/ED/VO business owners on Master Contracts that the State has awarded. This would include the ASAP-IT contract and the SITE contract, though the number of African American contractors is negligible. Real Estate and Construction Services (RECS) currently has four master Contracts in place. There is an Asbestos and Other Hazardous Materials Remediation Design Services Contract with 5 vendors, none are TG; an Industrial Hygiene contract with 9 vendors, one of which is TG; a Construction Testing and Inspection Contract with 15 vendors, 1 of which is TG and a Construction Auditing Services contract with 7 vendors, none of which is TG. We were unable to determine from the documents reviewed whether, or the extent to which, targeted group vendors were available with respect to the aforementioned master contracts.

FINDING

It does not appear that the commissioner has very often (if at all) used authority under 16C.16 subd 1(a) to divide procurements into smaller units to facilitate bids from small businesses.

RECOMMENDATION

Admin should consider whether the prospect of dividing procurements into smaller units will facilitate more bidding opportunities for under-represented groups.

Subdivision two defines “small business” for purposes of section 16C.16 to 16C.21 as the term is defined in the Code of Federal Regulations, Title 49, section 26.65, provided the business has its principal place of business in Minnesota.

Subdivision three directs each state agency for each fiscal year to designate for awarding to small businesses at least 25 percent of the value of anticipated procurements of that agency for professional or technical services. This set-aside is in addition to the required set-aside of 25 percent of state procurement of goods and services for small businesses.

Subdivision four relates to targeted group purchasing. It requires the commissioner to establish a program for purchasing goods and services from targeted group businesses as designated under the section. The commissioner is to attempt to ensure that purchases from targeted group members reflect a fair and equitable representation of all the state’s purchasing.

The data reflecting diverse spend show that spending with businesses owned by protected groups has been quite low. For instance, a report showing TG/ED/VO spend with certified companies by certification type indicates that during 2016 women received the largest amount of

contract dollars by far with \$37,167,355, followed by Asians with \$10,616,293; Hispanics had received \$2,016,749 and Blacks only \$882,429. The figure for Disability owned businesses was \$1,477,272 and for Veterans was \$3,266,856. The largest group of certified businesses was women with 647, followed by Blacks with 162 and Asians with 108. The following chart shows the total State diverse spend for 2015 and 2016 and the number of certified businesses by category.

Category	FY16 Spend	% of Total Spend	# of Certified Businesses (as of 8/1)
Asian	\$10,616,293	0.50%	108
Black	\$882,429	0.04%	162
Hispanic	\$2,016,749	0.10%	58
Indigenous	\$356,689	0.02%	43
Woman	\$37,167,355	1.76%	647
Disabled	\$1,477,272	0.07%	26
Economically Disadvantaged	\$6,405,015	0.30%	85
Veteran	\$3,226,856	0.15%	96
Total TG/ED/VO	\$62,148,658	2.95%	1225
Total State Spend	\$2,109,462,225		
Category	FY15 Spend	% of Total Spend	# of Certified Businesses (as of 12/31/15)
Asian	\$11,060,842	0.58%	103
Black	\$119,672	0.01%	153
Hispanic	\$1,144,744	0.06%	56
Indigenous	\$73,147	0.00%	45
Woman	\$35,492,457	1.85%	634
Disabled	\$847,734	0.04%	25
Economically Disadvantaged	\$14,860,998	0.77%	90
Veteran	\$1,824,015	0.09%	78
Total TG/ED/VO	\$65,423,609	3.41%	1184
Total State Spend	\$1,920,869,371		

Under subdivision 5, the commissioner shall periodically designate businesses that are majority owned and operated by women, persons with a substantial physical disability, or

specific minorities as targeted group businesses within purchasing categories as determined by the commissioner. The commissioner may target a group within a purchasing category if it is determined that there is a substantial disparity between the percentage of purchasing from businesses owned by group members and the representation of businesses owned by group members among all businesses in the state in the purchasing category. An individual business may be included as a targeted group business if the commissioner determines inclusion is necessary to remedy discrimination against the owner based on race, gender or disability in attempting to operate a business that would provide goods or services to public agencies.

For purposes of the statute, “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.

Racial minority means an individual in one of the following categories:

- (1) Black American
- (2) Hispanic American
- (3) Asian Pacific American
- (4) Subcontinent Asian American
- (5) Indigenous American

16C.16 to 16C.21, and the Minnesota Rules adopted pursuant thereto, govern procurement procedures relating to the programs for small businesses and targeted group or economically disadvantaged area small businesses. These programs are administered by the Office of Equity and Procurement.

Criteria for certification of eligibility to qualify for the programs authorized by Minn. Stat. 16C.16 include establishing which designation - small business, socially disadvantaged small business or economically disadvantaged area small business - is being applied for. The rules define the applicable terms and set forth requirements for certification.

The 1998 Mason Tillman disparity study found that discrimination and exclusion prevented minority groups from obtaining their legal fair share. In 2009, MGT of America conducted comprehensive availability and disparity studies to analyze state funding, contracting and procurement data of the Department of Administration and Transportation and procurement data of each of the Metro Agencies. It identifies disparities in each unit and showed that from 2002 through 2009, African Americans and other ethnic vendors continued to experience discrimination, harassment, intimidation and hostility on public and private construction jobs, exclusion and loss of millions of dollars. There were recommendations on how to address the situation. Approaches were implemented and a number of efforts have been undertaken to promote inclusion, including those provided in Minn. Stats. §16C. In January of 2015, the Governor signed Executive Order 15-02, subsequently amended by Executive Order 16-01, which, among other things, created the Governor's Diversity and Inclusion Council to promote diversity and inclusion, recommend best practices and develop a long range plan.

The Council set short-term and long-term goals and identified a number of milestones to be met by December 31, 2017. In addition, E.O. 16-01 required the Council to, among other things; develop diversity and inclusion indicators that will be used to assess all cabinet-level agencies, to be integrated into the annual performance evaluation for all state level employees. These tools were to be developed by 2016. In 2015, the Office of Equity and Procurement was created which has undertaken many efforts and initiatives, including outreach and training.

Recently, it has implemented changes to provide more prompt pay for subcontractors, award specific contracts to targeted group businesses, and introduce a new methodology for calculating subcontracting goals.

The 2016 Omnibus Supplemental Budget Bill included provisions to align all preference programs, allow direct selection of targeted businesses for contracts under \$25,000 (“Equity Select”) and authorize the commissioner to set contracting goals. It included \$1,000,000 to develop an e-procurement system to facilitate targeted group business utilization and data reporting. Prompt payment provisions have been implemented for Targeted Group, Economically Disadvantaged, Veteran-Owned and businesses owned by persons with substantial physical disabilities to be paid within 15 days, rather than the standard 30 days. Legislation was passed to require all capital improvement projects over \$100,000 to be subject to the small business requirements. An updated disparity study is underway.

There was FY16-17 Budget item that provided funding of \$764,000 in FY 2016 and \$469,000 thereafter to provide direct support to small businesses aimed at reducing economic disparities. It is to enhance certification efforts, provide technical support and increase procurement opportunities and participation for veterans, women and minorities in publicly-funded projects.

The Diversity and Inclusion Council Report to the Governor dated January 2016 stated milestones for 2016 and 2017. The report admits that the current status of metrics reflects very poorly regarding African American and indigenous-owned businesses. Notwithstanding all of the race-neutral efforts that have been undertaken, significant disparities still persist. For

instance in 2013, MNDOT contracting for only \$891.00 with African American contractors (.00023% of \$400 Million).

FINDING

Information collected by the Governor's Diversity and Inclusion Council indicates that significant barriers to contracting continue to exist for businesses owned by under-represented groups in the areas of employment practices, civic engagement practices and contracting practices. With regard to contracting practices, the barriers include information/communication shortfalls, issues regarding the cultural and competitive landscape and process barriers.

RECOMMENDATION

The Governor's Diversity and Inclusion Council and Admin's Office of Equity in Procurement should continue and expand outreach and training efforts. This includes training for state department and agency staff regarding implementation of various aspects of the program such as applying preferences and opportunities for direct selection of targeted group businesses and non-competitive procurements. It also includes training for vendors regarding bidding and purchasing procedures, policies and practices, legislative priorities and outreach efforts contained in the Governor's Diversity and Inclusion Council's January 2016 report. Consideration should be given to developing a process whereby governmental units provide more feedback to unsuccessful bidders. The MGT of America study also included a suggestion to provide more feedback to unsuccessful bidders.

FINDING

The two disparity studies conducted by the State in 1999 and 2009 found that statistically significant disparities exist in the utilization of businesses owned and operated by specified

minority groups and women in certain categories of purchasing and the 1990 study also found a statistically significant disparity in the utilization by state agencies of businesses owned by disabled persons in all categories. The State's Small Business program, Minn. Stat. §16C.16, sets goals for purchasing from small businesses and establishes a program for purchasing from targeted group ("TG") businesses, businesses located in economically disadvantaged areas ("ED"), and veteran-owned businesses ("VO"). Although small businesses owned by women, minority groups and persons with disabilities have been designated as targeted group businesses for particular industries, the small business program goals (25% of all state procurement and 25% of professional and technical procurements) do not address the statistical disparities pertaining to underrepresented groups as established in the disparity studies. Notwithstanding the State's implementation of these initiatives, meaningful inclusion is still lacking. For instance, the direct spend with Certified African American TG/ED/VO businesses in FY 2015 was only \$135,960 or 0.008% of total spending. The direct spend number for the Certified African American TG/ED/VO businesses in FY 2016 as of August of 2016 was \$882,429.

RECOMMENDATION

Admin should implement a moderate narrowly-tailored race-conscious program of limited duration to remedy the statistical disparities that have been identified in the disparity studies. The Supreme Court decision in *City of Richmond v. J.A. Croson Company*, 488 U.S. 469 (1989) and subsequent cases provide support for establishing such a program. Utilizing such a program, annual targets should be set by ethnicity and industry based on the findings of statistically significant underutilization in the disparity studies. Goals for businesses owned by women and persons with disabilities should be included. The goals should be based on current availability of those groups experiencing statistically significant underutilization. Consideration

should be given to the question whether the definition for disability should be expanded beyond “small businesses owned by persons with a physical disability” as set forth in the June 6, 2011 Findings of Fact by the Commissioner, to include mental and other disabilities. The measures should be implemented for a limited duration such as ten years and reviewed to determine if the disparities have been eliminated. Otherwise, the failure to achieve inclusion and utilization to remedy the disparities is likely to continue.

Subdivision six allows the commissioner to award up to a six percent preference in the amount bid for specified goods and services to targeted group businesses. The commissioner may designate a purchase for award only to small businesses if the commissioner determines that at least three small businesses or small targeted group businesses are likely to bid. The commissioner may set goals requiring the prime contractor to subcontract a portion of the contract to small businesses or small targeted group businesses. The commissioner is also required to establish a procedure for granting waivers when qualified small businesses or small targeted group businesses are not available and establish financial incentives and penalties for contractors who exceed or fail to meet goals.

TG contracting goals have been set on a number of projects from 2012 onward and many of the goals have been achieved. These have included projects with DNR, MNDOT, RECS, Military Affairs and SDSB. However, we reviewed a number of documents relating to “good faith efforts” where contractors sought waivers from the small business or small targeted-group business participation goals for various projects during 2012 through 2016. In some instances, the waivers were granted, while in other instances the requests were denied and penalties were assessed. There is an established procedure for requesting a waiver and criteria to be used in making the determination. Contractors who fail to meet the project goal for certified target

group subcontractor use without an approved waiver may be penalized up to six percent of the total project value, not to exceed \$60,000. We do not find that the implementation of this provision was flawed, but do recommend that attention is focused on use of this provision to ensure that there is consistency in implementation and that contractors do not simply take the penalty. There are instances where contractors appealed penalty assessments and sometimes received reductions. Consistency is important here.

There have also been a number of protests by small businesses relating to the award of contracts, interpretation of provisions and application of terms and conditions, including preferences. We reviewed four such protests that were made during 2016. The matters protested included errors in calculating and scoring, inconsistency of evaluation with advertised criteria, incorrect applications of preference points and veteran preference points. Some protests were found to be valid and resulted in either cancelling the solicitation altogether or rebidding.

FINDING

There are quite a few requests by contractors for waivers of targeted group business subcontracting goals established under Minn. Stat. 16C.16, subd. 6(c). While the requirements are set forth in document 00-7339, it is important to ensure that the provision is being implemented in a consistent and uniform manner.

RECOMMENDATION

It is recommended that Admin take steps to implement stricter enforcement of “good faith efforts” with respect to the granting of waivers from small business or small targeted group business participation goals to ensure consistency and to maximize outcomes. Admin should consider defining the steps that constitute a legitimate good faith effort and provide a template

for vendors. In addition, the commissioner may consider the use of incentives as allowed under the provision, as well as penalties. Examples of incentives might include having information compiled by industry showing which contractors have met and have not met goals, or having goals posted at project sites along with information regarding the extent to which they are being met.

FINDING

The provision allowing the commissioner to designate a purchase for award only to small businesses or small Targeted Group businesses, veteran-owned businesses or small businesses located in an economically disadvantaged area provides a unique opportunity to promote inclusion. In 2016, new set-aside rules were enacted that allow contracting opportunities to go directly to targeted group businesses for purchases under \$25,000..

RECOMMENDATION

The Commissioner should look for opportunities to increase the designation of purchases and awards under the Equity Select program, including opportunities to exercise set-asides to businesses located in an economically disadvantaged area.

FINDING

The Department of Administration sets small business goals on certain projects, including on construction projects over \$500,000. Most businesses, including those in all categories of certified small businesses, are located in the wider metro area and, historically, contract goals have not fully taken into account all categories of TG/ED/VO businesses that will work in larger geographic areas in the state. A new method of construction goal setting has been developed for implementation in 2016-2017.

RECOMMENDATION

The Department of Administration should use the newly devised construction goal setting method in order to maximize inclusion of all eligible certified small businesses that have capacity to perform work in various geographic areas of the State.

Except where mandated by the federal government as a condition of receiving federal funds, subdivision 6a directs the commissioner to award up to a six percent preference, but no less than the percentage awarded to any other group under the section, on state procurement to certified small businesses that are majority-owned and operated by veterans. The commissioner may award a contract directly to a veteran-owned small business without going through a competitive bid process up to \$25,000. As under the previous section, the commissioner may designate a contract for goods or services for award only to a veteran-owned small business if it is determined that at least three veteran-owned small businesses are likely to respond. The commissioner may also set goals that require the prime contractor to subcontract a portion of the contract to a veteran-owned business. The commissioner is to establish a procedure for granting waivers and establish financial incentives for prime contractors who exceed the goals and penalties for those how fail to meet goals.

For the veteran-owned preference, the vendor must be certified by the Office of State Procurement as a veteran-owned small business. The Directory of Certified Targeted Group, Economically disadvantaged and Veteran-Owned Vendors on the Office of State Procurement's website must identify the vendor is classified as veteran-owned. The 6% preference applies to purchases of goods, general services and construction.

Subdivision seven allows the commissioner to award up to a 6 percent preference on state procurement to small businesses located in an economically disadvantaged area. As with the other subdivisions regarding preferences, the commissioner may award a contract for goods, services or construction directly to a small business located in an economically disadvantaged area without going through a competitive bid process for up to \$25,000. As with the other subdivisions, the commissioner may designate a contract only for award to economically disadvantaged areas if determined that at least three will bid, may set goals, establish procedures for waiver of subcontractor regulations, as well as incentives and penalties. The provision sets forth a procedure for certifying that a business is located in an economically disadvantaged area. The commissioner may designate certain areas designated as targeted neighborhoods or border city enterprise zones as economically disadvantaged if the commissioner determines that it will further the purpose of this section.

A report showing agency spends with veteran owned businesses for the entire five-year period is also negligible. Between July 1, 2011 and June 30, 2016, there were 26 spends with a few departments. All, except the Nursing Home Administrations Board, were under 1%. The Office of State Procurement has designated a number of counties as “economically disadvantaged” either through the Labor Surplus Area Designation, 70% of statewide median income, or both. There is a list and a map containing such designations, and the preferences that apply. However, the commissioner has not designated any areas as targeted neighborhoods or border-city enterprise zones.

FINDING

It does not appear that the Commissioner has utilized the provision to award contracts directly to small businesses located in an economically disadvantaged area or has designated targeted neighborhoods or boarder-city enterprise zones.

RECOMMENDATION

The commissioner should implement the provision allowing awards of contracts for goods, services or construction up to \$25,000 directly to small businesses located in an economically disadvantaged area without going through a competitive solicitation, and should consider whether it will further the purposes of Minn. Stat. § 16C to designate economically disadvantaged areas.

The 2016 legislature enacted several revisions to M.S § 16C.16 pertaining to preferences that affect solicitation awarded on or after July 1, 2016. If specified requirements are met, the statutes authorize a 6% preference for Targeted Group, Economically Disadvantaged and veteran-owned; an environmental preference of up to 10%, if stated in the solicitation; a 6% preference for Department of Employment and Economic Development (DEED) Certified Providers and Human Services (DHS) Day Services Licensed Providers (DEED/DHS Providers) for certain services; and a reciprocal preference with percentage rates that vary by states.

Under subdivision s 7a, when designating purchases directly to a business in accordance with section 16C.16, the commissioner may also designate a purchase of goods or services directly to any combination of small businesses, small targeted group businesses, veteran-owned businesses or businesses located in economically disadvantaged areas if it is determined that at least three businesses in two or more of the disadvantaged business categories are likely to

respond. The commissioner may set goals that require the prime contractor to subcontract a portion of the contract to any combination of a small business, small targeted group business, veteran-owned small business, or small business located in an economically disadvantaged area. However, the provision allowing awards to a combination of different categories of businesses does not appear to have been used. This would allow more innovation and might be consistent with some of the recommendations from interviewees regarding creating cooperative purchasing arrangements to build capabilities and thinking creatively.

FINDING

Some participants have observed that the limits to program participation prohibit small businesses from growing and increasing capacity.

RECOMMENDATION

Admin proposed legislation during the 2016 session that would allow businesses to stay in the program longer in order to develop capacity, but the legislation was not enacted. The Commissioner should review and consider whether to again propose legislation which would revise the limits to benefit some participating businesses and allow them to develop greater capacities by remaining in the program longer. The Commissioner should also consider utilizing the authority to designate purchases for a combination of small businesses, small targeted group businesses, veteran-owned businesses, or small businesses located in an economically disadvantaged areas, as a method to increase opportunities to contract and build capacities through a combination of unbundling contracts and exercising set-aside authority.

Subdivision eight provides that surety bonds guaranteed by the federal Small Business Administration and second party bonds are acceptable security for a construction award under 16C.16. Subdivision nine was repealed.

Subdivision ten states that at least 75 percent of the subcontracts awarded to small businesses or small targeted group businesses under subdivision 6, paragraph (c), must be performed by the business to which the subcontract is awarded or by another small business or small targeted group business. The intent of this provision is to ensure that when small businesses and small targeted group businesses are awarded subcontracts, they (or another small or targeted group business), actually perform the work.

The records indicate, according to I-134 reports, that there have not been instances of contracts that were awarded to TG subcontractors being performed by non-TG contractors.

Subdivision eleven provides that the rules pertaining to procurement matters apply equally to procurements designated for small businesses or small targeted group businesses.

Subdivision twelve provides that section 16C does not apply to construction contracts or contracts for professional or technical services under 16C.08 that are both financed in whole or in part with federal funds and are subject to federal disadvantaged business enterprise (DBE) regulations. There is no evidence from documents reviewed that the section has been applied in such contract situations.

Subdivision thirteen applies to contracts for state-funded capital improvement projects in excess of \$100,000 that are issued by organizations that are not subject to the provisions of section 16C, including municipalities. It requires organizations administering such contracts to promote the use of targeted group businesses and take steps to remove barriers to equitable

participation of such businesses. Organizations (municipalities) are to cooperate with the commissioner's efforts to monitor and measure compliance.

This section is relatively new, enacted in 2015. There are potential opportunities for promoting inclusion when other entities, namely municipalities, undertake capital improvement projects utilizing state funds. It does not appear that this provision has been used to achieve that end. Currently, there is a project in Rochester, the Designation Medical Center (DMC) that involves more than \$100,000 of state funds. The project goals are 4% for minorities and 6% for women. The DMC Project in Rochester presents an opportunity for Minn. Stat. 16C.16 subd. 13 to be used to promote inclusion of targeted group businesses in contracting opportunities.

RECOMMENDATION

The Commissioner's office should request to review the goals that have been set for participation of businesses owned by protected group members in the DMC project currently underway in Rochester and should encourage that steps be taken to promote maximum use of Targeted Group businesses and to remove barriers to equitable participation of such businesses on the project. The commissioner should use this section whenever the opportunity arises.

5. Minn. Stat. § 16C. 18

Minn. Stat. § 16C. 18 require the Commissioner of Transportation, the Metropolitan Airport Commission and the Metropolitan Sports Facilities Commission to report to the Commissioner of Administration all information that the commissioner requests to make reports required pursuant to Minnesota Statute 16C.

The Administration made no requests for reports under this provision during the period covered by the audit.

6. **Section 16C. 32**

Section 16C. 32 authorize the Commissioner to utilize design-build contracts or construction manager at risk methods of contracting, as well as to select a contractor by job order. With respect to every design-build or construction manager at risk contract, the commissioner is required to make a written determination, including specific findings, indicating whether use of that method of procurement serves the public interest.

Documents reflect that the Commissioner has entered into 10 Construction Manager at risk contracts and 3 Design Build contracts during the five-year period, as illustrated by the chart below. Three of the Construction Manager at Risk contracts had targeted Group goals; a \$45,000 contract with a 10% goal; a \$6,500 contract with a 5% goal; and a \$187,000 contract with a 3% goal. As for the Design Build contracts, a \$4,330,106 contract for Legislative Broadcast Media had a 2% Targeted Group goal; a \$2,250,000 contract for a New Legislative Office Building had a 4% Targeted Group goal; and a \$18,759,600 contract for New Lots F and L Parking Ramps had a 4% targeted Group goal. The only project that reflected whether the goal was achieved is the New Lots F and L Parking Ramps that showed that it achieved 8%, exceeding the 4% goals.

Contract Type	Contract Amount	TGB Goal	TGB Actual	Note
Construction Manager at Risk	\$45,000	10%	N/A	
Construction Manager at Risk	\$6,500	5%	N/A	
Construction Manager at Risk	\$187,000	3%	N/A	
Construction Manager at Risk	N/A	N/A	N/A	
Construction Manager at Risk	N/A	N/A	N/A	
Construction Manager at Risk	N/A	N/A	N/A	
Construction Manager at Risk	N/A	N/A	N/A	
Construction Manager at Risk	N/A	N/A	N/A	
Construction Manager at Risk	N/A	N/A	N/A	
Construction Manager at Risk	N/A	N/A	N/A	
Design Build	\$4,330,106	2%	N/A	Legislative Broadcast Media
Design Build	\$2,250,000	4%	N/A	Legislative Office Building
Design Build	\$18,759,600	4%	8%	New Lots F & L Parking Ramps

7. **Minnesota Statute 16C.35**

Minnesota Statute 16C.35 allows the Commissioner to utilize job order contracting for projects that do not exceed the cost of \$250,000.00. In such event, the Commissioner must issue a request for qualifications that includes criteria that do not unduly restrict competition, nor impose conditions beyond reasonable requirements to ensure maximum participation of all contractors. The request for qualifications must be publicized in a manner that ensures access for any potential responder and to the extent possible, notice must be given to all targeted group businesses designated under section 16C. 16. The commissioner is required to review responses to requests for qualifications, establish a list of qualified contractors, enter into master contracts with all qualified contractors and establish a procedure to allow firms to submit qualifications annually to allow placement on the list. The commissioner is required to request bids for construction services for any project using job order contracting from qualified contractors as follows:

For construction projects up to \$50,000 - two bids;

For construction projects greater than \$50,000, but less than \$100,000 - three bids;
For construction projects greater than \$100,000, but less than \$250,000 - four bids.

The statute directs the commissioner to select the contractor who submits the lowest bid and to develop a system to ensure a reasonable opportunity for all qualified contractors to bid on construction services on a periodic basis. The state does not participate in job order contracting.

FINDING

From the documents reviewed, it appears that the State has not engaged in job-order contracting during the period covered by the audit.

RECOMMENDATION

The Commissioner should consider whether the use of job order contracting in certain instances involving projects with construction costs that do not exceed \$250,000 might promote the purpose of the statute to increase participation in contracting for businesses owned by protected group members. If so, the Commissioner should establish a list of all qualified contractors and procedures to provide notice to Targeted Group businesses and to allow firms to be placed on the list of qualified contractors.

8. Other Reports

- Federal Section 3

Other reports were reviewed by the audit team, including reports pertaining to Federal Section 3. The purpose of Section 3 is to ensure that employment and other opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low-income and very low-income persons, particularly those who are recipients of government assistance for housing. In furtherance of this

goals, HUD’s implementing regulations at 24C.F.F. Part 135 require recipients of Federal financial assistance, including housing authorities, to (1) provide training, employment, and contracting opportunities to “Section3 residents” and “Section 3 business concerns;” and (2) ensure that their contractors provide training, employment and contracting opportunities to “Section 3 residents” and “Section 3 business concerns.”

Housing authorities’ obligations to comply with Section 3 requirements apply notwithstanding the amount received from HUD. The requirements apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance covered by Section 3, regardless of the amount of the contract or subcontract.

Regarding Federal Section 3, the State reports to US Housing and Urban Development regarding three funds: HOME Investment Partnerships, Housing Opportunities for Persons with Aids (“HOPWA”) and the Neighborhood Stabilization Program (NSP 1 and 3). For years 2011 through 2015, the following was reported:

2011 Construction contracts HOME

- Amount of all contracts awarded	\$8,223,499
Total dollar amount of construction contracts	\$8,048,487
Total dollar amount of construction contracts awarded to Section 3 businesses	\$1,133,178
Percentage of total dollars to Section 3 businesses	14.10%
Total number of Section 3 businesses receiving contracts	2

Non-Construction Contracts

Total dollar amount of all non-construction contracts	\$175,012
Total dollar amount of non-construction contracts awarded to Section 3 businesses	0

Percentage of the total dollar amount awarded to Section 3 businesses	0.0%
Total number of Section 3 businesses receiving non-construction contracts	0

The responses to each of the questions about the efforts made to direct employment and other economic development opportunities generated by HUD financial assistance for housing and community development programs toward low and very low income persons indicated that such efforts were not made.

2011 HOPWA

Total amount of HUD grant was \$139,821, but no contracts were awarded

2012 HOME

Amount of all contracts awarded	\$13,513,851
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Construction Contracts

Total dollar amount of all construction contracts awarded	\$13,447,181
Total dollar amount awarded to Section 3 businesses	\$4,103,360
Percentage of the total dollar amount awarded to Sec. 3	30.50%
Total number of Sec. 3 businesses receiving construction contracts	173

Non-Construction Contracts

Total dollar amount of non-construction contracts awarded	\$66,670
Total dollar amount of non-construction contracts awarded to Sec. 3 businesses	\$6,590
Percentage of the total dollar amount that was awarded to Section 3 businesses	9.90%
Total number of Section 3 businesses receiving non-construction contracts	8

A report submitted January 24, 2013 reflected 42.80% construction Section 3 percentage (\$6,170,457) with -0- Section 3 businesses receiving contracts (which raises a question how this was achieved), and 34.40% non-construction Section 3 dollar amount (\$64,057) with 13 businesses. The responses regarding compliance were affirmative.

Reports submitted October 23, 2015 indicated the following:

Contracting details

Construction amount	\$3,254,163
Construction Section 3	1,992,795
Construction Section 3 percentage	61.2%
Number of businesses	46
Non-construction amount	\$57,599.35
Non-construction Section 3	16,335
Non-construction Section 3 percentage	28.4%
Number of businesses	3

The report indicated affirmative responses regarding efforts were taken to achieve compliance.

A second report for 2015 reflected 81.3% construction Section 3 percentage (\$1,435,293.04) with 26 businesses, and 13.1% non-construction with 8 businesses, and affirmative responses regarding efforts.

A third report for 2015 reflected 49.1% construction Section 3 percentage (\$474,411.73) with 178 businesses, and -0- non-construction participation out of \$2,275,570 non-construction total, and affirmative responses regarding efforts.

A fourth report submitted November 25, 2015 reflected 11.1% Section 3 construction amount (\$2,557,623) with 11 businesses, and -0- non-construction participation out of a total of \$392,371.36, along with mixed responses concerning compliance efforts. Another report submitted November 25, 2015 reflects 8.7% construction Section 3 percentage (\$238,739) with 3

businesses and 100% non-construction Section 3 percentage (\$148,400) with 1 business. The responses regarding compliance were mixed.

We reviewed two reports that were submitted for 2016 (both were for fiscal year 10/1/14 through 9/30/15).

The January 4, 2016 report reflected Section 3 construction amount of 39.4% (\$1,020,551) and 11 businesses, and non-construction amount of 1.8% (\$3,100) and 1 business. The responses regarding compliance efforts were mixed.

The January 19, 2016 report reflected Section 3 construction amount of 3.7% (\$770,597) with 1 business and non-construction Section 3 indicating -0- participation out of \$1,242,924. Responses regarding compliance efforts were mixed.

MNDOT FHWA and FTA Programs

Minnesota Department of Transportation (MNDOT) administers a federally-based disadvantaged Business Enterprise (DBE) Program as well as a Targeted Group Program. These programs are operated by MNDOT's Office of Civil rights. The DBE Program utilizes participation goals in the performance of federally-funded projects, under federal rules and limitations. The audit team reviewed reports regarding MNDOT Federal Highway Administration (FHWA) and Federal Transportation Administration (FTA) for 2011 through 2015. Federal regulations require establishing statewide goals for DBE participation every three years for both FHWA and FTA expenditures.

The objective of the DBE program is to increase participation of women and minority-owned businesses in the award and performance of USDOT contracts. In order to be awarded

federal funded contracts, bidders must commit to or make a good-faith effort to meet contract-specific DBE subcontracting goals. MNDOT is required to establish goals as a recipient of funds. The FHWA statewide DBE goal in FFY 2011 and FFY 2012 was 8.7 percent. The achievement rate was 7.6 percent in FFY 2011 and 6.6 percent in FFY 2012. The FTA statewide DBE goal in FFY 2011 and 2012 was 5.75 percent. The achievement rate was 0.0 percent in FFY 2011 and 4.5 percent in 2012. A DBE goal of 11.4 percent was established for 2013-2015 on FHWA funded projects.

MNDOT reports reflect that with regard to FTA expenditures for the years 2012 to 2014 that 100 percent of prime contract dollars were awarded to non-DBE prime contractors while 1.8 percent of contract dollars were awarded to DBE sub-contractors.

MNDOT's statewide DBE goal for overall participation on federally funded transportation projects was 9.3 percent for FFY 2013 and 9.8 percent for FFY 2014, compared to a statewide goal of 10.3 percent for both years. This reflects an increase from 6.6 percent in 2012. A new three-year agency-wide goal was established for 2016-2018 of 7.13 percent.

MNDOT's FHWA DBE utilization for the years 2012 to 2014 shows that 99.7 percent of prime contract dollars were awarded to non-DBE prime contractors (equivalent to \$2.34 billion dollars) while 0.3 percent of prime contract dollars were awarded to DBE prime contractors (7.22 million dollars). Of the 618 million dollars subcontracted by prime contractors, 32.0 percent went to DBE subcontractors and 68.0 percent to non-DBE subcontractors. In total, DBE prime contractors and sub-contractors received 8.75 percent of total contract dollars awarded from 2011 to 2014. Of the contract dollars awarded to eight DBE prime contractors during the period, 100 percent were awarded to white females. Among DBE subcontracts, 87.2 percent

were awarded to white females, 4.8 percent to Asian Pacific Americans, 3.4 percent to Blacks, 3.0 percent to Hispanics, 1.4 percent to Native Americans and 0.1 percent to Asian Indians. The chart below illustrates the breakdown DBE prime contract and sub-contract dollars that were awarded during the period.

DBE Prime Contracts	Percent Awarded
White Women	100
African American/Black	0
Asian Indian	0
Asian Pacific	0
Hispanic	0
Native American	0
DBE Subcontracts	Percent Awarded
White Women	87.2
African American/Black	3.4
Asian Indian	0.1
Asian Pacific	4.8
Hispanic	3.0
Native American	1.4

10. **Additional Findings and Recommendations**

FINDING

Local government entities, particularly school districts, are not involved in significantly promoting opportunities for improving the participation of protected group contractors in purchasing and procurement. The State provides significant amounts of funding to these units of local government.

RECOMMENDATION

The State should consider additional use of leveraging of its aid to cities, counties and school districts to incentivize their inclusion efforts.

FINDING

Local governments often utilize state contracts for their procurement needs. The dollar amount of annual procurement by municipalities, counties and school districts is quite substantial. Often, there is not significant diversity among vendors and suppliers on the state contracts that are being used by the local governments. The State has historically instructed purchasing agents to use Targeted Group Businesses whenever possible. However, in 2016, Master Contracts were revised to include specific reminder language that a TG/ED/VO vendor should be strongly considered for Master Contract purchases. In addition, the Office of State Procurement began reorganizing vendors on Master Contracts so that TG/ED/VO vendors would appear at the top of the list with identification as one of the TG/ED/VO vendors that should be considered first in the selection process. There is tremendous potential to increase participation of protected group contractors if there is more inclusion in the state contracts that are subsequently used by local governments.

RECOMMENDATION

The State should strive to increase diversity and inclusion among the vendors and suppliers for state contracts that are used by local governments for their own purchasing and procurement so that participation of protected group second tier suppliers and vendors is replicated in purchasing by local governments. The State should continue the effort that was enhanced in 2016, instructing purchasing agents to actively seek opportunities to use TG/ED/VO businesses when making Master Contract purchases.

11. Recommended Procurement Best Practices

1. Capacity building. Different aspects of capacity building might include small business development; bonding, insurance and finance; certification and doing-business

assistance; and vendor outreach and networking. Multnamah County (Oregon) requires prime contractors to state in their proposal how they will build the capacity of sub-contractors. On large projects the prime is required to mentor at least two minority, women or small business enterprises. Virginia launched a mobile app that, among other things, allows small businesses to connect via the app to bid on a project together.

2. Redefining Master Contracts - the Metropolitan Council (METC) has worked to redefine master contracts to have smaller scopes, allowing several MWBE/DBE firms to win master contracts. The State follows this approach as well. It should be continued and expanded to increase opportunities for TG/ED/VO vendors to win Master Contracts.
3. Proactive Promotion of Teaming; The METC has worked with MWBE and DBE firms to form a team, with one being lead on a large project. The team successfully won a large design contract.
4. Comprehensiveness - Successful inclusive procurement programs are characterized by a comprehensive approach that includes multiple strategies, continual improvement through program analysis, and feedback from multiple users. The City of Seattle provides an example. To accomplish this, in addition to a centrally led Race and Justice Initiative, it has established a Social Equity Office in the Administrative Services Department which operates on the concepts of accountability, visibility, and cultural change. The program is accountable to the public and to advocates - they schedule meetings with the advocates to discuss and critique what is happening with the program. Staff members attend meetings of the business chambers and associations. The Social Equity Office also creates visibility and accountability with the Mayor's office. The Social Equity Office reports MWBE outcomes to the Mayor and City Council and the

results are placed in department director's performance reviews. There is accountability down the chain with staff in the departments as well. Admin's Office of Equity and Procurement embodies much of this concept. Perhaps, making the results and outcomes a component of department directors' performance reviews would result in greater accountability.

5. Culture Change - a culture change strategy looks to change attitudes and awareness which will lead to changes in habit and behavior. The primary focus is cultural change in government, which will extend out to relationships, like prime contractors, instead of solely relying on efforts like mandating prime contractors to have sub-contracting goals.

Examples

- New York City comptroller created accountability by giving each city agency a grade for its procurement inclusion efforts and results along with a narrative explanation.
 - Seattle's examples include coaching city engineers, building trust with business associations with the presence of the Director at some of their meetings, and creating accountability with the community, the Mayor and City Council.
 - The METC, through years of coaching and training, has changed the culture so that technical project managers now come to inclusion staff with ideas how there can be more inclusion on a contracts.
6. Innovation - California is unique in using civic engagement methods already popular in cities to identify and connect with new potential vendors. In 2015, it launched its GreenGov Challenge, a competition that asked participants to create apps, visualizations and other tools to help improve government sustainability practices.
 7. Goal-setting -

(a) With respect to considering a race and gender-conscious approach as recommended herein, a best practice is to consider establishing a large scope with a relatively small threshold. In Minneapolis's case, sub-contracting goals apply to professional and technical services over \$100,000 and to commodities and services over \$50,000. In the case of the metropolitan council, there are required sub-contracting goals on projects over \$50,000.

(b) Set separate MBE and WBE goals for each contract. Separate goals encourage private contractors and vendors to find multiple sub-contractors to fill the goals. New York City takes this concept even further, with specific aspirational sub-goals for each race/ethnicity by gender for each type of city spending.

- Set an aggressive overall goal.

- Update disparity studies.

8. Coordination - In 2016, Pennsylvania Governor Tom Wolf signed an Executive Order to designate to a single state agency, the Department of General Services, the responsibility of developing and managing programs to ensure that discrimination by reason of race, gender, creed, color, sexual orientation, or gender identity or expression does not exist with respect to the award, selection, or performance of any contracts or grants issued by state agencies; and to establish a Contract Compliance Program to ensure that state contracts and grants are nondiscriminatory in three aspects;

(a) Nondiscrimination in the award of such contracts and grants.

(b) Nondiscrimination by those who are awarded state contracts and grants in the hiring and treatment of their employees.

(c) Nondiscrimination by those who are awarded state contracts and grants in their award of subcontracts and supply contracts for performance under state contracts.

Recognizing the importance of coordination, the Executive Order directs the agencies under the Governor's jurisdiction to work cooperatively and to encourage independent agencies, state-affiliated entities, and state-related agencies to adopt, refine, and implement similar practices and procedures to support greater diversity, inclusion, and fairness in employment opportunities within their workforce.

Best Practices derived from:

- Local and Regional Government Alliance on Race and Equity (GARE) Report, December 2015
- Government Technology (GT), State Procurement Management: How Do States Rank? February 19, 2016
- Pennsylvania Executive Order No. 2016-05

12. INTERVIEWS- PROCUREMENT ACT

FINDINGS

- Contractors feel stuck between a rock and a hard place – they are asked/told to hire DBEs but sometimes that drives their costs up and they are out of the range of lowest bid, so they lose the work. This is a disincentive, conflict of overall objectives.
- Women-owned businesses are not incentivized to hire DBE's as subs. Further, once a primary hires a women-owned business they have often met their target for hiring a DBE.
- Often, it seems that the state is unaware of the needs of the construction industry and how day to day business functions, what might work or not work to help diversify the industry. For example, more than a couple of participants mentioned that these smaller

newer businesses are primarily made up of people who do the actual trade they are in -- mostly construction workers (although there were other types of businesses mentioned). They do not have extra staff to comb through state websites looking for opportunities to bid on contracts, and the bidding process itself can be cumbersome and time-consuming.

- There is a shortage of knowledgeable construction workers –workers trained in the trades are aging and there is a concern in the industry that there will be a real shortage in the not-too-distant future. Further, it was often described that smaller newer minority owned businesses tend to be in certain areas, less capital intensive as these are easier to break into as a startup. Sometimes there is competition over a particular DBE who is needed, because they are the “only one” who does a particular part of a job. Bidding companies all want that DBE and so the price goes up, and then that DBE is tied up for the next project. So majority owned businesses are hired.
- Contractors typically like to hire businesses they are familiar with, whose work they know and trust. Some said they wish the state would take on some of the risk in case when they hire a less experienced subcontractor and things fall through, that they themselves don’t have to lose the money. (Contractors are the second most failed type of business, according to one of the participants. It is not uncommon for newer small contractors to go out of business, even in the middle of a project.)
- Larger companies are more able to absorb costs which continue to put them at an advantage. Further, they are more likely to have the capital needed to buy construction materials for a project without worrying about the delayed payment to reimburse them. Costs such as asphalt, rental of large equipment, pipes for water and gas lines, plumbing

and sewer, and of course payroll are often prohibitive for a small company if they have to wait months to get paid.

Programs in the community that train people in targeted groups for work should be informed of needs – some areas are being over-trained where there is a saturation of labor, while other areas are still needed.

- The state procurement process can be cumbersome, can be time consuming and that they may not receive feedback with regard to their performance. So in the case of equity select, we're working on it like a streamlined contract document. Get rid of state jargon and try to simplify the process. I think if I were to make a recommendation, we need to keep doing that and apply it to more of our processes and more of our documents.
- The State is currently on: set-asides, prompter pay, new methodology for calculating subcontracting goals, Equity Select and other programs.

One of biggest sticking points is how to make procurement rules work with state equity efforts -- how do we open up for minority and women owned businesses without putting our buyers in the position of breaking these laws and facing a gross misdemeanor, prison time.

- Equity Select has been an opportunity not only to go directly to a targeting group – but also to have dialogue to negotiate those under \$25,000 purchases. It has been an opportunity for both the state and government purchasers not only to go directly to the vendor, but interact more and ensuring all vendors receive the same information. It is saving time in the purchasing and facilitating these dollars in diversity inclusion.
- The State has recognized that the 30 days standard payment terms for state vendors can be a barrier for the small business. So the State has worked it into their system so that

these vendors can be paid quickly in about 15 days.

RECOMMENDATIONS:

- Incentivize businesses to hire DBE 2nd, 3rd, 4th tier, perhaps by changing the scoring system for selecting the winning bid. Include points/weight for hiring targeted subcontractors.
- Consider women separately from other targeted groups, have different goals for the two and perhaps for various groups depending on the state's overall objectives.
- Get employees who do purchasing for the state experience in the field, with the express purpose of understanding how things work in the construction industry, insight into obstacles and challenges they might face, and identify ways to grow opportunities for people in targeted groups. Build empathy.
- Identify real market needs in the near future and start to develop relationships with unions to train skills, to move people in targeted groups through apprenticeship programs so that there is a strong base of skilled labor in the areas that are needed.
- The State should support newer small businesses owned by people in targeted groups in some new ways- The State consider taking on some of the risk for these businesses – help with bonding perhaps – or help with cash flow so they can pay creditors while waiting to be paid. The State should consider taking on risk of primary contractors when they hire sub-contractors that are less experienced DBEs.
- The State should offer support training in areas of running a business – cash flow management, how to calculate a bid (without under-bidding), how to manage a business – so these DBEs can build up experience and stay in business longer, grow their businesses. The State should consider ways to encourage smaller businesses to group together to gain

larger pieces of state contracts, such as a group of architectural firms did to support the primary architect on the Stadium project.

- The System should have the right incentives that are aligned with the people doing the work. Decentralize compliance so each group is paying attention, if it becomes more of their normal work rather than having Big Brother coming down on them.
- Make a stronger effort to communicate available contracts to the minority councils. RFPs should make people feel included and invited.
- The State has to improve e-procurement system to make it more robust so that can it can do a better job of checking spending, sub-contracting dollars, size of businesses, etc.
- The State should make sure it is allowing enough time for solicitations so if people are struggling with the online system will have enough time to meet deadlines.
- Measure state's second tier spend – if state partners with majority white owned business, measure what they are spending with minority owned businesses. Figure out a way to measure the diversity of businesses the State does business with. The State doesn't ask the majority of businesses what the diversity of their workforce is.
- Increase what the State does as far as the set-aside rules. The State can require only minority owned companies to participate in certain bids.
- The State needs to invest (DEED doing a good job) in building up minority owned businesses. Contractors don't have the experience or capacity to do so. The State should consider grants or forgivable loans, build leadership acumen, invest in infrastructure.
- The State should look for unique spots or spaces where the businesses that are minority owned there might be more of them.

- Help contractors with the balance between low bid and meeting hiring goals – sometimes there is a conflict between the two goals. Consider giving weight to each.
- Speed up processes, or amend to a multi-year contract so it does not get hung up as often. Contract procedures take a really long time, 4-6 weeks so we can't start our programming even though staff is ready and we have signed the contract. Sometimes it is too late.
- Continue to increase the number of targeted group businesses in pre-qualified program. It is hard to prequalify if don't have experience already, Catch-22.

Appendices

Summary Report – Qualitative Research/Interviews Clift Research & Consultation

BACKGROUND:

- As part of the NAACP/Governor’s Working Group Audit of Equity Laws in Minnesota, Clift Research has conducted many interviews with the goal of identifying recommendations regarding three areas of equity law in the State of Minnesota, and how to improve processes and systems to better support these laws. The three areas are:
 - Procurement
 - Affirmative Action
 - Human Rights
- Clift Research has conducted qualitative research, mostly by phone but some face-to-face.
- This document comprises notes taken during the interviews. Specifically, the notes in this current document are things people said regarding “Affirmative Action.”

METHOD:

Respondents were recruited through referrals from working group members, community organizations that serve targeted populations, state employees who serve in related capacities, and through press releases to targeted media.

Participants were asked for their experiences and recommendations related to the three areas of law, and things that get in the way of these laws working as they are supposed to.

How to Use These Qualitative Data

One of the biggest challenges overall is the subjectivity of humans. Even reading these informal interview notes, the readers’ pre-existing point-of-view and beliefs can get in the way of understanding. This is the same thing that happens when interviewing people about discrimination.

To this point, it is obvious when listening to different parties that there are varying perceptions out there of the purpose of these laws. Depending on a person’s belief about the purpose, their view of how well a law is functioning and what to do to fix it is affected. For example, a person put in the position of keeping track of a quota, or tracking numbers for compliance, sounds like she thinks the purpose is to reach certain numbers. And a contractor in a position of hiring people of color - when he feels he’s having trouble doing so - made a comment that showed he thinks the purpose is simply to have people working with people who are different from them. He had no sense of a higher reason for the law. On the other hand, a contractor who sees the upcoming shortage of trained skilled people in the construction industry sees the need as urgent to train more and more people to get them to a level of expertise in skilled trades, and he sees targeted groups as a rich resource.

Also, participants had varying awareness of programs in place. Sometimes their recommendations might be programs that are in existence, but the reader should consider that these are either a: not being communicated about effectively or b: these are not working as intended.

Affirmative Action Interview Notes

Respondent #3:

Experience: He had a good experience when seeking employment with the state. In regards to the online applications, he thought it could have been an easier process. He thought the whole employment process was fair and was based on skill. In regards to the disabled population that he works with, he thinks the state has done a good job integrating services, training, and fair wages in a rapidly changing environment.

Recommendations: Respondent has no recommendations regarding MN employment process, except that the online application could be more streamlined and easier to upload. Regarding the disabled population, he is an advocate for the 700 hour program and thinks the state should take a close look at funding the right services and being careful where dollars are going, just like any business.

Respondent #4:

Experience: Respondent worked for the Dept. of MN Housing and Finance. He always felt that it was hard to feel part of the team in his department. He didn't feel valued as an individual, found it hard to work in the environment, and didn't think he could speak out. He was afraid to complain to his supervisor because he was a minority. He knew others felt the same as he did but didn't know if anyone filed complaints. He never filed a complaint but was aware of the process of how to do so.

Recommendations: He'd like an increase in education and information on race and inequities--from hiring processes to overall environment and culture. Policies and procedures should be re-phrased and engineered to attract qualified work force individuals and make individuals want to stay there. Include people from different groups in the hiring process and make it more appealing to attract candidates that want to be successful. Work with leadership to set employment policies.

Respondent #11:

Experience: Respondent applied for health care policy job, id 4872. One September 15 she received an e-mail that stated: *I encourage you to apply for other jobs that match your qualifications.* She sent an e-mail and replied. Her reply from that email: *You did meet minimum qualifications. We had a very competitive pool, manager decided to hire who they wanted.* She wonders why she even got an interview. If she were not educated, she would think she did not qualify.

Also, she applied for a human rights recruitment job. Told they have new procedures and she asked about them. She received another e-mail saying the job was taken down, now you have to apply for it, and it's only for state employees. She sees a flawed and exclusive process that excludes minorities for employment with the state.

“How can Louis Porter tell me I have no constitutional rights – I am a state employee.” They sent her to English class. She requested meeting with governor’s staff twice and she was still waiting to get a call back. She had to leave a state job to work for non-profit to experience peace in her job. Chair of LCC, senator, and exec director told her she is not a professional. She has been verbally abused and no one has done anything about it. It was a nightmare for her.

Recommendations: There needs to be accountability and transparency. Statute 43A.15 allows people to get a waiver not to hire anybody in the qualifying pool. It needs to be removed so you hire from qualified pool, instead of bringing in a friend. African Americans born in MN are most under-employed but most educated in the state. When she started with the state they did not have an Affirmative Action plan, so she started working with Rochester to create targeted group plan. Commissioner of HR said plan should say 4% of all contracts should go to a minority. She asked them “who is minority”? So, if you consider AFRICAN AMERICANS, Hispanic, women, Asian – the numbers don’t work. 43A.15 needs to be removed. “Let’s fight it out, see who wins.”

She is from Liberia, received all her education here, and is working on PhD. Louis Porter hired a Hispanic to teach her how to speak English. They prevented her from doing her work. 80% of her work was to connect legislature and our community. Legislature created a council in 1980 to work with African born MN. They told her it is not our responsibility on behalf of the state to take care of people who have English as a second language. Greg Hillinger (LCC), Kate/Kit Rios (labor relations) – their plan was to close the Rochester office – because Louis Porter thinks all the black people live in the TC.

She was very frustrated and had no support. Human Resources supported Louis Porter, HRC filed a complaint. She had contact with Kevin Lindsay once time in March 2015. They hired someone from Public safety to investigate. A decision was set in May 2016 but they never communicated the findings to her- whether her claim was right or wrong. Louis Porter called her and she was prevented from participating in the legislative process. They did not let her union representative in the meeting. She was given a letter of reprimand for unprofessional behavior because she asked why she could not talk to legislature. They found her insubordinate and she ended up in the ER with very high blood pressure. She feels she shouldn’t have to deal with this working for the state if we say we want to be more inclusive.

Respondent #13:

Experience: The respondent has a statewide perspective of budgeted funds to develop programs to get more people with disabilities jobs in state. Also, deals with private sector businesses and 503compliance. One obstacle is multiple hoops candidates have to jump through. MN is prescriptive re-minimum qualifications. A systemic issue regarding minimum qualifications is driven by matrix of compensation

Three tribes are located in Bemidji. Two kinds of positions that pay well: casinos and state employment. For DNR employment a person must have a BA/BS in x field. Many of the Native Americans have knowledge and could be extraordinary in fisheries but don’t have a Bachelor’s degree.

Often entry level jobs will have 400 candidates. Hiring managers get a list of minimum qualifications but sort by preferred qualifications, often excluding people with disadvantages.

Erroneously want most qualified candidate, but that does not mean they're best fit or will stay in the job, etc.

Connect 700 hour, individuals with disabilities, to register with MMB, if they meet minimum qualifications, they will be interviewed first. From a candidate's perspective, downside is that person doesn't get sick time - after 700 hours, categorized same. 43B – supported worker program- janitorial, food service, etc. Workforce Investment Opportunity Act – federal funding stream that many agencies use for workforce development. We want integrated minimum wage positions for people in sheltered workshops but don't have structure to actually implement it.

Recommendations: They need to have resources from a human capital perspective to help implement development. EOC staff at MMB is too understaffed to do this.

Retention – we lose 67% employees in their first 5 years of employment. Once an employee hits 5 years retention rate soars. People of color disproportionately leave their jobs. Why? Because of the way they are treated, no upwardly mobility track, and a culture of bullying. This is pervasive in some agencies more than others.

Also look at MNCARS – developed out of MNDOT, housed at MMB or DEED – focused on equity and getting people into state government. MNDOT had huge need for snow plow drivers. They wanted a strategic effort and trained community partners in how to have candidates apply for positions. They had 1500 applicants, interviewed 474, and hired 92. Unfortunately, many individuals of color or disabilities did not get selected. MNDOT put up \$500,000 and will have a set-aside program. These candidates will come in as temporary employees, and partners will choose candidates. Out of 12 temporary employees, 11 made it to 9 month period and all 11 are still MNDOT employees. They are using the 11 entry points to groom diverse and are changing the culture.

The state accounting system, called SWIFT, is not swift. It has some very specific nuances to it. In state government people steal people from each other and move from agency to agency. Must have SWIFT knowledge. So people move around, switch agencies rather than leave.

Public perception is: if you've applied for 20 state jobs, never got an interview, they're not trying again. People need to be taught how to apply for a job at the state. For example, you must include months and years of experience on your resume.

The other opportunity is that we put so many labels on people as far as equity within state government. People are people. People tend to look at things very "siloeed." GLBT, women, people of color, vets, and disabled. People can fit in more than one category.

Part-time positions are very controversial. Unions want them to have benefits and the state won't do that. 97% of state jobs are full time and much of the 3% are retired part-time. There are very, very limited part-time options. A lot of people need that part-time option.

Pride for Project in Living is bringing in people of diversity. We will put participation in this class as part of minimum requirements.

SEEDS program of MNDOT is growing your own talent, college students in particular disciplines that have high needs. This model needs to be replicated. It is responsible for 70% of the diversity in MNDOT. It involves grooming people for a specific job and dispels preconceived notions of people.

Respondent #14:

Experiences: Respondent worked for state institution that struggled with AFFIRMATIVE ACTION. People of diversity don't last very long working for the state of MN. This speaks to concerns about culture.

It starts with leadership – how leaders are recruited, vetted. I think the biggest commitment is the leader's deeper commitment to diversity, affirmative action. Gov. Dayton has demonstrated a heartfelt commitment to humanity.

How do we create a more mindful government that is even greater service to the people it serves? His modeling of commitment to diversity is wonderful – appointments of Commissioners, Asst. Commissioners, etc.

When we look at candidates for judicial appointment, we often look at judicial temperament.

New area of concern in MN is to be intentional about leadership temperament in recruiting and retaining. Parts of MN government are in great need.

Recommendations: Get at a ***culture*** of inclusion. Issues that go with culture have to do with what's implied, inferred, and unconscious. One issue is that institution of this culture statewide is difficult to ameliorate.

For leaders who are appointed, selected, whether by a board or governor or other, we want to make certain that MN recruits for knowledge, skills, and abilities but also ***for assuring that state is thinking about leadership temperament.***

Leadership temperament is: Mindfulness, high social/emotional intelligence, intellectual curiosity for all people, sense of equality, interpersonal communication skills and listening, a commitment to values consistent with a civil society, and a life that demonstrates a commitment to these things.

For MN government, in particular, to be high performing, the state government is a regulatory arm to assure. Why is affirmative action important? – We have to evolve our leadership to understand that a commitment to Affirmative Action is a way to increase the power of productivity of *all* people. It speaks to the power and importance. Our journey (all people) is one and the same because our human nature is one and the same.

I'm deeply committed: the most important value across all organized societies is to advance the ability of people to care for one another.

Respondent #17:

Experience: State needs to take a hard look at how we recruit and solicit talent for the state.

The average person in hard to reach populations does not know how to go about getting a job with the state. People in these populations don't get considered and are artificially excluded because of this. What is the process? How to get notified of state jobs when it matches my skills and abilities?

Euro Americans are more likely to know someone – neighbor, friend, etc. who works for the state and have access to available resources, like computer internet service. There must be a better way to better balance, more electronic automation of the system, direct concentrated recruitment effort into these hard to reach populations. Balance is heavily weighted to the other side.

Constantly talking to small bus owners, women, minority, and veterans. Some are frustrated with the state, MNDOT because of past experience, lack of opportunities, and have focused efforts elsewhere.

Respondent #21:

Experience: Tried to get mainstream employment and couldn't, so moved into entrepreneurship. She has many degrees from different countries but couldn't find work here. Somalis are struggling to find work because of language barrier, Arabic script. They come here and cannot write yet, assumption is: if you don't know how to write, you don't have education. Putting things in writing eliminates people. African culture is oral, not reading. Traditionally they don't seek information where there are written materials (including online).

People give up rather than being embarrassed

Have heard things but people are scared, afraid if they say something they will be that person, they will be tracked. If someone got discriminated against, they'd rather not talk, don't want to be the one that is telling. They don't want the attention.

If the position does not necessarily require a Somali speaker, hard to go in and be in the pool, even if qualified or overqualified for the position.

Once someone went in for an interview, had a sense that the interviewer was trying to weed her out, she was asked a simple math problem, something like 7×5 – usually could easily get at – interpreted that she was being weeded out.

Some have been asked outrageous questions that have nothing to do with the position. When asked why, told they are trying to figure out the type of thinker you are.

Another said she was thinking of changing her last name to her father's middle name because it's a Christian name, to get interviews.

Not able to use translation as an experience. Some drop it off the resume – may be a negative rather than a plus. How to take some experience – work experience, leadership – if someone can lead people they can lead, or 14 years of work in a certain area.

Recommendations: Go into community, say “this is what I do, this is how I can help you”

Need to reeducate, re-tell. Have key people from within the communities and have key people from the state understand how the communities works, for example, have people coming to talk during gatherings. Host a table, educate about how to do this if this is what you are interested in. Interact with community in *their* way. Show them it is possible. Some of the opportunities seem very grand, too big to try for.

Able to report anonymously, more likely to report if anonymously.

Provide more staff training, especially for interviewers, HR staff. A general conversation that I steer people toward is to really show people the broader picture, let people think outside the box.

Respondent #27:

Experience: Contract compliance -one thing is a lack of understanding from contractors/employers, not that savvy about their legal obligations. We are pretty progressive, explicit AFFIRMATIVE ACTION model, etc. Some might be willful ignorance and some maybe not.

Lack of awareness of legal requirements causes them to not actively recruit from disenfranchised communities – combination of AFFIRMATIVE ACTION/legal landscape. And a lot of our contractors work a lot with unions; can be an excuse for them to not actively recruit, problematic in construction.

Gender: We don't have HR in our department; we contract with M&B but don't have our own point person, very little ability for mobility, lately there's been positions created at the director level, intentional effort for bringing in men (male). People think men on purpose.

If we had human resources right here, ability to make a complaint or discuss concerns, but instead now have to make a union grievance. We would be held more accountable to the processes – promotions, inter-office issues, etc. It would boost morale, etc. WE are not compliant with that which we enforce. If a contractor were doing what our department does they'd be sanctioned.

1 – We don't have an Affirmative Action person. We mainly use HR to post positions.

2 – Commissioner and Assistant Commissioner are final authority without checks and balances. We are in a silo. Nobody is holding it accountable – we have an affirmative action plan that all state agencies have, but I don't think any of the real analysis, compensation, room for growth, etc. We chalk it up to: it's government, it's a budget. I am incensed.

The amount of time people spend looking for other work and the inefficiency, it's disheartening. Your department has discretion, union has limits on kinds of concerns you can express. People get disgruntled, just get the paycheck, and move on.

A lot of disenfranchised have distrust. And it's overwhelming.

I think the state has to be a role model first, we have great initiatives diversity, inclusion, we talk about a diverse workforce here but even in our department here, we don't have our best human resources practices here.

Unions are a big obstacle with hiring, retention.

Lack of ability to progress makes people move on quickly.

Bureaucracy might make people move on to private sector.

Resources – some agencies small, ours is small and we outsource HR.

We need to invest in people

We do great outreach to businesses and other government entities, need more outreach to go into the community not just the NAACP and organizations they represent – clinics, Saturday times when people can come to file complaint, more accessibility, intentional. Organizations are as self-serving as are we. Want to make sure we reach the disenfranchised people, not just to the organization. Would individuals know as they are applying what to do?

Respondent #29:

Experience: Lack of employment opportunities for people of color, a lot of changes keep being made for employment opportunities; have had interviews in many departments but never the job. One time I applied for the job, urgent call to come for the interview, went through the interview, then never received any information. I called again, they said oh, we are still making decisions. Then they said they were looking for someone with more recent experience. Should have addressed that point without calling based on my resume.

My background is in purchasing, not a common area, was in a job for 12 years, and have also worked in retail for the past 25 years and my non-profit experience. Also bring with me supportive documents from letters of recommendation, community and civic organizations, high

profile Minnesotans, the state just doesn't reach out to people of color. Typical (white) purchasing agent if not connected to the community, won't speak with minority contractors etc. My background is working with minority businesses, small businesses, having a person of color in a job like this would help the overall effort.

Have asked if there is a person of color who is a buyer for the state. Has been like this with the state in general.

This is a huge office, when I scan the room, I did not see a person of color, and so what are my chances of being a person of color in this environment. I did a great job with the interview, but I knew I would not be the candidate. Especially when you know you are qualified for the job, have had experiences, had personal references, civic involvement.

I've tried to pursue this career for over 20 years, every time a position comes up, never works out. How can I have recent experience now, and you are being trained anyway. I doubt anyone can say they have been on agency boards since we were 20 years old. That has been my mission – have received city, state, federal funds.

Individual who is interviewing me in the group, with what I have to offer, it is not me, and it is the individual. No one will admit it.

People don't understand, this is what people of color go through. I have letters of recommendation from the former mayor that I worked for, from an author of a book who is a customer service expert, and a local college president.

I get stronger and stronger as an individual, I know things happen the way they do, they can't take away my knowledge and ability that I am capable and qualified to do what I do.

Have not tried to file a complaint, many instances I should have filed a complaint, did not want to put things in an embarrassing situation, I do know a lot of national leaders, civil rights leaders, did not want to embarrass. It could have gotten national attention doing so because of my access to anchors and stations etc. to get that kind of press, done my own press release.

I would never get a job with the state if I did that, and it is the career I would like to be in, hoping it would never come to that.

I was reading an article they could not find people of color to fill boards, commissions. I've been here 28 years, involved civically, have not been approached. Elected officials don't do enough to get to know their community and get to know them. They should get to know the civic minded people – who support the agenda of the state. They don't do it in their campaigning.

See pictures of certain boards, commissions, don't see people of color.

I've worked on political campaigns since high school but not in MN – here, when I volunteered, they asked me to set up chairs. My background is in setting up entertainment and fundraisers, high-schoolers are for setting up chairs. Not an adult with years of experience.

Confused about how they say can't find people of color but then I am told I don't have recent enough experience.

They wonder why people want to leave. Maybe I should leave and look for something outside the state. Should I open myself to the other states that I could work for and learn from?

I don't care how much training you give someone, how much ongoing and how many memos you send to people, the ***process needs to be at the top to*** hire more people of color, that will attract more people of color and they will want to hire more people of color. When a young person does not see someone doing that job of color, they will not think they can do that job.

Have not met a minority person yet who says they do business with the state or city. Some of them don't know they could do those types of businesses, what are the chances the state will send people to recruit at an Urban League event? It is connecting with those groups. Efforts are not there; especially if the person is in, let's say Lino Lakes, what are the chances they will search for suppliers in the city. Leaders need to get to know people in the community so they know their strengths, resources.

Respondent #33:

Experience: Would be helpful for employers to have more outreach, I know where to go for help but I don't know that other employers do. Paying attention to the hot topics – animal service animals/emotional support, mental health, religious accommodation is important. I feel like organizations want to do the right thing but don't know what the right thing is. Practical hands-on, policies should look like, here's what you cannot and can say in interviews, and here are the accommodations you can make.

How to reach those that don't have public funding but the agencies still have oversight over? Important for the department to hire people who know the law and understand the issues and can speak – hard to recruit attorneys to those sorts of positions because of salaries so investigators tend to be pretty green. Have to elevate these agencies.

I applied for jobs with the state and I am highly educated (attorney). It was very hard, not friendly, very coded, scanned resumes for certain keywords, etc. It was cumbersome.

We have to comply but not cumbersome for us, it's worked into our grants and contracts.

I know there have been complaints –

Sometimes you get a different answer from different compliance officer within the same org, good to have all on same page: Experience at the local level, had a contractor – required EEO/Affirmative Action on letterhead, one compliance officer said you have to have that, another said you do not have to have it.

Respondent #37:

Experience: Goal to increase diversity of workforce to 20%, work with equity and procurement admin department, work with human rights department to help with engagement of underrepresented communities, disabled and veterans.

Observed there is a willingness from all agencies to better engage in action strategies to increase diversity, enthusiasm, each agency had to submit reports this summer, most did, work with Affirmative Action directors in MMB to put together.

Eagerness to align Affirmative Action plans with the mandate of the governor to increase the workforce to 20%.

Plan to look at the market, number of eligible employees. Right now the action plan and the market do not align.

Some look at it as compliance – hitting number. My role is inclusion, *you can hit the numbers but lose people because they don't feel included, valued.*

Diversity plan – how do we make sure all those things are included?

Each agency's Affirmative Action person needs dotted line or straight to deputy commissioner of any agency, often buried connected to someone lower.

Recommendations: More work needs to be done connecting individuals. Participate more fully with minority chamber organization, trainings, and sit-downs.

Workforce diversity, *starting a career pathway program*, bringing someone in the governor's office to look for people we have trouble finding. Find people, recruit and mini-training, maybe internships, *then* place them into those jobs. Create a career pathway up through ranks to exec level leadership.

We are looking at our goal of 20% diversity next 2 years, analyzing data, best practices etc. to see if it's feasible. To get there in 2 years from 11%, over half of new hires would have to be people of color.

Spend extra time talking to HR and Affirmative Action folks on how they can better align to goals of diversity. Sift out best practice – this is working for MNDOT or DHS.

We should be looking around the country for best practices, with colleagues, look for gap areas.

Respondent #38:

Experience: I initiate cases myself, promote hiring. State also can be more instructive in terms of local governments, counties and school districts being inclusive in terms of their own supply chains. Require state contractors to file Affirmative Action plans, but local governments who receive state funds are not required to do this. All counties don't -- but St Paul does (but St Paul schools don't, Ramsey County does not).

Affirmative Action is predicated on availability.

Respondent #39:

Experience: We definitely share information about these areas if they run into a problem, we are an Equal Opportunity Agency. Received DEED funding to work with our teenagers. We share information – we teach them and train them and etc. We stand by them and support them.

We are tracking Affirmative Action and take it very seriously. We are kind of a leader for the state, and we are the fiscal agent for the grant. Communication strategies make sure people understand their rights and their processes.

We are pretty vested, have a diverse connection to a large pool of applicants because of who we are and what we do.

Recommendations: If there was a way for the state to help augment, support that and on the state level too – My concern is when people are applying for positions and their name is listed, is there some kind of bias in certain companies. It did come up with a statewide Workforce meeting.

We don't have as many options for our teens to connect with that look like them in our workforce.

We need to continue to have the conversation and listening to those who are most affected.

Come through the community, not necessarily through higher ups to change.

Respondent #42:

Experience: We are recipient of funding from the state, periodically handle discrimination issues. Individual felt he wanted to come in and be part of one of the programs, did not meet the eligibility, thought it was an issue related to race rather than programmatic guidelines.

Organizations urged to hire a more diverse workforce, but individuals are not always successful when they get there (after being hired). An individual from different culture goes off by himself. Sometimes the individual leaves because they don't feel comfortable.

There is a need to train and make adjustments in business to make it work for everybody

Most people don't file or make a complaint, they simply leave.

Regulations have to be respectful of the fact that not every part of the state is the same.

Example: one challenge we have is that African American and Native American have greater disparity – we are given the message. For example, we were trying to put signage on our building, to make us more visible. We sent photos to the state so they could see, she wanted to add more people of color, but that is not reflective of our community. (Duluth)

When we paint things with a broad brush, have to be sensitive to what is happening locally. To have that flexibility of understanding that.

People at all levels have to be open to it. Individual workers are more respectful of the differences. State could influence that by looking at it more holistically. If people don't last more than 3 weeks, no good.

We need training for awareness and cultural competency. Duluth has been part of a racial equity cohort. Conversations around the water cooler, saying a certain thing might be offensive.

Police department made a change to hiring, get top 7 based on scores and then can pull up a certain number of additional candidates of color, then evaluate. Also evaluate job descriptions to eliminate unintentional barriers. (Does that job really need a driver's license, e.g.)

Respondent #44:

Experience: At MNDOT we have one of the better procedures I've seen. We're working to increase the diversity of our applicant pools.

Have taken two audits of what the pools look like. Have done an excellent job of recruiting for diversity. 32% diverse applicant pool – female, disabled, people of color. Lately even higher % from sample

Great deal of diversity in applicant pool but not making it into the hire. When we went – 2 years ago – statute is a floor, not a ceiling. Let's look at every single one, so new spin. There was pushback but I agreed with it. Managerial level was all in.

When management found out that they had such a great opportunity at the applicant pool level and it is not translating – vast majority of workforce in 8 districts, districts manager (district engineers) (but also division director in St Paul is looking over their shoulders as well every time they do not appoint affirmatively) are reviewing, additional scrutiny. Other state agencies always go to division director. With the latitude... too much emphasis on interview scores.

Defend selves with interview score. Additional assessments: mechanical ability, for example.

Can't force managers and supervisors to work with me, but where they want to, additional assessments (less subjective) For example, snow plow drivers – asked weed-whip screen. Have them answer and do some things. Gas to oil ratio, what equipment you'd need, etc.

Can do in clerical arena, give additional stuff that clericals do – how would they do at assessing qualifications for a certain job, etc.

We have had a written math and reading test in place since the 1940's. Passing point is set very low for math.

Recommendations: Add behavioral / less subjective measures to the screening process. Get around interviewer bias.

Look at applicant pool – many are saying they don't have the applicant pool, which is a valid complaint. This is my opinion, hope it does not sound racist but in private sector, more flexibility in compensation. Can't do that here, can't consider the market. In private sector, females and minorities came at a premium – can't match private sector or educational. We can't match and so we lose some of our candidate pool. 3% range movement. If we bring them in and ignore internal equity, then we get sued. Law or relaxation of rules, change in compensation model.

People come to us when tired of over the road trucking, want work-life balance – benefits are good and good working environment, but younger people not interested in benefits yet. Need strong backs.

Good working environment – Native American applicants several applied, said they heard it is a good working environment. Respectful, family work-life balance, understand family emergency needs, even in truck stations is a good environment. Culture better than often this kind of job. Alex Tiddle, was assistant director of office of Civil Rights in MNDOT. On the stadium, met and exceeded Affirmative Action numbers, took a \$20k pay cut to come here. Now he's doing consulting.

Tenured person who hired everyone in NE part of the state said “if you force things it never works.” We incentivize, division will pay half of the first year's salary while they are being trained, if they hire affirmatively.

MnDot has statutory language that allows people to be students for 5 years instead of 4, would be helpful to be paid for 5 years. Can put them on part-time, put in union. Can only be a temporary employee for 12 rolling months for 24 month period. This allows them to establish relationships while they are young, and they are more easily accepted. And we are able to retain them as well. Our graduate engineer program, we allow them the first 18 months to rotate around to get experiences in more than one area – competes with private sector where they don't get that opportunity.

Respondent #46:

Experience: Has observed people try to get jobs with the state and not gotten jobs. We purchase mostly training and support services for our customers.

There was a time period over a few years when we'd been helping a number of people receive truck driver training. This appealed to them. Somali people coming to ask for truck driver training. Thought we'd pay for it. It was a concern because people were not even eligible for our program but the word was out that we would pay for their training. Schools were sending people there. Schools were telling people you'd pay for it, third base when we were just at bat, determine eligibility. Sometimes they were eligible, some others were not eligible, and we'd look for other programs they might be eligible for. We always try to help people. (around 5 years ago) not as prevalent in last 3 years or so.

Went to the schools, found out some did not know there was an eligibility requirement; some said they had not phrased it quite like that.

I don't get the direct information re Affirmative Action but sit in on interviews. Manager receives resumes from Human Resources department. When talk about targeted groups we often think of ethnic groups, but veterans receive a preference, we have interviewed and hired a number of veterans.

Look at work experience; look at skills involved depending on job itself. If doing case management. or resource room or teaching workshops. Look at skills involved in doing those duties. Experience candidate has, and how they describe their experience. What they are telling us where they are headed. I taught interviewing workshops to the general public. When employers are hiring, look for good match and really want to be doing that position rather than a stepping stone.

One of the gripes we have about state system is that it's extremely cumbersome to add staff – have to demonstrate that they have funding for a year, all kinds of hoops to just add a person. So many different layers of upper management having to sign off on it. Sometimes it takes a few months. In the meantime, and when you are hiring it is because you need someone, right now, not later. Very stressful for the staff, especially ones picking up extra load. Especially when trying to meet needs of clients.

Individuals are not sure how to navigate our state process because of language skills, computer competencies.

Recommendations: We have a business services staff person who works out of N Mpls, last year she had employer of the day event here, invited state agencies interviewing and collecting resumes on site, came to our workforce center here. Busting at the seams, many interested in applying with the state.

Had workshop for how to apply for a job with the state, also have resume building, how to look for a job.

Respondent #51:

Experience: So we have a number of placement staff that are doing job placement with job seekers. Our job seekers have multiple barriers. Most of them are low income communities of color and other – the barriers really that get in the way of employment – then low income, disability – undiagnosed mental health, new Americans, so language barriers, and also academic. I would say under skilled, either some with GED – high school diploma and/or have attempted college or that didn't work, or just long term unemployment. They are getting back into the workforce.

What I would say is that I think most of the time because a large number of individuals coming into our training and placement services are under employed or unemployed and trying to get back in – that more training and education is needed from an employer's perspective – and that just even searching for a job because a lot of it is online – a lot of it – the new hire training, the application and {too soft} training is all online. So a lot of times those academic skills do get in the way of having them successfully navigating some of those hiring practices and policies. I think when you look at someone that is underemployed or has been unemployed for a long period of time, just navigating that system and when you look at this state, unless you have someone to help advocate and navigate with you – it can seem pretty overwhelming and a really big system. So I think we try our best to partner with the different HR departments. We're in partnership right now with the Department of Transportation. We did receive a Pathways to Prosperity grant about a year ago – and we're trying really hard to have that as one of the liable pathways. And knowing that not everyone's going to choose that. Some really do want to work within their neighborhood for smaller businesses or employers – especially if they have been out of work for a while.

I think some of it is just first of all, helping job seekers know what's out there in terms of employment with state government. How to access it – helping them advocate for themselves. Helping them understand the different requirements and then be able to address those barriers that are getting in the way of them being qualified instead of going through the steps with them. I think it does help to partner with the recruiters and the HR personnel within the state. I do see that that's still a cumbersome process, and something that doesn't go super-fast. I know they're open to looking at qualifications and whatnot. And just looking at how they can work with communities, organizations and job seekers to increase access. I guess I don't see overwhelming change that's fast enough to make that happen.

I think some of it is the qualifications, and I can't speak across all the different occupations and all the different departments. Like right now, that has been limited. I would say just the biggest part is making sure that we do have small employers in businesses that are coming in for job fairs that I really want to develop those relationships with organizations that are doing workforce development. And making you know, demystifying myths, educating the public about what those jobs entail and the career pathway and how to access those opportunities and so I guess that has been very helpful. I think job seekers don't know what is available and how to access those. And even realize that a lot of those positions and opportunities may be even within their communities, but there is a disconnect right now on I think what that means for a job seeker in terms of ease of access and just career pathway opportunities. Even when that does happen, I think it is difficult to compete with those jobs.

I can only speak for the trades that we're training in right now which is construction, automotive service, banking, and finance and accounting positions. What I would say is there are a number of individuals that come to us that don't have a driver's license or that have fines that they need to pay back. And so in addition just good driving record – so I know those are really difficult qualifications just to dismiss. They're also very hard barriers to overcome in a shorter period of time. (And are they necessary for those jobs?) Well, I think that's the conversation that needs to happen more with the recruiters and HR. You know, the managers of those departments.

Recommendations: Does the job really need or require a driver's license if people are being eliminated because they don't have one – then we're not able to reach these people that we want to reach. I really do think that it's overwhelming. That is really has been out of the workforce for a number of years or it's their first job – that can feel very overwhelming and a big step, and so I think that really is a lot of it is just there isn't a friendly face sometimes to government.

Like the system is difficult and if people have some cognitive disabilities or even visual disabilities, certain kinds of disabilities might make that system itself get in the way of – financial. So the system of applying for jobs with the state can be a barrier itself.

I mean there are many different levels and categories – and it must make sense if you're a state employee on that career pathway and what that looks like. But to an outsider, I think that can be very confusing. Technical – level one, technician what that all means to a job seeker. Without someone helping them and walk it through – and then just even as a – as we have job developers within the organization – making sure they feel comfortable and understand that system. I think it's also just connecting more with organizations, but workforce development, personnel out there helping people find jobs, making sure that they understand as well the process and know how to navigate it.

Respondent #53:

Experience: The statute is broad. It's been around since 1973. I only have 6.2 staff. So I can't quite take on the world. We can take on half of the world, but not the whole world. And since I have come on board – early on when the council existed, we did everything. We worked on all issues. That was why we were created. There wasn't another council. Around those 43 years of our existence, of course, other entities within the state have come about that work on similar issues. Not similar, but more specifically the deaf commission, there's a blind agency, DB Council and so forth.

With that when I came on board 12 years ago, because we just keep – like government we get smaller and less money and less staff – and it's one of the things we worked on since the Americans with Disabilities Act was created in 1990. That is really one of our focuses because there is no agency in the state or private entity either for that matter that works on quasi enforcement on the ADA. We really are the watchdog for that.

I really have no enforcement authority, but we just pop up and make people feel like we do. I'll be honest with you – my perspective just to throw this out there because it is NAACP – you know, with the state's big push for equity and diversity – I go to all these meetings... and what about people with disabilities because we cross all socio-economic boundaries. Seriously, they see me rolling in the room, and they're just like oh, my God, you should go. You know what I mean?

The #1 barrier right now for the state of Minnesota, for somebody who uses a screen reader, a brand new clear website is not accessible. You know, and they have known that for a year, and they say they're working on it. They're spending millions to Oracle to make this thing, and it's not freaking accessible. They held that big state career fair a week ago. I sent another letter saying – how do you expect the community – and anyone can use the screen reader if you've got dyslexia. If you're blind you have to use that. You can't access our state website to get your job in the pile with everybody else. That's like a freaking door. That's like a step for me. You know what I mean?

In the ADA that's a huge violation. Right now the Department of Justice, they're holding off and suing too many companies right now. They're going to wait to 2018 when they really {too soft} new President he's going to strip the Department of Justice. That will never happen. But businesses are out of compliance. The states are out of compliance, and the way it's written right now – companies are one heartbeat away from being there. Whoever, black, white, pink, purple – you know, uses the screen reader, you would sue based on that. So that's a huge barrier. If you have an intellectual disability of any sort you know? I have a guy for the last two years who has been stalking me at work, and his issue is because he wants me to work on his behalf on he's got a reading disability. Yeah, so it's huge. That's my kind of stance on the whole thing because it does impact people of color.

I mean it's like you know, Edwin Huntson[?] he's the Deputy Commissioner over at MMB, he's new. I met with him and when I sent that letter again right before the big state career fair, I'm like how do you expect our people to even participate? What we did, it was a week before the event, because again, why would they tell me they're having holding a big career fair – again, lack of communication. I said our community is not even going to be able to participate. We quickly organized a come bring your resume, and we'll get it.

See, here's the thing. And this is for anyone. If you put your resume in the system, it shuffles it around to answer – the state. They do it by questions. You don't just submit your resume like you do a normal. That in itself, you can't even get your resume in there. And so you know, just

you and I just trying to do that, you have to go back in there and reformat what they put in because the system is not going to format it right. If you were to do your resume based on how it's going to upload, you would do something not in bullets but just like a colon I guess. Education: and then real discrete, bad sentence structure I guess putting it in there. That in itself is a problem. I have an accessible document specialist that {too soft} the guy makes a lousy \$20 an hour, and he's really {too soft} the best {too soft} teacher I've got in my office. He's severely disabled. The VR told him {too soft} told him to go and become a movie ticket taker. That guy knows everything about software, and he's helping these big agencies in the state become accessible. \$20 an hour. (Who told him to become a movie ticket taker?) Yeah, the vocational rehab. Yeah. So he went through and said here are all the issues you're going to run into when you try to put your resume – you can get your resume {too soft} screen-reader posted. But then he said everyone {too soft} we edit it because it's not going to be in the right category. He said that is the part that you cannot with your screen reader get in to do the edits. You will {too soft} nobody will look at your resume because it's not even formatted. So they have left it like that for at least a year. And they tried to do a fix in Oracle, and it didn't work. So they had to go back to the original format of not being accessible. {too soft} money – so I have no idea if that's going to be {too soft} budget. I have no idea. But let me tell you what I do know. If this was strictly a race issue, they would have fixed it. (So race takes precedence – racial inequity is more of the concern.) We are so low yeah. We're constantly – You know, and one of the other pieces of ADA that we have going they have been sued twice on that we got a huge it's called the Olmstead Act, and it's a Supreme Court ruling in 1999 – President Clinton signed that in to law. It was based on Title 2 of the ADA. Two women with disabilities wanted out of a nursing home. And here's how it relates to work. They were stuck there, and they didn't need to have 24 hour supervision. They sued based on the ADA. Got out, and they {too soft} guy that {too soft} Atlanta, Georgia I guess. And anyway – part of this Olmstead Act is about being able to choose where you want to live in the community of your choice. But with that comes you have to also decide if you want to work or not. And not just be told you got to go to a {too soft} patient center – otherwise known as a sheltered workshop where they make \$2 an hour to put widgets in a hole. And so states are now like Rhode Island and Oregon are being sued based on just the employment piece where states have just been automatically {too soft} learning disability put your right into that sheltered workshop and you get to work there for 30 years with no benefits, no – making \$2 an hour or \$.50 or whatever it is. Yeah, and so now Minnesota got sued twice. {too soft} in 2009 then based on it started with restraints and then now it's gone even further to the employment piece. Again, my agency not invited to be {laughs} on disability. Well, I wasn't part of the original law suit. Two other agencies were – the DB Council and the Mental Health ombudsman. However, it is still ridiculous because I in 2006 started working on the Olmstead and {too soft} that year, but we did it anyway. And so the exact same players, 14 agencies {too soft} that were on mine in 2006. The good news is I probably do more damage being not on some of those anyway because I can come and testify and tell them how stupid they are and what they're doing wrong. Sometimes it works to my favor. If I was on there, if I would have to behave, and so {laughs} So you've got – you need to put them based on the Olmstead Act that the state needs to – and people of color are part of that. It's about work. It's not just about living in the community of your choice. It's being able to say I want to work. You want to work better, and the state's got

to figure that out, and they're having a hell of a time figuring that out. The state is in a lot of doo doo.

So what they're doing is they put together this person center planning, it's about the person. So people need to ask the person do you want to work, where do you want to live, that kind of a thing. That's a start. But here's the problem. They're still like state wide, and some of these small towns, there's nowhere for you to live other than group homes. If you need support, you know, personal care {too soft} shortages {too soft}. Let's say you find a job, well, if you don't have a personal care attendant to help you get dressed and whatever and you've got a severe enough disability you aren't going to be going anywhere anyway. You know what I mean? Multiple layered issues that exist out there. And then transportation is another huge factor of getting to jobs. Yeah, so it's a multilayered process.

Respondent #54:

Experience: So I have personally experienced a lot of focus and detail from the perspective of getting a diverse candidate pool for posted jobs. So I have been involved with people that are really going out of their way to make sure that the job gets advertised in culturally diverse areas, lists, email lists – and then we get this broad diverse candidate pool. That candidate pool gets moved forward in the hiring process. Our hiring process needs to be blown up and start over again.

Well, depending on the position, there's usually a panel interview – usually 4 or 5 people on the panel that interview. It runs the gamut. It could be one candidate at a time. It could be up to 4 or 5 candidates at a time depending on how many they have to go through the pool. So that's always – well, let me just cut to the chase. So at the end of the interview process, they put everybody's interview scores in a list and order that list – and say the person with the highest score is the person they want to hire. Well, the person with the highest score from the interview doesn't necessarily make them the most qualified candidate. And so there's this impression that only the top score in the interview that's what you use to determine who you're going to offer the job to.

And that fights with our affirmative action policy – it doesn't level the playing field. And so as agencies, I have sat in on inner agency workgroups, and we have looked at this process, and we have made recommendations. But the recommendations kind of go in this black hole and business continues as usual.

I can look back on my communications and see if we've got any draft recommendations. Yeah, there definitely was. And it was really a sophisticated inner agency work group. We had lots of executive agency, branch agencies at the table, trying to really look at this process. The other thing – so when we do manage to hire diversely – there was an example that I'm thinking of in one of our out state districts. So they were presented with the interview pool, and we're all protected class applicants that the minimum qual. So the person selected, they selected two people from that interview group to go into this job category. Even before the new employees started at their job, they were rumored to be the minority hires.

This got spread pretty quickly so that when they got there, their first day somebody told them, oh, you're the minority hires. And they then allegedly, I'll say allegedly conspired to fail them. To not support those who could not make it through the probationary period. And lo and behold, that happened. So one was a Native American, one was a woman, and a woman in a truck station in an outstate district, a small town, that was a challenge for some of the men there. And

during that interview, the investigation, to look at the claim, we found some pretty substantial reasons and valid reasons that they weren't given a chance. They were targeted. And it was a group target – although we could only find one person that really was the main person. But even identifying that in the report that was forwarded to management, I was a part of that interview team and so I was a part of sharing the results at a senior leadership meeting. Well, at that meeting I was told – oh, you – we're going to do this, we're going to do that. We're going to clean this up. We're going to start at the top. We're going to do XYZ. I left thinking oh, finally something is going to be done. Well, that dragged on and dragged on. Then, eventually, nothing happened. They chose again, not to do anything.

Sit around trying to determine what they're going to do – the challenge comes back that it's just too big of a task to change a culture like that in a work location and they give up. I tell you thought I had heard myself some pretty strong convictions that this is what they were going to do. They were going to start from the top and reassign people, shake things up – they really wanted this to be fixed. This was a repeat of something I had heard – a similar thing that happened many years ago in the same place. Again, it just yeah, there's just a lack of oversight I think. Nobody knows this stuff is going on. The people that have filed the complaints, they get told yeah, it's being dealt with. It's being dealt with, but they get no other information – and we're told we can't give them any other information. And it just eventually goes away. I was just going to say until this change, and until there's some visual action that's done – and perceived by the rest of the employees in that location, the culture is not going to change. It's going to stay exactly the same.

#60

Employment also hard. African immigrants are not asking for handouts. They don't want. They want to work hard and earn it. Those businesses we work with are either unemployed or underemployed. Not planning to be in business, forced to be in business, have no choice. Hard time securing fund. Have not saved enough to run the business, don't have the credit to borrow from us.

When they start a business, when we help them, they are getting out of public service, creating jobs for themselves and their people. Likelihood they hire people from the community. Supporting themselves is the key. What I want to see is inclusivity. Don't choose one to give contract to particular group but inclusive. It is exponential growth, it is good for the economy. It makes sense to make the level field.

Human nature is getting in the way. The law is there, we know our governor created wants people of color in the workforce, so you see diversity.

There is experience that people who applied entry level job and not getting the job is questionable. You don't know who is hired – don't know what happened after that. People who applied and don't get the job.

One of the challenge I see – when you see job description most of the job description is for people already in the system. They require – look at some of the announcements – they require certain skills that you only get in the state system. What we know is people of color are not in

the system. If you cannot get in the system there is no way you can get that skill that is required in the state.

So Resumix filters out those who don't use those words that resumix desires to know.

I worked in the state a long time ago. There is software Semifore. Only know if you work in the state, can learn it in a week – but if hiring managers put it in the description to filter out/discriminate others who don't have that skill that is the human element.

I've seen a lot of Job descriptions that come from state jobs that require skills you can't get outside the system.

The education, if they require education that is fair, and it is a transferable skill, talent, habit of behavior and work ethics you can't teach. When someone already has the skill to succeed in a new job...remember also those who are skilled in the state, first they were not skilled and somebody took them without a skill. We are not born with it.

If we really want to create inclusive economy/employment, then everybody has to be on board with the goals of the state.

Something we need to acknowledge – I have extremely high respect for our governor who wants a truly inclusive economy in our state. He deserves appreciation by everyone. I've never seen like it before, I have a special respect for him. Everyone should do their part to create an inclusive economy.

Which department is most diverse? Should be known so different department leaders could focus on their leaders.

Also including low and high level leadership / management diversity.

Part of the work – focus on each department, what percent of people of color, benchmark where they want to head.

What we are trying to do is better our state – there is nothing else. Our governor wants better people. He is serving/working for people. Not anything except for people, we need to rally around people like that who want to make a change and intentionally support the effort.

Make the commissioners be accountable, make the department directors accountable for their work.

Let's say they interview people and they hire one person. Anyone can evaluate, random evaluation, to see if in the resume or how they are selecting. You can see the skill, transferable skills – if they interview someone with a BA and someone with a MA, if they hire the BA they have to be substantial. Dept. of Human Rights should evaluate

#61

Minnesota management and Budget (MMB) is the agency that reviews and approves affirmative action plans from all the other agencies based on their internal workforce and workforce goals. Law requires certain responsibilities under AA and Our job is to ensure that the agencies have that.

Human Rights Department collects AA plans from contractors looking to do business with the State of Minnesota, so they have a totally separate role and responsibility than we do. I think there's some confusion around that

AA in MMB is also housed within the Enterprise Human Resource Division, and they set the policy and guidance for all the Enterprise wide each agency for HR, Agencies can ask to have delegated authority to run their own HR department, and run the rules essentially in place of MMB. MMB would have to have hundreds of staff to run the entire state agencies HR. So, transactions and things like that.

One comment in the Audit document is that all hiring process forms should be reviewed at MMB – that is virtually impossible. There are at least 4000 transactions a year. So, each time a job that has an underutilized candidate that has a justification should come through MMB that would be impossible to do. That's why agencies that are large enough have their own HR people, smaller agencies use SMART, (within MMB) functions as HR for smaller agencies, works out of MMB. Have different HR people from this perspective assigned to work with them to review their HR stuff.

This role for me – another

Another misnomer: MMB does not have 1000 employees so we are technically not required to have an AA officer as is required for agencies that have 1000+ employees, but we do have me, who is the essentially the AA officer, diversity and inclusion and ADA for this agency, but my job is to approve and review all the other AA plans, and help with guidance for the rest of the state.

Big thing everyone talks about is having more people. To be effective in any type of the program that ensures/regulates/monitors, needs to have the appropriate amount of people. Before I came on, all 109 were being reviewed and approved by one person, that person was also responsible for AA training, and ADA training, all of the reports that are due to the state, the biennial report, the veterans report, the report on off-year aa goals, if they've been met. I hired another person, she has been on board since Sep or Oct of last year, still finding that, even having someone dedicated to that, having enough people to do this work is becoming a stretch – One thing is having resources– there's no money. I think they've requested money to help with technology needs, some agencies are spending 1000 hours to complete their AA plans by hand every 2 years. Because some of the number crunching and analysis has to take place by hand, that's a hard task to do.

Massiveness of the state is a challenge. Some agencies have some areas doing really well and at the same agency other areas that are not doing well. Agencies are so large, the consistency and how the approvals are done, it's really hard to keep on top of from an agency perspective.

We were not doing audits, but in the time space I've had, and hopefully by the middle of next month, we have been creating an audit program that audits what the law requires us to audit. That's being designed right now.

Before me the position was vacant for maybe a year, the person left to go to another agency... We are working on some other processes, the AA process.

Monitoring the hiring process – we are kicking out a new form shortly. The process itself is being reworked too. Consistency in the hiring process has not been there, so we are putting some consistency in the hiring process, monitoring the hiring process, should roll out mid-February. (We sent over about 60,000 pieces of paper. They sampled about 1700 and only found a few errors.)

We have to be careful in singling out any specific racial group, the law says “protected group” – that includes various different groups of people, so singling out any group of people shouldn’t happen. I think DHS is the agency that they will go through the applicant pool. there is a difference between an applicant pool, and interview pool, and candidate pool...

We have to make sure we don’t get them mixed up. Recently separated veterans, the top 5 have to get an interview if they meet the minimum requirements of the job.

I think it’s DHS or one of those agencies say: if we don’t have any minority candidates in the interview pool but we they made it to applicant pool, then you’ll have to interview them, give them the opportunity. I think that does help with that unconscious bias piece. I think it’s tougher on the jobs where we have a lot of highly qualified applicants. The idea is to hire the best applicant for the job but the applicant pools need to be diverse also.

Also: I was rolling out some guidance on the interview panel needs to look like too. Internally here at MMB our boss has said, “You’re not going to have on your interview panel yourself and one of your employees interviewing someone.

We need to make sure that 1) the interview panel is diverse, 2) make sure that your peer groups are part of that, not stacking the deck, having only people from your office interviewing people. Have people familiar with your line of work, and who have a better understanding of the interview process be part of that interview process trying to get a more neutral perspective and a different mind’s perspective also.

We have to work better with the work force centers – DEED – in creating very focused training sessions around resume building and writing. And maybe they have that stuff, but the idea that we don’t know is already enough to say there’s not enough coordination. To say, “Hey, if you’re going to put on a resume writing class, let’s say for veterans who are just coming back, then we need to publicize that and promote that for you.

As well if we want you to put on a resume thing or mock interview thing for protected group people, then how do we go about doing that?” and what’s the process for doing that? There’s a ton of people who would line up to volunteer to help with that, too.

Deed may be doing it but the fact that we’re not coordinated with each other to say “this is happening...” we need to be better about that too.

Training across the agencies, we are working on that. I don’t think our HR people have not had enough training over the years, the agencies need training around that diversity piece and

inclusion piece, as well as the unconscious bias piece, we have to get a lot more training around that.

One thing we've tried to do, I think I see – I don't want to make an assumption -- might see some push-back from the Somali community – they seem to want to do their own, separate – we are trying to invite them more to be part of: we've got Latinos here, we've got African Americans here, we've got Asians here, all in one group all with the same challenges. The challenge with the Somali group is they continue to want be separate from everyone else. And to start trying to develop things for each and every group that's out there...and even within the Somali community there are different clans within the groups, I don't know how feasible that is.

When I worked with Somali groups in Minneapolis, some groups don't interact with other groups within their community, it made it hard to get information out.

It's trying to say in order for us all to fight...

Also, the education piece, we deal with it on a national level where certain groups feel they are not getting access to jobs. But if you don't have any post-secondary education, race and gender right now isn't going to matter that much. Once you get into that pool, there'll still be some racism and sexism that goes on, but you need to make it to that pool, otherwise that education piece is going to deny you access already. I think the number was 70% of the jobs in the state of MN require some post-secondary education. And if you don't have that and make a living wage, then the chances are probably not that high right now. And no one's saying that to people directly that they need to know. I do, but I don't think it's out there as much as they need to be.

#62

Role that I'm in is acting on some of the things I was talking about – I am in the driver's seat to make it happen now.

First thing: there are some great pockets of innovation and success in our individual agencies – e.g. DOT is doing some, consistently and for many years, are very advanced in their outreach to kids of color, people with disabilities, veterans, have continued to build on success.

Also DHS, Corrections interesting things with their recruitment.

Thing that has been missing: building more of a collaboration so we are sharing best practices, removing redundancies, wherever we are duplicating efforts, instead combining the efforts.

Agencies plus MNSCU is the largest employer in the state of MN. We are filling 3500-5000 jobs per year, greatest job creator in the state – opportunity and great responsibility.

Before we ask private sector to do better at diversity and inclusion, starts at home.

Replicate those pockets of great success, do them enterprise wide. Hone in on best practices, and replicate them.

Second, if we want to build true partnership with our targeted communities, because clearly there is a job for every one of those. Jobs range from snow plow drivers and cleaners to engineers and teachers, job for anyone with strong work effort and good attitude, so if we want to build strong partnerships, we need to stop doing what we have done for long time and expecting different results (send out job posting when it's ready to close, asking for help recruiting people of color for the job).

Need to start: say DHS or DOT – don't tell me what you have opened right now, tell me your cycles for the year. Are there patterns? Sure enough, every agency has some cyclical hiring. We need to share this with our community, so they know about jobs ahead of time, tell me what the jobs really require so we can get the right candidates, see success with the candidates. Not hard, just requires an intent to want to be a good partner.

Number one, best practices across state agencies, already on that path by branding as one employer.

How do you build credible partnerships with our community partners – tell them about jobs in the near, short and long term. Then there is accountability. Give them access to training programs that train folks for the jobs we are hiring for.

Third: we as an enterprise, even though we hire such a great number of people, it is clearly the best kept secret, and it does not need to be. It is to our detriment to keep it secret. We have to do better getting out there. New immigrants are not thinking of a job with the state government when they get here.

Good stable jobs, pay very well.

Use our communication channels better. Mainstream channels might not reach these groups – we need to be intentional meeting our partners and our targets groups where they are, where they have a comfort level,

Radio, publications,

St Peter Claver church for example – has generated largest number of African American Eagle Scouts in the nation.

If wooing communities, got to do more than we've always done.

We've seen more diversity come through our doors in recent years – we look in all the wrong places. How often have we looked to our current diverse employees to recruit for us? That would be a shot in the arm for your diverse employees and a sign of intentionality on your part.

Four: have to get better about the way we hire – we are still stuck in the 70's, 80's 90's for how we recruit for these jobs. Job titles don't mean a thing to the next person. Transportation generalist, Transportation specialist – call it a snow plow driver... Now I know what that means.

We are notorious for job classifications like “state program administrator”, “state program manager.” When I looked it did not pique my interest at all, I did not see a career in that title. I know what is behind these, but there is nothing stopping us from saying “transportation

associate”, but a working title of “snow plow driver” or “maintenance worker” or “laborer” while keeping the formal classifications. They can coexist, it doesn’t have to be either-or.

It’s about intentionality, we have to change.

We have so much to boast about and we are so bad at doing it.

If we talk about our ability to hire, any part of the state (there is snow and freeway all over, every nook and corner of the state).

How many employers can boast of that? –We’ve got variety, volume, geography. We have a lot to brag about as an employer but we are poor at telling our story. Tell it where the layperson can understand it, get rid of jargon. Our job postings are not user friendly, they don’t tell people there is a career path. I am working on that, trying to get the word out: If you come in as a snow plow driver, you don’t have to do that until you are 60 – there are career paths: you could go from snow plow driver to a construction inspector, to a materials tester, to a bridge designer, to a highway technician. The sky is the limit, all these parallel paths, both horizontal and vertical. A lot of them will allow you to progress with experience on the job, some you might take a class or two, some might require a degree (MNDOT does a few tuition reimbursements every year.)

Well kept secrets, no reason *not* to brag about that stuff.

Not hard to do, that’s why we have pockets of success, many people have figured it out there making it exciting, doing demos....

We have done a lot more work with people with disabilities that could have been in the report – we did some really creative stuff with the DOT and worked with vocation and rehabilitative services. ___ pathways, focusing on children with disabilities. It was a great success.

All of this work takes resources, so when we say “customizing our outreach” – and customizing where we focus our jobs – all of this takes money, resources, intentionality, etc. Age-old – you starve AA and HR recruitment sections, but then expect more from them.. Very disingenuous for state agencies and the legislature to really compromise the resources and then expect a lot more. Whether it’s Dept. of Human Rights, or MMB or our individual agencies. If you want us to really be successful in this, put some money to it and then hold us accountable, we’ll get it done. There’s a recruiters network, there’s an access group within MNDOT, and there’s a Career Pathways group I am putting together.

If we were given the funding to get the 4 things I talked about, I know we would move that agenda. And I know I’d get a commitment across state agencies to move that agenda. And moving it with numbers.

We ask for these things but never resource it. Resource it and then clear accountability measures. Folks I work with are not afraid of saying “here is what we can accomplish in the two years ahead.”

With a drop in the bucket of resources at MNDOT. SEEDS is miniscule but it accounted for 25% of all diversity came from MNDOT when I was leading it.

#59

Non-profit African immigrant solutions
Training, consulting, lending, financial literacy

Very limited state contracting in that area.
Work with immigrant folks – don't know if many of them contract with the state
Don't have that with the state
MNDOT does want
Some don't know it exists

Hard time accessing resources
All the resources exist through connections. The notion of discrimination is subjective – you can't prove it, you don't know. We know we are not even accessing resources. Have trouble accessing gov't money. Last year we tried with two organizations, 2016 we tried and did not make it last minute. Want equity money, when it shrinks it should shrink for everybody, not disappear. Not fair.
Because of the fundamental principle of equity.
I see there are not individual businesses. If we who support businesses have trouble getting contracts I'm not surprised African immigrant companies have trouble.
Even school districts – have a lot of transportation businesses try to get contracts with school districts, can't.
Health care immigrants.
Entry is very challenging. Hard for them to get a contract. Some wait 2-3 years, then get out of the business. Can't stay paying commercial insurance so get out of the business.
Health care/home care businesses have a hard time getting contracts with a provider.
Interpretive services – difficulty getting contract.
Most African immigrants first generation, lived here 20-30 years in this country. Don't find in tech industry yet.
Difficulty getting contracts, detrimental to their survival.
A few doing well. Work so hard.
If we assume they are supposed to outreach then their outreach is zero.
Have to be substantial. Dept. of Human Rights should evaluate to eliminate the human part.

Additional notes – respondent # not identified

There needs to be a formal way to close the loop on missed opportunities. So in hiring, missed opportunity needs to be a strong loop back to that.
So when protected class person not hired, fill out a missed opportunity form. Don't know if they are justified, has to be a review and analysis of the outcome.
When non-diverse panel, human nature to hire someone who looks like you.
Solution: every quarter, agency submits a summary to MMB – act of needing to report how many there were will in itself guarantee the lowering of that number.
If you measure it, you manage it.

Procurement Interview Notes

Respondent #2:

Experiences: Working on efforts to trying to get women and minorities into mgmt. & leadership in the industry. I have been in this job for about a year, starting to get the hang of things, gain perspective. I think I have seen that there is kind of a disconnect between the goals and strategies of these program and then the results. Office of Civil Rights is a compliance office, they are monitoring, just want people to meet the goals. Do the goals established get us to the results we want? What is the most meaningful way to get these folks into the place we want to be?

Construction industry has been chosen as a place to impose these goals. That is probably where states, governments spend most \$ hiring people. Probably to some degree is that with these goals, the state has foisted this problem of bridging the disparity gap onto the construction industry when that is not what they are good at. They build, design, plan, fund, run a business, not build minority. Role of Office of Civil Rights should be to build competitive workforce – difference between what is out there and the reality in the field. It requires a lot of training. Business owner has a lot of financial hurdles to overcome.

I used to work at the legislature, worked on forming a collaborative. They thought they'd get people with less education into labor, but not true, and that is not necessarily where labor is needed in the construction industry. Industry interpretation is that the state is telling me how to run my business, who to hire, how to hire, how to recruit, and also want lowest price.

MN DOT has to take the lowest bidder, if they have not met the DBE goal, they have to show they made a good faith effort, just couldn't do it. Hearing for this, reading the cases, lot of contention about it. What does it meant that you tried really hard to hire somebody?

Suggestions not always appropriate, consistent – hearing boards are not all on the same page. Think about big companies that have recruitment staff, HR department etc. Small businesses don't have staff to do all that. There is a lack of real understanding of what the construction industry is really like, suggestions are not a fit. They haven't done that. Review panel is MN DOT staff, procurement office, counsel, etc.

They are sending a mixed message to hire these people even if they cost more money but also have the low bid. Publicly looks like construction industry is stiff-arming these goals, in reality there are structural barriers for making these goals.

People are in this for different things – some want to do this for different motivations than others – might not have social justice in their heart but motivated to care about it if it affects their bottom line.

They want MN DOT to tell them what to do exactly what they'll be evaluated on, and then let them go do it. Coupled with the inconsistency of how they are evaluated, they want to be told.

Want the state/MNDOT/human rights office figure out how to get more minorities in the business.

What they want of companies is beyond their scope – they are builders.

Example of a hearing – one thing MNDOT says to do is to de-bundle pockets of work to get DBE's involved. They'll have someone do the landscaping or in this case trucking. They found someone to do trucking.

But a big draw for minority businesses is trucking. But the company in-house business model is in trucking, so they did not sub it out, and MN DOT said they could have subbed it out, so they lost the contract even though it was the low bid.

There are also big concerns about -- disparity study and this audit, and how they will play into each other. How will capacity be measured – if they do cement work, sidewalks doesn't mean they can do a bridge.

Numbers = political pressure, have to be careful when defining the problem to be careful in that work. Also, focus on solutions that will give us the result we want, not just metrics that look good.

Recommendations: It would be better if we could find parts of the industry where lower barriers to entry. A few efforts afoot at latest collaborative meeting where we went over policy ideas.

For the state to assume the risk, hiring these new fledgling companies... for example, loan fund could be utilized to help DBE's fund rather than having gen contractors.

Is there a way for MNDOT to take the risk, working with new businesses? Contractors want to hire who they know can get the job done. This is about who is holding the risk. Need to expand workforce and get better at recruiting minority workforce, need more of that from the unions.

The balance is off; state should be doing a little more on the capacity side than they expect the industry to do.

If there were a pool of these businesses ready to go, they would be hired. There is not.

Put more responsibility on the state to help procure a workforce – training, working with labor unions, business development, setting up loan funds, help people get bonding, insurance, cash-flow. Give MN DOT more of the risk, have them take on focus of growing the capacity rather than imposing quotas.

Respondent #6:

Experience: Work at legislature working on issues with disability, etc. Company has had contracts with state of MN since 2003. They wrote 2 federal grants. Promised by Commissioner Lamb that would not have to worry about contract having to be supervised, supposed to be equal Organization was created by state of MN to take over technology. Plagiarized, took off cover sheet, put their name on it, and they supervised instead. Contract negotiation was always a disaster. Wanted right to anything we produced, so intellectual property rights became ours. Every 4 years, to do contract, always behind and we were blamed.

They'd start negotiating in May or June, contract due in June. Finally came to an agreement. Got our appropriation, supposed to be part of our 4 year campaign for our low interest loans program. When money was available July 1 2015, did not get money until Feb. They took money off top, supposed to be a pass-through. Seems like a conflict/fraud, appears to be double-dipping.

Our customers' needs are not being met. Dept. of Employment is so slow to help people get equipment when they are paying part of the cost, 3-6 months. We can turn it around in two days.

STAR, since 2001, was supposed to go away. Governor's council on people with disabilities, sunset since we were created. We are supposed to be the designated agency. We are not, we strongly object to that.

MN's only money for assistive technology comes from federal government, STAR does not move through and it is supposed to be gone. I have all the paperwork. I was hired to take it over, to do this job, but I've never been able to do this job properly because we don't have the money. They get it and hang on to it.

Equipment they are buying is outdated, recently could not find the equipment. They went through 3 different directors and nobody knew where the equipment was.

We got \$ from Christopher Reeve's foundation, bought equip that would last, like bicycles. They buy things that are outdated like iPads.

We have to spend our time raising money instead of helping people.

Federal govt. money is spent on salaries, admin costs, a little left. Agencies loan it out, get paid \$60 to demonstrate and lend.

We are audited every year and are very transparent- have a gold rating on Guidestar. We have done a terrific job of managing with nothing. We work with other agencies, community organizations, etc. who basically support us.

Moved to agriculture, university, private sector, won't have anything to do with the state, but we are owed \$950,000 so I need to see the governor. DEED is telling us to give it away.

Recommendations: Nothing but contract issues- Dept. of Admin is a joke. Administration in their contract management is a single entity and does not allow input from the public or vendors that they are working with. Agencies should be allowed to make contract negotiations.

Should be a process to sit down with someone and work it out, there is no process if you don't agree with the state. Agencies decide what they are going to do regardless of the intent of the legislature. Governor should write an executive order for STAR to go away and we will be the designated agency. Legislature has tried twice to shut them down, language was wrong-, and they did not get shut down. Trying to meet with Governor and have gotten the runaround since 2016. Commissioners tell me to go away and leave them alone and they'll spend the money the way they want. They are not being transparent and not allowing access to public officials.

She wants to meet with the governor.

Respondent #8:

Experiences: 2014 state did about \$130,000 with AA certified firms out of 2.4 billion dollars Governor issued executive order about a year and a half ago. Commissioner Massman and Lindsay have been working to try to remedy this situation, working hard, increased the staff. These have been put into place recently, results in long term still need to be measured. It's too early to tell.

Biggest fear, African Americans have been put into place at DEED, James Burroughs, created positions and administration – fear is that when the governor leaves, will those be institutionalized, or be part of the political bureaucracy that will leave with the governor?

Systems try to reach equilibrium. META, organization I work for, has had clients who have attempted to get state contracts, failed to do so. They have had better cooperation in helping to get minority contracts. Are doing some targeted, set-asides for minorities and giving those contracts to minorities.

Recommendations: Systems and people operate off of incentives. What are the institutional incentives they are putting in place to make the buyers motivated to make those decisions? Mandates only go so far. Think about organizing the system in a different way – right now many directors are coming out of administration, too much bureaucracy.

A lot of autonomy and no structures that for example create feedback loops that lead to the behavior that you want to see. Coming out of a central administration, a huge bureaucracy, for example does the buying happen in the same way that the compliance overlay is run? Each agency has their own group of buyers, systems for purchasing, so when those things don't align it's going to create problems.

When they say you should find cheapest, but don't align around getting women or people of color, there is not incentive for them to do that. System should have the right incentives that are aligned with the people doing the work. Adding other requirements to getting cheapest contract but not incentivizing

Decentralize compliance so each group is paying attention, if it becomes more of their normal work rather than having Big Brother coming down on them.

How do you define incentives so they are reinforced rather than something that central administration is "catching" so it's negative?

Want it to become inculcated so that it's integrated and when gov. leaves for example, it stays part of the culture. For example, get salary adjusted for doing the right thing, or more vacation time.

We need a robust technology system that can estimate how many minorities that can actually perform this contract are out there. Nothing says how much work they can do, qualifications. This puts the buyer in a bind, missing information that they need to determine if that person can do the job. Easiest thing is to go with who you've been going to.

For example- State of MN had a flood in a building. They would have gone to their normal list, need quick for an emergency. His office halted that and went with someone who can do that and is minority owned. They have a robust staff and are communicating regularly with the people who are buying this work.

Computer system with all the information – Meta is doing that. Minorities will be pre-vetted so can have that info available

I think if they are going to improve the minority participating in contracting, they need to go downstream and look at the ecosystem that develops minority businesses. There need to be resources to help. System is very small (20M) for minority business support organizations. Minority businesses are fasted growing segment in state of MN. 50% vs 3% non-minority. With demographic and age shifts, future is minority entrepreneurs. We have to look at whole ecosystem and grow it. Now state operates off of false competition, bids and proposals, doesn't look at how they create a stronger system as a whole, so we end up being competitive rather than collaborative in working to grow minority businesses.

If you were to have a system to accelerate the growth of minority businesses so there were more able to do these large contracts. Throughput of current system is not enough. It creates a dynamic where they are not thinking of the system as a whole. There is a vested interest in the current system but if they keep doing it like this it will be the same.

Respondent #8:

Experience: Main agency we work with is Resettlements in DHS. The new director came from a refugee resettlement agency and understood frustrations grantees had.

Pretty prescriptive, they assume the state agency has the solution and not the organization. We run into that a lot. But she understood, convened a working group for a few months and we went over their guidelines and were able to give input into how we'd change things for people. We achieved this by not only making the programs more helpful but building trust between the grantees and agency. We are able to voice our frustrations which improved the relationship. We are working on building connections between DEED, resettlements office, and agencies. We are pointing DHS to organizations for learning/input. Did not use a facilitator- but that might have been helpful.

Transparency is great. State is intermediary often between fed govt. and legislature and us. We get a lot of delays and we don't know how long the delays are going to be. One time our youth program funding was delayed for 3-4 month. We drained our reserves and were not sure if the program would continue. Uncertainty and holds on money can be really frustrating. We got funding eventually but could not use it all because it came so late in the year.

Contract procedures take a really long time, 4-6 weeks, so we can't start our programming even though staff is ready and we have signed the contract. We are getting ready to enroll, prepping recruitment but have to wait. Sometimes we just sit and wait until they give you the green light. It is confusing for our staff. Contract with the school districts and they wonder if are coming or not.

Recommendations: Invite in current grantees to understand what is working, etc. I don't know what's involved with the contract process but if it could be shortened in any way or move the timeline up so it's approved when the grant is supposed to start. One is able to amend to a 2-year so it took less processing. Multi-year contracts would be good. Applications are frustrating -you have to go to DHS website every week to check for new RFP's and they don't put them in order or remove ones that have expired. So I don't get to it as often as I need to, so I know there are probably grants I am missing. We need maybe a month to develop an RFP and if we need to partner with another agency that's not much time.

RFP process usually rushed, and for smaller organizations with no dedicated development director it's difficult to write the grants. Often take one look at the RFP and say I can't do that. They say they want to fund community based organizations, but with their scoring system, you have to meet financial requirements

DEED RFP sounded perfect, for Southeast Asians. We got ready to work with other organizations, wanted to be really innovative. Turned out they wanted 50% on training, just like Pathways to Prosperity grant and others.

Trend in employment services... training vocational training, majority of our population is not ready for that. It's for new arrivals. There is nothing in the middle, for people who have been here a little longer, we serve about 200 people in that middle ground a year without getting paid for it. Job retention is challenging. We would like to do soft skills training and spend time on case management on an individual level. Need training communication, how to manage conflict (Karen people avoid conflict) even knowing you need to call in sick.

I don't hear a whole lot from state agencies about what is happening as a result of their grants. I want to know what is happening. When you look at racial disparity – which contracts are working and which aren't. We don't know because they don't share that with us.

Respondent #10:

Experiences: Have had several clients that have tried to obtain state contracts, navigating that process of securing the process is difficult. Larger organizations get it, often told to work with larger suppliers to get contracts so they go to the larger contract holders and they are not willing to work with them.

Recent changes – state allows lower amount contracts, opened the doorway for some of these smaller suppliers to contract with the state. Usually the contracts are so large and so bundled it is hard. Navigating how to go about qualifying for a bid is a mystery for some small businesses. Understanding what the current conditions are with the contract and what the state is looking for – if you are a newer business that doesn't have a track record, hard to know how much to bid without setting one's self up for failure. Maybe they have no idea of expected cost. Might be able to find those numbers but have to be an expert bidder to get that. They will underbid, make themselves look like they don't know what they're doing.

A state contract is a great anchor opportunity for your business, sizeable project and able to say you have worked with the state. It adds to credibility.

We go through this competitive grant process – is there a way that organizations that receive this get some type of priority or connection to procurement? If we can connect folks to actual business opportunities, we'll see a higher success rate.

Recommendations: State wants to operate as efficient as possible, not work with a lot of small contracts, and this desire to grow minority businesses. The way they are set up, they need to have a track record, some solid business performance- both private and public. Hard to do that when you can't get in the door.

There should be some kind of mentoring organization to have large corporations to use smaller businesses. Is there a way to mentor, or aggregate smaller players to be a cooperative and come in to the state and build a track record?

No one is pushing larger contractors to diversify.

Women owned businesses have no motivation because they already meet the standard.

Increase spend tier 2. Use a different type of rating, not just lowest bid. Perhaps the tier one spending should be one percentage to shoot for, tier two a percentage as well. Large corporations do this; they can look to the private sector to how to do it.

Look at which segments are doing well? Are women owned already at 30% or 50%? Are they doing well and no longer qualify as a protected class?

Make the process of the RFP easier if they are only going to select the lowest bid on any RFP, setting the stage for large scale business to do that. Is there a way to make it equitable so smaller companies can make a living wage? If they look at "local business" or other factors, if they will increase state taxes paid, for example. If we can make an impact on the community where the business is located.

Respondent #16:

Experience: You are lucky to get selected to go through the process. We have contract to do the at-risk kids meal program, such a small contract but it has huge requirements, meal counts, menus certain ways, train certain ways, layer after layer regulations and laws. Those are the things really are huge barriers. If you get a grant/contract it is unbelievable how people put you into place, to inhibit flaws but won't help small agencies especially people of color levels. They

just give up and go back to their old way – work staff and resources to death to serve the community, close doors, and resources go to big agencies. Have to jump through so many hoops to serve. When government says it, they have double standard. They have to have transparency. Process itself has a double standard. Regulations are not fair for all the people because large agencies have the resources, small agencies/people of color don't have. There should be a level playing field. Could we be able to lift up regulations so small agencies are able to get that 100k contract? Integrate it for implementation by small and newer organizations.

That places a very harsh situation for the small contract – 5k grant has same regulations as 500k grant, which is not fair. Need larger community discussion. Law is not there to block people; law is there to support people. We have to know exactly how that money is spent. Government needs to take the responsibility for a community-wide discussion. What would be comfortable both from the regulator and the community perspective?

Recommendations: When announcing possible contracts, it is very hard to get to “people of color communities”. Sometimes announcements just circulate among existing pools of candidates. Not getting through to community or to minority councils. We seldom receive information from councils about contracts or RFPs unless it's a big one. DEED will sometimes make the effort. Need to find out how to better serve the community in sharing the announcements. I don't know how they are shared unless I go in to the website, unless I go into SWIFT. Minority contractors often don't even know they need to get a SWIFT number to get business with the state. Website is not sending out notices. You have to go back in each time to check.

Process – other criteria to be able to submit the bid disfavor people of color, people with less experience, give “best practices” – we understand why and how this is there but unfortunately it creates a barrier. What kind of best practices support people of color, mostly support Euro Americans--not for our culture. For example -Dept. of Correction/Justice, or Dept. of Pub Safety, RFP if you go through their requirements, you have to choose the best practices. Go to a link to find 10-15 best practices, go into each and can tell how it's done for Euro American and don't consider other cultures. It is how you think about how you integrate the diverse group into the practice. If department can say they welcome any cultural appropriate practices also. RFP should make people feel included and invited. Look at Best Practices from past 20 years, research based on European American practices.

Respondent #17:

Experience: When contracting and procurement opportunities with the state level of complexity, small businesses choose not to deal with all the red-tape and bureaucracy, focus efforts elsewhere.

Often these small businesses don't have the opportunity to work directly with the state, they are often subcontractors. There is a lack of willingness of prime contractors to deal with minority and women owned bus. Discrimination in marketplace – loans, purchase materials, redlining, manufacturers of products/materials that we use only have a set number of distributors that they'll work with. 99% don't include minority or women owned businesses.

State becomes complicit in excluding some of these businesses –we specify a certain product, there might be an equal product but the one requested is not available to minority/women-owned business.

Recommendations: Resources, technical assistance, training and financial resources available to women and minority owned small businesses needs to be expanded and improved. Need state short term cap loan program for these businesses. This is especially important in highway construction, very capital intensive. It is hard to get into as a new business.

MNDOT has professional and technical engineers working contracts, but also have potential barriers there too, prequalification program. Businesses have worked in other states, to get in MNDOT, have to get prequalified, can't prequalify if haven't done contract for MNDOT, or the state, etc. It's difficult to qualify-- difficult to break in.

The state and construction community need to make sure we have the right resources, technical assistance, training, etc. to be able to offer and assist business building capacity, become proficient, on the business end as well. Often, we know the trade but don't have financial training, etc. job-costing skills to put them in the right position.

We need to try and find creative ways to engage with minorities and women owned businesses that is not just the status quo. Recently at MNDOT we are exploring new ways to engage in contracts directly with women and minority owned small businesses. We have authority to deal directly with contracts informally, just need 2 bids and can go with whoever we choose from those. We've been identifying projects and scopes of work; we are seeing if there are pieces we can break off of larger contracts that we can use this process to work with minority and women owned businesses.

Prompt pay – prime contractors holding retainer from small businesses is often illegally. It's very hard for small businesses to meet their cash flow needs and sustain their business if they are not getting paid promptly. This is identified by small businesses as a major barrier for ability to work with the state.

More often the case, individuals get frustrated and don't want to put up with what they're experiencing and we don't hear about it, or they want the job and fear retaliation and being let go if they speak up. It is few and far between when you get someone to speak up.

Respondent #18:

Experience: Have implemented a lot of the suggestions that would be helpful – excited about contracting practices. Cash flow issue that small businesses face. Prompter pay process was implemented in July. Designated groups are paid within 15 days.

Set aside authority – have done 4 set asides ranging in value from 80-150 k, taking advantage of set asides.

Businesses are required to pay subcontractors within 10 days after they are paid. There is new methodology for calculating subcontracting goals. There needs to be greater opportunities in subcontracting – looking at both TC and outstate differently, assessing higher goals, can they be met by our contractors? It should increase work with targeted groups by 60%.

Tier Two spending increased. Implemented program in July called Equity Select – people in agencies that have procurement authority can hire targeted group businesses without competitive bid up to \$25,000.

Quite a bit internally has been done – a lot about culture, how we are educating people within agencies who have authority. Implementing a dashboard that shares with leaders how much they've spent with diverse bus. We will see annual improvement. Really useful tool for them to think about how to assess and implement goals for spend.

Undertaken tremendous effort – diversity and inclusion training – it is a mandatory training for anyone who has purchasing authority. It's a half day training, all about diversity and inclusion, about the tools, equity select, prompter pay, all the tools, etc. Also, interactive activities that demonstrate for them the frustration you would feel as a small target business going against incumbent or majority business. We have tried intentionally to recruit strong candidates in procurement. The way we arrange our master contracts now, the first businesses that pop up are highlighted, designated targeted group businesses. It's a reminder that it is our expectation that you consider using targeted group businesses.

We have had a lot of media coverage – MPR discussed frustration with a couple of businesses. We met with a man who was interviewed. We are encouraging people to come back. We need a more robust e-procurement system, can do a better job of checking spend, subcontracting dollars, looking at large and small systematically. One struggle we have is the number of targeted group businesses that we have in our program. Outreach events have increased from 5 to 30. We're able to get out into the community and talk about benefits of certification. There is a kiosk in our office for those who are overwhelmed, to help them get certified.

There are a lot of opportunities at DEED to implement some of these. Have been working with Karen Francois closely and have been giving recommendations to DEED how business can be successful. We're working with management and budget on training, diversity on hiring panels, keep talking about retention and recruiting – we are competing with each other. How do we reach outside the state similar cultures and climates where we can find talent, court them and have them apply here? Give people opportunity to come here. This has to be an intentional path for recruiting diverse talent to make our goals and exceed without creating retention issues. We have done a great job of outreach; newsletter goes out to our businesses letting them know about how to find curated opportunities. We're making it more user-friendly. People share the newsletter. It is a challenge to us to make sure people get past the hurdle of the paperwork, comfort with certification process.

Respondent #19:

Experience: Programs have been around forever. There are no perfect systems. All the programs have pros and cons. Have worked really hard over last 18 months to improve what has been a lack of participation. There has been a reverse lawsuit about inclusion against the state of MN. We're probably not seeing things until last 2 years regarding making goals. Now we have a funded equity office. We have done a lot of research gathering – I am voice on the committee given what people told me what was not working.

Now we have goals but not paying attention to setting goals on construction projects.

There was no point to be certified as a TGB because there were not state goals. Three to four years ago, MNDOT started a TGB program and we started advising people to get that certification. There are still issues, where say for the senate office building. The goals had been set so low that they only set a 4% goal on that project.

Other barriers doing one more certification, if certified as a DBE (federal), grandfathered in as TGB (state). Ramsey, Hennepin County or St Paul, need to be central certification, for Section 3 housing HUD. Those cause a large barrier for small businesses. People don't always have the

tools, corporate structure to be certified in the first place because of the amount of work to get certified.

Another barrier is not knowing where to find jobs. If you're a small business owner, you don't have staff to watch for look for opportunities and bid them on a daily basis. You need it to be pushed top-down to you instead of vice versa.

State of MN created a new website and e-mail system, not completely running well so I'm not seeing opportunities regularly yet.

Construction packages are big, not often broken down into smaller so the general contractor does procurement. When they do this, they are privy to do their good-faith efforts. Competing regulations – best/low price, bid is the marketplace. Minorities and women cannot, in general, be the low-price bidder. They don't have buying power, credit level, because they're too small. Union can be a barrier to small business, because smaller businesses do not have the workload and the income/cash flow coming in to be able to compete, able to join the union on a good business standpoint, checks coming in, etc. You don't have enough work to compete for contracts who are union only.

Working capital and bonding issues are huge barriers for small business. It's a huge barrier for construction to be able to cover the cost while waiting for their payment. They need cash on hand to pay. Run into that from creditors, to pay for supplies. Have to have appropriate liability and bonding as a protection, be to put up money to be a bondable company. Sometimes on a large project the contractor writes the contract so the small business has to have the same bonding as they do.

Recommendations: State makes the packages smaller – bid on small packages directly. Don't require it be passed down to them from the top – not require the same level from everybody else. Enforcement is a really big part of it. Change low bid to best value type system.

Respondent #21:

Experiences: People would love to get more contracts, access to business – don't know where to find that. Putting things in writing eliminates people. African culture is oral, not reading. Traditionally we don't seek info where there are written materials. Lots of small business owners want to grow, establish themselves, don't know how to get themselves certified and are missing out on opportunities because they won't likely go online, etc. When they go to find out information about these, if they are overloaded with information, they don't want to look dumb, won't ask questions. Go to a DC to get help understanding contracts, etc. People give up rather than being embarrassed.

Recommendations: Go into community, say “this is what I do, this is how I can help you” Need to reeducate, re-tell. Have key people in the communities, have them understand how the communities work, have people coming to talk during gatherings. Host a table, educate about how to do this, if this is what you are interested in.

Interact with community in their way. Show them it is possible. Some of the opportunities seem very grand, too big to try for.

Respondent #22:

Experience: I have an asphalt recycling company that I just purchased in April. I've spent last seven months increasing my understanding of MNDOT. I'm an African American, going through certification process to be DBE. I understand the non-profit sector in its role in

supporting small business. I've been working with women on Vikings stadium, worked with compliance offices as access to participation. State may say 25% but not representative pool of people of color. Emphasis is absent specific targeted effort. Commissioner and Governor should establish a broader and cleaner defined policy that emphasizes specific levels of each small group – what percentage of small businesses should be people of color. For example, Vikings stadium created an innovative approach to help groups that usually work at tier 4 or 5 to work directly with the architect or associate architect.

No space is created for innovation. Statutes are written in such a way that people are afraid to innovate because of the pressure of legal action, compliance is about the law. State agency is responsible for implementation or dominant industry who wants to stay dominant.

Political and legal pressure is excruciating. If the policy is right, how are the programs being designed, and then who is the administrator? From there you are talking about the individual resp. for the implementation. Very few people who are innovative in that role. People are not creative / innovative thinkers in that role, they have a relationship with their tasks, and these are the steps I am supposed to follow. Not enough people in these positions who are creative implementers. I am one of those innovative types; I'd take action that would get us the outcome. I've been able to create ways for professional/technical side to participate at higher levels. When you look at 16C – U of MN does not have to follow the same because it is part of a land grant, I think that is a problem. I believe all recipients of state funds should be held responsible for same rules of inclusion.

In construction, one area very important to pay attention: how small businesses participate in the design and build of state buildings – Board of Architectural Licensing. There is a specific group of people who decide who are the architects on state buildings, while small businesses are often capable, they are rarely selected because of this board – really needs to be looked at.

What falls into the oversight of the Dept. of Admin, should be lined up, the accountabilities are aligned. If Dept. of Admin. is body for rules of procurement, all those who receive state dollars should be accountable. Current policy allows it to happen differently.

Dept. of Admin has specific protocols for contracting-- each agency can design how they are going to operate within those rules. Accountability begins to fade.

An agency like University of MN or DOT can establish its own internal policy on a matter; can establish standards and qualifications that can be characterized as such because this is a unique agency we have to establish this standard of qualification. Example: MNDOT prequalification program. MNDOT has established a qualification mark for qual/prequal. Let's say there is a company, small business who has been deemed to have engineering background. Experience but does not meet MNDOT's prequalification to have 2 professional engineers on staff.

Qualification is a default.

I do see Dept. of Admin. adopting review and examination of these and looking at it from a compliance and policy lens – are they operating from a high caution framework?

Gov. Dayton is doing right things pressing/communicating the right things. Now Dept. of Civil Rights office at MNDOT is run by people with law degrees, so they have a legal lens. So outside of the civil rights office, needs to be an office that focuses on innovation in procurement, work with civil rights office. Have money for support services programming and have failed to help small business grow, when the people lack the kind of experience necessary and don't think innovatively. When asked if they are hiring the wrong people, the same people have been in place for a long time. When you ask people to be innovative it's like putting people in a dark

room and looking for the light switch. Their relationship is with tasks, not thinking outside the box and creating the outcomes. There needs to be greater separation between compliance and outcome. Innovation -- At least push the envelope. There has got to be space for demonstration learning.

Don't tell me there is not enough capability, I know who can do what – ex: Vikings stadium. Besides main architect – remainder of stadium was designed by 18 small businesses. A shift in paradigm has been made. Now larger architectural firms know a collection of smaller firms can compete so they embrace or compete.

More complicated on construction side – how I approach, take a look at pool of businesses of color in highway construction. There are maybe 30-40 businesses of color in the horizontal construction arena that can actually do work on a MNDOT project as it is currently defined. This is mainly because firms are very small compared to the task that needs to be done. For example- my asphalt recycling company, I bid on 1-2 out of 100, I know how to find my bid items in the construction plan. I know what volume I can produce. It's different from someone who does guardrail work, can only do a small piece of the guard rail work, capacity and size and sophistication. With such a small pool of minority owned firms, such a small pool who have the capacity, it's hard for contractors to meet those goals. We can break projects out during the design phase to create more bite-size for small businesses. Monitoring can be more demanding. Have to look at engineering and construction phases. The design phase informs the contractor about what to do and how to do it. Trying to get people involved on the construction end, it is the architects and engineers who design the project and can break it up into bite sizes, potential greater ability for small businesses to participate. Example: There are 4 elements for project: earthwork, bridges and structures, concrete, finishing. When an engineer packages these all into a project, it bundles them all together, says to a contractor: here is what you bid on. If we put earthwork out as a separate package, etc. then you have 4-5 packages that any one firm can bid on, separately or together. Because a lot of our procurement is low bid, what would stop a group of small businesses from bidding on just one part, rather than having them go through the minutiae of being a sub for someone.

Trying to figure out the work I perform and how it fits in to a MNDOT project can be very complicated. There are natural barriers for me as a business owner. Unless I'm really clued in on where to get the information I need to know who the right people are to talk to about, what I need in order to bid successfully, and some of these items are not in the papers. It boils down to relationships and also confidence that the person you talk to will be responsive. There is a stigma attached to DBE businesses. This often has to do with a perception/view that somehow – and this is real – people have their own personal views about whether a DBE or a TGB program exists.

Large contractors have the lay of the land and they know what is going on.

In my job, I managed the process for all procurement – 1200 million dollars of engineering services. In the community, understanding who the potential building suppliers are is important. I had them come to my offices. As I got to know them and started hearing themes from smaller firms about their challenges doing business with particular procurement staff. Businesses were trying to access contract administrators – not getting response. They are the front face for

project managers, the customers of the contract administrators, and the CA's interface with the consultant community. Very rarely was a consultant with a small engineering firm of color able to interact with managers. So, with several degrees separated from project manager, how are you supposed to understand the needs? You don't. Relationship needs to be built directly. Let's just say the PM has a preference = probably to work with people they've worked with before. When new business and minority business come to table without a relationship they won't be able to get the work. Have PM's sit with these businesses- bring in 3-4 businesses you have not done business with – tell them your challenges, concerns. Give those 30-45 minutes to talk about their experience with similar projects so you can consider them in your set. Things are improving, because people high up are saying we have to do things differently because we are failing. Also important – in my estimation, when I put in bids, and I have identified that a general contractor I put a bid into was the successful low bidder, when I follow up they hem and haw about whether they used my quote. I believe they are shopping my price around to someone they want to do business with. Contractors are given 5 days to submit who they are actually going to use. In the bidding for construction projects they have 5 days to disclose – they say whether they are going to meet the goal percentage and don't have to say how. They can show demonstration of good faith or meet goal. After review, changes happen that codifies whether they are going to use a small businesses numbers or not. If it's similar to that of the contractor or one of the contractor's friends, I'm not getting the work unless they squeeze me down to a price where I cannot survive. With specialty suppliers – lighting, fixtures, etc. – when plans are being put together, often times whoever is doing the architectural work will name a specific brand to be used, and often small businesses do not carry that product. Language that should be used is “brand x and/or any other product that meets these specifications.” It allows a company to work with another manufacturer as long as it meets with the specifications. Often exclusives in terms of ability of a company/manufacturer of a brand – work with larger company.

SBA defines in terms of dollar value and number of employees. Probably used too loosely without definition. I would argue a small business is maybe half million dollars or less. So, there is a continuum of businesses that have been around for 10 years to startups. Along this continuum, these businesses need different types of things. They all need access to the opportunities. It's difficult to navigate this system. Resources to market, compete, and to navigate the system is overwhelming – don't have the resources – time, persons to work on these tasks. It's daunting.

Association for Gen Contractors – for large businesses, resources and an association to allow them to access business with the state. It's not the same with the Association of Minority Contractors, Association Women Contractors.

All are challenged by the same thing – customer base/access to opportunity/sales/ Those parts of the bidding process – looking at the plans, put together product, and bid in 24 hours. This is not realistic for success to happen unless you have experience doing that, in 24 hours. It's important to balance the idea of capacity building with a disproportionate weight of a system. That is difficult because relationships are important, knowing who to talk to, confidence in them as

person to talk to, and that they are an innovative thinker that can help access a solution. We don't have people like that in our procurement system.

16C state statute: 25% small business participation is articulated in contracting/procurement. How does it define in the next tier participation of targeted group businesses – why not? Why not have goals for AA, Nat. Am., why not take affirmative action toward specific subsets such as African Americans. Unless it's spelled out, it will not happen because there still remains a bias toward the status quo.

I was in charge of the CR office of Transportation-- office responsible for general contracting. We were meeting goals of 8%, when I left we were barely meeting goals of 5%. We had to reconstitute from a previous lawsuit – Sherbrooke – but were still able to attain 8% because we enforced the requirements. But from 2003 to present, we've not done that because there was a lack of appreciation and value of the Federal Rules. I hold the institution accountable for not putting the right manager in place – commissioner did not – no accountability for the contractors or for leadership within the organization.

Current commissioner is outstanding, doing what's necessary. The current director of the CR office is doing good things. Do we blame the small business on the lack of capacity? - Analogy of someone who can't afford a house, do we blame them for being homeless or is it the fault of the cost of homes. We put the weight disproportionately on business that is not successful and not on the institution.

Office supplies – Pawlenty put in place so state govt. can streamline and become cost effective. It allowed for the state to purchase its goods from a single vendor to leverage better pricing for the state. In the state's interest, it was doing the right thing, but it forced businesses that ordinarily could supply offices to the state completely out of the marketplace. It had a disproportionate impact on small businesses and particularly minority owned businesses who were suppliers.

One other systems issue, when Dept. of Admin falls under 16C, in terms of state procurement, what I think is another fundamental challenge is that while Dep of Admin is responsible for that, the DOT can design its own programs that sometimes a counter or additional barriers for the programs. We can meet 16C and still create challenges. Example: MNDOT – engineering prequalification program. I was around when this prequalification process was put in place that it would limit access to businesses of color. There are 11 different work types that an engineering firm can perform. For small bus to prequalify to do certain types of work, they must have 2 engineers in the state. Hard for large firms to prequalify, imagine how hard it is for a smaller firm or minority owned firm. Why are 2 necessary to be prequalified?

Another example: Construction administration – have a firm who is a small business who can't get prequalified to get construction mgmt. / admin because rule is written so must have roadway AND bridge admin. Some businesses only do one. I had to advocate the splitting of those two. That is what small businesses deal with every day.

Enforcement of payments: There are rules that a contractor needs to pay you within 10 days, contractor gets paid 30 days, and subs get paid 10 days later. I've heard these horror stories and have experienced. I have a contractor that owes me 10k and he says he's not going to pay me the 10k. He used the product, he acknowledges using it, contract written in a way that he does not have to pay for extra material; he's calling it extra material. Even though the regulations compel him to pay me, nobody has my back. Civil rights office, they say file against their bond. Do you know how much time, money, legal, relationship equity I lose when I start pushing against the bond of the contractor? what is the consequence to the contractor? State will not step in to a dispute. Small business's hands are tied.

PLA – Project Labor Agreements: union issue

On a project, whether it's vertical or horizontal. Let's start vertical: Each project, they negotiate what they call a PLA with the Unions. Unions establish with these owners the percentage of one's own workforce that a business can use on a project. It wants to ensure that union people get those jobs. Union people are usually on the bench. I'm a small bus. owner, let's say, with 10 employees, not a union business. I'm asked to sign a union agreement only to use 25% of my own workforce on a project because that's the PLA. I can only use 25% of my workforce. How am I benefitting, growing my business, giving experience and expertise to my employees? It's a real problem/barrier.

Apprenticeship programs – if I'm a business with only 5 employees and have only 1 journeyman, I want to get another person in the queue to become a journeyman. There is a ratio of employees to do that, if it requires that I have 10 people and I only have 5, then I'm not allowed to bring on another journeyman in training. It's problematic.

My business is a union shop so it requires the training done by unions.

If we don't look at these things I'm talking about, it doesn't matter what we do. WE can do all the capacity building in the world but if we don't move these barriers we won't make a difference.

Respondent #25:

Experience: I was certified 25 years or 30 years ago. Last year and a half, had to sell everything, to get bank paid off. Last year's project went to hell because of joint venture. Joint venture would not listen to me, and then used my suggestions. Had a steel erection company, then added electrical, had difficulty with.

Part of the issue with the deal is that the DOT did not support me at all. There were high goals on the job, I felt I had the DBE, you can't replace her and do the work yourself. Thought I had leverage. Two of the largest contractors – Ames and Lunda-- I was a subcontractor to them. A prime contractor is trying to look for a contractor to do the work, to trust to do the work done. Most of them don't get the training and education that they need to understand what cash flow means. I just submitted a proposal for a small business resource center with the AWC. Had a company called Impact – had a contract with MNDOT, to provide services with DBE's, that were consultants that would help us with our banking, our bonding, our etc. It was free.

They are trying to do this with the resource center, and are not paying enough. It is always about understanding the money. You have to understand union in MN. Being union helps because you know exactly how much you have to pay, how much taxes, etc. But have to be able to get a bond with union to be able to pay benefits means you have to have a decent financial statement. Can't just come in expecting that you are going to get a contract, get paid, and make money without understanding how to make the money and how much it takes to make the money, and how much it takes to get paid. For example- in 45 days you'll get paid but in 20 days you have to pay union benefits.

People may know how to do the work but don't know about cash flow, buy materials before you get paid. Biggest downfall of DBE's getting into business is how much cash they have, what is their banking relationship.

Prime contractors end up having to pay benefits if subcontractor did not pay benefits. That's an added cost to the subcontractor. There is a risk hiring a DBE or new company because you don't know if they'll finish the job. Some require they get a bond. It's very difficult because it requires a personal guarantee.

This is a tough business to be in. #2 most failed business in US is construction. They want people to sign up to get in to the DOT but people have to have passion for it, risk taker, organized, qualities of successful CEO's / business people. It's help to be a visionary, able to delegate.

Easier if they can bid on projects that only need small tools – steel, landscaping, trucking. My goal as far as a resource center is to see if companies should even be certified with MN

DOT. And who is out there performing work, are there people doing commercial work who might be ready? If they want people to bid the work, highway heavy takes heavy equip and expensive equip. If people have the passion, it doesn't matter if they are minority or woman. People think because I'm a woman or minority, just going to get contracts.

I took \$10k pay, MNDOT did not understand why my employees made more than I did, I reinvested \$ into the business. Take it slow; don't take too big project at first. The other problem, men tend to not ask for help, think they know it all.

Impact – knew what I wanted in estimating program, they helped me and designed Excel sheet, with my input. They told me the male run companies don't ask for help.

MNDOT does trainings on Saturdays on different subjects. MNDOT should not run classes on how to make money/grow business

Respondent #26:

Experience: Majority owner of our business. We purchased bldg. 2 years ago, from a bank closing. I had done all our work. My husband's signature was ahead of mine – I almost got disqualified for that.

One area is capabilities – I love what the state has done when they break off small bits for mechanical and electrical contractors to bid. It helps being able to narrow our possibilities to have a shot of getting in. Small businesses can't do large projects but go to the larger contractors- a lot of things going on behind the scenes that are not the intention. Sometimes they have the mechanical/electrical contracts bid first and then prime contractor has to select one of those bids. But we need pieces of the big projects once we are in business.

For example, when skills are complicated, everything is decided. We might get hired to do something but larger contractor has already done the work – have you been in there participating, learning and adding to experience. Stadium – contracts for mechanical scope around \$100million. Small businesses my size are lucky to do \$10 million – most minority/women companies have a similar cap. But on this scope, state still requires the same percent of women/minority businesses. The work gets passed on, but still part of the larger contractor scope. We might be providing manpower, not having the same kind of big picture experience, just providing manpower. Sometimes when goals have been made, we are dismissed. With large projects like this, historically I don't think commitments to the contractors have had to be made on the front end; so, there is room for manipulation after the project has started.

We've had instances where we bid a project – recently with the prison system – and then after we've been awarded the project we are subject to the state contract and also have to sign the general contractor's contract, adding another level of risk to us. That does not seem right. Often we don't have a choice who we use because equipment is only “repped” through one company, don't have a free open market who we can go to. Now we are under retention but suppliers don't expect to be under retention-- state withholds 5% until project is complete. Try to get equip supplier to take on equal share – custom equipment going into a gov't project. Now since we are fighting them we risk them charging us more so we are more competitive.

Respondent #37:

Experience: Procurement is headed in the right direction. Last year's numbers were abysmal, now we have established equity in procurement department, can get walked through to find out about and walked through certification

Recommendations: Measure our second-tier spending – if we partner with majority white owned business, measure what they are spending with minority owned businesses. We did with stadium and capital, measure second tier spend. Also, need to figure out a way to measure the diversity or lack thereof of the majority of businesses we do business with. We don't ask major owned business how diverse their team is, their exec team is – ask it, what is the diversity of your workforce? Enhancing what they already have – “equity select”, allows agencies to go to a targeted owned bus directly if under \$25k. Also, to increase what we do as far as the set-aside rules. We can require only minority owned companies to participate in certain bid. Can set aside the whole bid process. It is not used as often as we can.

In the state, we need to invest (DEED doing a good job) in bldg. up the minority owned businesses. Don't have the experience or capacity – grants or forgivable loans, build leadership acumen, and invest in infrastructure.

Look for unique spots or spaces where the businesses that are minority owned there might be more of them – One of the things we should do is look at those spaces, do intensive investment. For example, we know there is a large number of minority owned catering businesses – we eat food at many events. Look at spend, make sure we spend, for example, 50% of our spending on minority owned – because there are more minorities. If another area where there are no minority or women owned businesses, can't reach the 20% goal.

Equity in procurement – program started a year ago.

Respondent #41:

Experience: There are a series of misconceptions, lost on regulators and policy makers, lost on markets and market principles, and participation in those markets. When you peel back the layers for more diverse contracting and workforce, the market is very capital intense work, you don't decide overnight that you are going to go into road construction and do curb and gutter work, you'd need ½ million dollars for equipment. Women and minorities are going to be at a disadvantage money wise. Prime contractor can't hire if can't do the work, don't have the equipment.

Regulation/admin side lacks understanding that contractor is putting together a team of subcontractors together to build an X – with that comes a variety of performance and other schedule obligations that the prime is looking to meet. Looking for subs that are reliable, will do good work, well-priced, (low bid work) and at end of day prime needs to be price competitive. When stack things up with women/minority owned business, how do we think 1-2 people business can price competitively against someone who's been doing this. Now as prime, I am forced between Terry who I've known for 20 years, know he can \$, do the work, etc. and Kevin, who I don't know, don't know if he has a bond, might have to take a flier and hope against hope, relying on fact that agency certified him. Now Kevin is cost plus. Kevin does not get volume discounts yet, etc. I have to make that assessment that this person who is a risk to project, schedule, performance, priced above market, when I add it in to bid, have to cross my fingers that my price is the lowest price. Even more complicated when there are a multitude of prime contractors competing for this project, know they have to meet the goal and there is only one certified minority subcontractor – who gets to contract with him. He gets his choice and can price his product as he wants. Often price is no object. A prime contractor is beholden to price, have to have the lowest bid or won't get the work. End up in a system that sets itself up for failure. How do you get the experience, access, how to be successful if everyone in the system tells the prime contractor to avoid doing businesses with you because of skepticism that you can perform? History is littered with DBE's who go out of business and left their prime hanging. Stillwater Bridge, scope of the bridge project was more than twice the size of any project she'd done in her history. 2 years into the project, she was over her head. She closed her doors. Construction is high risk, low margin, capital intense. Put those together, why would you want to go into construction?

When you get these govt. regulations, force the market to do bus with people I've never done business with. And they have to price their part high, to make profit. Strong market forces work against the success of these programs. Why are we not asking, after they have been in this business for this long, why aren't they more successful? It's misguided to think white contractors want this program to fail.

For example, traffic control – every highway construction project has traffic control. There is a number of minority and women owned firms that have been in traffic control for years. Why? every project has a need for it.

If that firm is allowed to stay in the program, how is a new firm ever going to get into it? They know how to do just enough to remain eligible in the program.

Biggest thing for prime contractors is that they need to manage their risk, want the firm to be bonded, insured, can perform the work, is marginally cost competitive.

Program admins set goals on projects that prime contractors feel are arbitrary. Primes are close

to market, know who's out there, know what women/minority firms are out there and are certified. For women/minority firms to get opportunity, they have to get certified. If you're not certified, why use you because I'm not going to get credit for using you towards the goal. If you are a minority owned bus. And 3 people in your firm, chasing business, who's got time to do the certification, just for the opportunity to have someone call you and see if you are interested in working on a project. Then on the other side, you see people who just chase the paperwork. At one time, MNDOT, in their list of certified vendors, they had apparel vendors and shoeshine firms – why wending way through those vendors. Some don't know how to fill out the certification, insurance, tax questions, etc.

Those who enforce regulations sometimes fail to know difference between impartial administrator and an advocate. Hire persons who know the regulations inside and out, are members of diverse communities, come with tinge of advocacy, look at the job as an advocate for the program. In my mind, they are supposed to be impartial, sometimes those lines get blurred.

Biggest criticism – individuals know regulations but don't know construction. Don't know the market, if you have 3 bids that are this close- gets lost that gov't has access to staff and opportunity for paperwork. Contractors don't have enough staffing to process paperwork, create copies, maintain files, etc. What is missing from admin? They don't understand what happens on bid-day.

Fridays MNDOT has bid letting. Maybe 28 projects that day, might have to put together, submit, and drive up. I have solicitations out for all the various inputs that go into this project. Now I also have DBE quotes, goal on project that 14% of work has to be performed by DBE's. A lot of those quotes do not come in until right before I have to turn in my bid at 9am. Trying to reach the DBE at last minute for latest number, etc. and the bureaucrat at MNDOT is making judgments on the backend – why didn't you try to get ahold of Alice – maybe you could have broken that number into parts and she could have bid part of it for you. She did not return my call, her quote was high, not amended, did not make goal.

Respondent #45:

Experience: Use online bidding. Allows the vendor to not hear about it too late – when mass release when RFB goes out, it all goes to all. Our SWMBE vendors are encouraged to bid. Paperwork is a lot. More paperwork you add, more issues you bring in to the fold.

There are varying levels of technology expertise, etc. We offer monthly training sessions for SWMBE vendors to use electronic portal, etc. We hold hands-on sessions.

Also, do annual procurement fair where we invite our vendors, 450-500 can come, talk about upcoming opportunities, etc., learn about projects before the bid process starts and everything is on lockdown. We invited the State of MN to our procurement fair – we buy a lot of items off of State contracts. We wanted vendors to know how to do business with State of MN, they were on hand to let vendors know and about capacity to compete, etc.

It's difficult to balance capacity, pricing, and SWMBE vendors. On a state contract, many times the price is very competitive, not all SWMBE vendors have the capacity to compete at that pricing. Adds a level to procurement that is tough to balance, trying to be stewards of taxpayer dollars – use low bid or SWMBE vendors? It adds a grey area.

The level of insurance we require, payment performance bonds/financial capacity, vendors are not recognizing that doing business with govt. is more difficult. Not all vendors are ready to do business with govt. Being a SWMBE vendor is not a golden ticket – being certified does not mean automatic in. We still have to compete for the work.

In a low bid scenario, it's pricing or inability to market selves to prime vendors or prime vendors having longstanding relationships with subcontractors. It's not easy doing business with government. Go after subcontractors they know what it's like to work with.

Gov't has goals, high levels of performance, payment and performance, prevailing wage, labor agreements, and fed funding adds more rules and paperwork too. It takes guts to try to break in to government wall.

We used to have master contracts that went on forever – started not renewing the contracts, bidding them out. The state needs to open dialog, get vendors exposure to departments, and get rid of longstanding contracts. State of MN does not have that barrier, have 5-year limit.

Government is good at putting a program in place without looking at the unintended consequences – fully vet the solution, including internal customers, vendor community, not just the squeaky wheel vendor community. Dig deeper than the ones that are just referred via organization, and reach out to prime contractors and find out what their needs are. Whatever happens can't be done in a vacuum.

Respondent #47:

Experience: Big picture in St Paul-- changes made 7 years ago to a model of having procurement answer to director of HR dept., so deputy director of HR and Procurement both report to same person. This forces very candid discussion of Procurement with HR. There are still struggles but structure helps to impact the change. We get a lot of diverse outcomes in contracting through development projects, private dollars with public subsidy. Get really good results on those projects because not as constrained as public projects. Always do negotiated bids on those kinds of projects, instead of hard bids. Get more opportunity on these projects.

During the last 18 months, our small business certification program has gone into the community once a month to hold certification workshops. Hold peoples' hands to go through certification process. A lot of the contractors are not wired to use the internet – because of language issues, etc. We bring a lot of resources to those workshops – bring buyer from procurement division, bring SBA, city inspection, volunteer attorneys, retired executives, regional program recognized by Ramsey and Hennepin Co. and also bring out people from those procurement offices as well. They are very well attended.

Percentage of minority certified contractors has skyrocketed. We've increased numbers and getting new businesses, 85% new, not just recertification. Quarterly report shows a pretty striking change – all projects versus ones that opened up recently. In the past- .5% minority, 1-2% women, sub contract 6% and 13%. If you look at just what has recently opened: 5% minority and >17% women, sub 12% and 24%.

We rewrote our minority vendor outreach ordinance; a big change is closing loopholes in good-faith efforts. We'd see repeat suspected offenders, their good-faith were always the same. We said if do same thing over and over, does not count, if don't make goals, you'll get fined. There has been push back from union contract/union subcontractors.

We no longer hear that we don't know where to find these contractors.

One of biggest sticking points is how to make procurement rules work with our equity efforts – internal struggle is how do we open up for minority and women owned businesses without putting our buyers in the position of breaking these laws and facing a gross misdemeanor, prison time. Law might have to do with low bid, conflicts/ not sharing inside info before the bid goes out. One big thing is they have so many different departments and vast geographically, hard to get everyone to buy in. State does not have any control over the schools even if they get state aid. One group was pushing the state to condition the receipt of local govt. aid on abiding by the state rules.

Respondent #52:

Experience: I'm on the central procurement side, so I have oversight over a lot of the procurement policies and procedures. We work with various state agencies. We have approximately 700 buyers out there that facilitate the procurements for the state of Minnesota.

So, we work closely with them to assure diversity inclusion of the state spending, making it more representative of the population. As we work within our trainings, we rolled out the diversity inclusion, and then we have the equity select which you've probably heard from others. So from our standpoint it may be a challenge because rolling that out and further educating folks of the opportunity because it's new. So, I think we've done a good job on paper, but also it's the outreach of putting specific scenarios in place and frankly, educating the vendor base too that it's available. Kind of both sides are able to talk about it. From rolling that out, it's obviously a process of 600 to 700 buyers, but we're now a couple months into it. We got a couple of the procurements under our belt, and we're starting to get some feedback from those end users and frankly the vendor base. One of the positive things that we have heard is that traditional government procurement at that level is generally done through our request for bid process, and that's typically where we'll put out a specification. Whoever receives, whoever gives us the lowest price that meets that specification, essentially wins the bid.

So, a challenge for our buyers is they find a product and maybe the spec ladder XYZ, they put it out there – they have to – the vendor has to meet the specifications. They give us a price. We don't have a lot of room for negotiation or of course, people can ask questions and we can formally change the solicitation. From the communication lines, though they're open, they can be labor intensive for both sides on the process. But that equity select has been an opportunity not only for folks to go directly to a targeting group or what have you – but also to have dialogue to negotiate those under \$25,000 purchases. So, they come and say hey, ladder XYZ in the let's say the vendor says that's going to be \$1,200. Well, if they would just respond with \$1,200 and they weren't low bid under the previous scenario, we don't really have an opportunity to negotiate. But we have seen examples where they could now talk and say well, what if I don't have to require you to do inside delivery on that ladder? What would that do? They would say well, that would be huge because I just can't get it up the three sets of flights. So, I could take \$300 off that price.

So that process though the amount is there, it really has been an opportunity for both the state and government purchasers not only to go directly to the vendor, but interact more because we are very conscious of ensuring – you know, part of our training is ensure all vendors receive the same information to keep it apples to apples. So, that was one of the huge pluses that we have seen and it's still working itself out is that the law, though it was probably – I can't say the total

intent, but something that just kind of blossomed out of it was more of this ability to discuss the procurements. Part of it was to be okay we can go direct, that's an option. It's going to save some time in the purchasing. It's going to help facilitate these dollars in diversity inclusion. But what it really did is just opening the lines of communications for us to talk about procurement to maybe hear more about the challenges from the vendor sides in some of our specifications or requirements. Sometimes we can make a really easy fix that saves them a lot of headache or allows them to give us a much more competitive price if that was the case. I mean in other situations, we are just going direct, but that was a big plus out of the equity select.

Yeah, so if you were selling, let's just say you happen to be a car dealership or what have you and I put out a bid for a Ford 2017 new vehicle, we might get 3 dealerships that send in their bid, and we have to kind of – I shouldn't say kind of. We do – we specify exactly where it has to be delivered. The base spec of the car, and that's the baseline for what vendors can meet.

Then, sometimes in that process because we may not be subject matter experts – we may use a baseline specification that's out there in the industry. Really, that could be prohibiting to the vendor. They may ask a question, and we may respond, and but we don't necessarily have that – we have the opportunity during the solicitation process, but once the bids are open, those agencies cannot negotiate it. They only can do requests for bids under our procurement law. So, that whole negotiation which is not necessarily terms that as far was equity select. I would call it more a dialogue to see how both parties could reach an agreement at a fair price or what have you and open up that gate for that to be allowed. Otherwise, if we were to go after the fact and start talking with one vendor and we didn't get the other vendor the same information – obviously, the vendor base gets a little frustrated because they're going to say well, if I knew that, I would have done this or I could I have done this.

So, that's something that really seemed to be beneficial to both sides because then the vendor can kind of understand where the state's coming from, and then the state might be able to make some concessions that really help the vendor on the pricing category. It's just a little more dialogue on the procurement process that has been a benefit to both sides not just either the state or the vendor.

(Do you see other places where that could be applied that would improve the whole process for you all?)

I think it's maybe within the law – I think it's an education standpoint for us with the vendor base. As we're going out there, the vendors you know, letting them know that they can ask questions through the solicitation process and also letting our buyers know that throughout the agency to say hey, make sure you're allowing the question and answer period. Make sure you're allowing enough time for folks to submit questions.

So I think we can just expand it to there's a way for us to do it. It's rather labor intensive because it's very formal. You know you would have to send an email with your specific question – and then I'm going to answer it formally to all vendors. I think that's certain dollar amounts, you know? We're going to have to do that because that's just where we stand. Under \$25,000 opened up that opportunity to move that program along.

(That's really great. What other areas do you see as being helpful to improving your ability to hire targeted groups or else barriers, things that are getting in the way?)

I think one of the things is the payment terms. I mean we heard that a lot where the standard payment terms for state vendors is 30 days after receipt on an invoice. And that can be a barrier

for the small business. So, they worked that into our system to change it where it would default the 15 days so those vendors would get paid quicker. That was an easy – I think relatively easy for us.

We had that contracting practices committee. Obviously, with small business they identified in that committee that the cash flow was a barrier for them. So, to help ensure the prompt payment in keeping these businesses running, we're looking to pay that within 15 days instead of our standard 30. We did understand that. If they're trying to move it along and we have a relatively large state order, and one of the barriers it that we're not going to pay you with – until a month later. So, if it takes 3 weeks to get us the goods, and then we're going to – we have 4 weeks to pay that small business had the cash flow for 2 months, and that is a significant barrier. The 15 days again, kind of cuts it in half and allows them to keep the cash flow and hopefully keep expanding once they deliver the goods or services.

(That makes sense, yes. Do they have the ability to bid before the project is done? Can they bill any part of it or do they have to wait until the project is complete?)

It depends on I'm on the goods and services side of the house if you will. We also have some odds and ends like grants and joint powers agreements, but typically on the goods and services, we're going to pay after we receive the goods or general service. It's not something we section off. That's statutorily where it'll say hey, the state is going to pay within 30 days when we receive an undisputed invoice. We're going to pay 15 days with an undisputed invoice.

But on the professional technical side, that's more the doctors, lawyers, IT consultants, generally services that are intellectual in nature, they do milestone payments meaning hey, you're going to be on site for 2 weeks, you're going to deliver us you know, maybe the project charter after 2 weeks, then we'll pay you for that piece. I think that's something we could look at, but typically on the vendor base too they're looking to shift everything together and everything kind of rides on one invoice. They're not necessarily big on separating invoices because that's more paper.

(That committee that you mentioned where you uncovered that cash flow was a problem, do they have other areas that they also identified?)

Yes, and I think the commissioner {too soft} chaired that initial contracting practices committee. A lot of the changes from procurement and I think other places facilitated from that committee which was – there is another – I don't have the numbers, but as far as the number of businesses that we had certification wise, I could probably punch it up here. But since like January 1st it was like 200+ or more businesses were certified due to outreach efforts. I don't know how much others have spoken on it, but you probably are familiar with the office of equity procurement. That's a new division that one full time employee – I should say 7 full time employees – that is additional bandwidth for the community outreach and to connect small business owners directly with the state. They have been successful in some of the outreach PTAC and some of those others where the number of events that we've attended has also been very aggressive.

Recommendations: We're doing a lot of the policy changes, but I think in the same breath, we have to still listen to the individual business owners. So, we still are a very large organization, and I guess from a recommendation standpoint and something I'm learning individually is we really have to dig in to each commodity and service. We have these overarching policies, but we have to understand that each of the commodity or services as it relates to the individual minority business or targeted group business – example would be we had a recent vendor that was not receiving business in the auto body sector. They had been on our list for a long time. We have

these new initiatives in place. But as we dug in deeper, we realized that particular procurement was rather unique in that it's also touching the claims side of it, the insurance side.

We really had multiple state requirements that were going in to it from not only a procurement standpoint but also from the risk management claim assessment. So, what we had to do is as we dug into that individual one, it was connecting the two state agencies to say hey, can you update your documents to include the link to our TGEDBO[x?] vendor listing? So, then when they send out a claim to a state agency to get multiple quotes, even though it's not something where equity select is going to work – just because the claim process is often going to involve or require I should say multiple bids, so it was just unique. It wasn't as easy as responding to that TGEDBO vendor in auto body and saying hey, great, we got this equity select program. They can just use you. That would have been my initial answer and say hey, we can try to put you in contact. As I thought deeper about that and talked to risk management before responding it's like well, no, we have some interesting nuances to this that we are – other requirements under the claims process to get multiple bids.

That was an opportunity for us to talk with risk management and get our documents to align. It's kind of like DOT and DNR making sure we're on the same page. We're operating kind of - we're one big state, but we all have our swim lanes and what we do well. That was the lesson learned is before we respond, we got to go kind of understand each one of these individually and what it means in state government, and is there small changes we can make just on the outreach or education wise within the state to hopefully add further opportunities to the vendor base. So, I really think we're looking at these systematic policy changes and we just those are going to be effectively. I think they already are effective. But also, taking the time on a commodity or a service specific instance to do the deep dive and figure out really why those dollars may not be filtering down into opportunities for the targeted groups.

(So looking specifically at different situations and really getting in there and understanding, I had a conversation with a contractor that I wanted to ask you about where they were talking about the bid process and that at the very last minute there's a deadline for getting that bid in electronically. They're waiting for all their cost estimates to come in, and they're trying to hire a subcontractor who is a targeted group, but they can't get their – can't get a hold of them for the revised cost estimate. So, at the last minute, they use someone that they have worked with before and that they're comfortable with which of course is not a targeted group. Then, they're criticized for that. And even though with using the targeted group it would have been more expensive – I'm sure you've heard all those things. As he was describing this process in detail and I was picturing them sitting around this room waiting to get those last numbers in, and I wonder if you guys – do you have a window on that – what it's like for them actually and do you work with them to figure out how to make that work?)

I think I would guess that the scenario that you're describing was a construction. And that is a little bit different world where some of them – and I would have to dig in deeper as to exactly why, but I have seen those interactions in our lobby and maybe directly outside of the bid opening. A lot of them are lining it up that day before the bid, and I think it has to do with schedules and what have you. We're usually 2-3 weeks where we're on the street meaning that the solicitation is out there and they have time to formulate their bid. So, we're not saying hey we need this and you need to flip it around in 24 hours. Generally anything over \$10,000 in the state is going to have a 7-day solicitation opening. Many times, these construction projects are going to be 2 or 3 weeks.

That may be a follow up I can dig in to and what the logistics are behind that in the industry but often, those folks are on the telephone or they're lining that up the morning of. For lack of a better answer, it's probably pretty close to me when I have to take a test, right? You're trying to line it up and get your bid together that morning. I can't say that's the reason, but it's – the construction industry from my experience has kind of always operated in that fashion. To speak to that specific circumstance, I could say okay, yeah, I can see how we have you know, minority business requirements or preference requirements that are in the solicitation, and I understand on that day that TGEDBO or what have you may have fallen through. Maybe that's a lesson learned that you ought to try to have a backup in that sector that's also a TGEDBO. Or maybe that's just what happens. I think that's part of the process. We're taking steps to set you know, goals on particular construction projects or to allow points for diversity and inclusion type requirements or desired requirements.

That's just part of the business – sometimes that can happen. That's something we train on to be conscious of the time that all businesses need to respond to it and line things up. That's one benefit I think of the electronic system. We have what we call Swift. It's our ERP system that can handle procurement. So, that's a benefit – call it the old days – I don't know how long that would be now, 5 or 6 years ago we didn't necessarily have a system that could accept the online bid. So, we were taking a lot of paper. Well, that meant that if someone didn't want to make the drive and drop their bid off that they had to put it in the mail 2 days before, make sure FedEx or USPS did their thing, and then have to arrive on time for us to accept it which is still the case today. When it's in the electronic system, they can do it an hour before but they run some risks right? They need to be able to understand the system and post it – and that's why we stress to both the vendors and the agencies – make sure you're allowing enough time for the solicitations so if people are struggling with the online system, or just natural timing of life – that we're being conscious of that. And so, that is built into our training to our buyers to evaluate what – not only evaluate what you're buying but evaluate what your requirement is of the vendor.

If they're doing pest control and you're going to require a copy of their permit, try to put yourselves into their shoes and realize that they might not have their permit saved. They might have to go to DLI or Department of Commerce and pay \$8 for another one. They might not be able to do that in 3 days. Be conscious of when you're asking and what you're requesting.

(In the last few minutes that we have here, are there any other recommendations that you have for the state?) It's kind of a hard one for me because we have done a lot in the case.

Part of my area is procurement from an enterprise perspective. So, for example, commissioner doubled the value the minority contract preference when he was relatively new to the position from \$500,000 to a million. That's something that we made a global change in our documents be we facilitate those template documents for state agencies.

That would probably be the only general recommendation. That would probably be a recommendation for me that I know we already have to work on. But it's probably statewide – and we have taken some steps. We're going to be rolling it out for equity select, but you know, the feedback we get is that the procurement process you know, equity select I think has made it a lot easier, but that is only addressing the under \$25,000 opportunities. The state procurement process can be cumbersome, can be time consuming and that they may not receive feedback with regard to their performance. So, in the case of equity select, we're working on it like a streamlined contract document. So, it's very upfront, terms and conditions, claim language, couple pages instead of our traditional document that's probably been updated throughout the

last couple decades that the state is looking for a lot of protections which is you know, common, whether you're Target or Oracle, everybody's looking to get the T's and C's on their side. But so we might have had 70 terms, 7 forms, and various information in different places. What we did in equity select and we're going to roll out is that the two-page document – 17 terms – read it from the eyes of a new business – put it in claim language. Get rid of state jargon and try to simplify the process. I think if I were to make a recommendation, we need to keep doing that and apply it to more of our processes and more of our documents not only for small business but for all the vendors.

Respondent #55:

Experience: We really exclusively focus on entrepreneurship and if you have been – if you know Women Venture over the years, that wasn't always the case. We had a large career part of our mission before, so it would have been in the past. Now really our exclusive focus is on helping women start and grow profitable businesses.

I think the barriers are consistent. Let's remove language as a barrier which could be for any immigrant communities, a barrier. But for women and women of color as well, and a lot of it is the complexity. So, there is just a complexity in the application process. And that you have multiple entities that you really have to understand and have – be able to go into their portal and complete applications. And so, it's just a very rigorous process and not connected. It's disconnected across the state. If you want to work with a municipality or a county or a city or the state itself, it's all – it's just very – there's no one portal. I hear that really consistently. It really requires a size and sophistication if you don't want to basically spend all of your time, your business' time in that space.

What I heard really clearly from the women that were running construction companies is that they're really not interested in state contracts because it's a low bid, and the margins are so low and the time frame to get paid is lost. So, if you have to borrow money to do a low margin project and basically you're going to be net neutral by the time you pay the interest expense to have paid the people to do the work – so they're really not focused on that work. I find that really interesting. And yet they particularly the women of color that are running those businesses are getting contacted daily by companies that are trying to meet their quotas.

And so then there are probably the lists for those that have it. So, you know, those aren't ones that we were working with, but I imagine there's many out there that would go oh, my gosh – a huge contract, \$200,000 you know, I have made it, and then they get into the delayed payments, the low margins, and those pieces.

So we were in this particular program working with – and actually training these women to really get you know, figure out what type of you know, targeted business do you want to do where you're going to make the most money? That's really the feedback that they gave. It was really interesting. And I was trying to kind of find out what could mitigate that. And certainly, quicker pay. If you're really low margin on a large piece of work, maybe you've got a 5% margin, it would be worth it if you didn't have to borrow money to do it.

One of the clients that we had, she said it could be up to 9 months before she would get paid. Well, they're typically subs, so they're subs sitting underneath a larger contractor that was able to get the work because of low bid. Because it takes a scale of a business to even get that low bid. That's another of course obstacle for those women and minority owned businesses to even have the scale to be able to win the bid. So typically, they are not getting the bid. They're

operating under someone else that got the bid. So they have a contract. They deliver the work. They bill the work. They get paid, then they pay their subs. That's really the trade. You achieve a percentage of the work, and then you can bill. Then you have a delay for collection, and then you pay your subs. That is the typical process of construction. So, I was really surprised. This one client in particular, she was in the flooring business – she's really sophisticated in understanding this. I spent quite a bit of time trying to learn more about it because I was so surprised. She really has targeted herself instead of the corporate clients that are focused on minority and women spend because they're not going to always focus on low bid because they're going to focus on quality. It doesn't – just because you have a 10% savings that could cost you 50% in the end.

And corporations are – and I do think that low bid philosophy – and I talked to a woman that owns Plunket's for instance, she's second generation. She has a very successful business. And I said well, do you ever do work with the state, counties. She said absolutely not because what they hire is two men in a truck who don't know what they're doing who go in, low bid, and you know I can't compete with that, and I'm not interested.

So, I think that's really interesting. Is low bid – I mean when corporations don't focus on low bid, why would the state? Quality and you know, quality particularly she does rodent, pest control – is really important. But she said she can't compete with low bid, so she doesn't even try. She really understands her numbers. I was just really intrigued because she's getting approached for very sizeable projects. And she is turning them away consistently. She does not respond. She says she gets 30 requests a day.

So, our focus is really to recruit women who have businesses that the business itself has the ability to scale – what we say exponentially. What we mean by that is that they can just through activities – traditional economic development activities, they can double, triple their income and produce quality jobs. And so, we just work with them very intently over a 9 month period to understand their business model, their revenue streams, what actually makes money, what doesn't. Then how they drive their topline and control their bottom-line. We had some real success. We graduated to cohort, so I think total 20 tier women in the 18 months that we've worked with them – 64 jobs, \$24 an hour on average. So really it's to be able to accelerate a business in my view is one of the best investments the state can make. To take a business from zero to even 100,000 is a huge investment of time. A lot of those businesses don't make it. But when you have an existing business that already has a proven model, and then you really can intentionally work with them to grow. It's just a better investment. It's not a popular thing to say out loud, but it's the truth. We built the model intentionally based on talking to people nationally that are focused in scaling out businesses, and then we really just aggregated what we thought there was the best of the best. But I have been just so surprised at how quickly that intentionality has translated to revenue and jobs. It's really fascinating. I wouldn't have predicted it to happen too quickly.

(Are there any other areas or any recommendations specifically that you would make for the state to help improve this for women and minority owned businesses?)

One of the areas that we are looking at and actually working with the --Kellogg Foundation – so we really examine the success of all of our programs, we have a very intensive business training program at 17 weeks and – we were seeing many women graduate from that program that were not converting to entrepreneurship but did all the work in star students. And really started to look at what was the obstacle, and it really is about the lack of not only capital, but just enough

wealth even to have – to forego income for a couple of months. Just to get a business started. So we've actually really started we have worked on creating a cooperative model, business ownership model for those women to opt in to.

I personally think that could be a really successful alternative for women. To me, it's a really particularly for low income women of color, it's that step – it's kind of not unlike a lot of the agencies that are working in workforce development where like in healthcare where you start as a nurse's aide, and then the more education then you're an LPN and you move to an RN. Over a period of maybe 10 years, kind of recognizing that it can take a long time to really work out of poverty and to go from 0 to a 4-year RN is not necessarily realistic. The same way it's not realistic to go from 0 to owning your own business for – and so we really see it as a pathway to entrepreneurship is to have a cooperatively owned business that is producing revenues kind of immediately. So, that's something we're working on. I don't know how that factors in to the work. But we really see it as kind of a blend between workforce development and academic development. So, you have ownership, but really you also are dramatically increasing wage at the same time. That's something that we're working on that I'm really excited about.

I mean I think it does really address a lot of the obstacles to business ownership that we see particularly for very low income women of color. They have all the metrics to be an entrepreneur, except for the wealth. And I'm talking you know, most of them have negative wealth positions which to me is that difference between what you own and what you owe. They just can't get to the other side of it without a different model.

(In your model, when you say cooperatively owned, who are the owners?)

The owners are the workers. We're really looking at models that are working primarily on the east coast. Service based businesses. Right now we're focused on childcare centers because we see also just a need gap. Of course, you would create a business based on the need gap. So really worker owners who are both working in the business and owning the business are then benefitting from the profits of the business. It's being done. It's working somewhere else. So that's what I always look to. I always look – really try not to recreate the wheel. Somebody solved this problem somewhere else. That's what we're trying to do. And it definitely is working in third world countries. We really think women are more inclined to have the ability to work in a cooperative space. Just by the nature of how they communicate and work.

In terms of women of color, the other thing that we're doing, but I think the state is already addressing in terms of to some extent, in terms of capital is again, it's that same group of women – {too soft} women that have actually found their way to business ownership and want to grow their business typically in a pretty small way. They need another employee. They need a piece of equipment. Maybe it's time for them to have a small storefront. And their ability to access capital is really difficult. What I'm seeing in economic development in those Twin Cities is as you know; there are a lot of us. But everybody is really trending in terms of the size of the loans. That space of people who are really willing to do the five to \$10,000 loans and underwrite based on cash flow vs. assets is really very – it's much diminished. I know MCCD is doing that work. We're doing that work.

I think that's supporting that type of capital or almost – you know, I feel like this trending up is, and I'm going to show my feminist roots here is very male. You know, it's kind of every time we get in a room, it's all male ad agencies. There are no female economic development agencies except from Women Venture now, and it's just almost like the portfolio is their bravado. You know, oh, yeah, I did a 250 deal, what did you today? We're like what about your clients? Do

you ever think about them? Do you ever think about their needs? It's just it feels like there's so much testosterone in this work right now. And not really paying attention to the true needs of very low income clients that are not the \$100,000 deals. They really need five or \$10,000 to get to that next step and people aren't doing that work. It's hard, and it's expensive. It's higher risk. If you're doing \$100,000 deal – it's already got less risk in it. I can't explain it exactly without a lot of time. But it's just you know, if people just need that small amount – to get to the next level, they're already probably fairly compromised financially. We have really seen it working for our clients. So really just doing those small deals – getting them to be able to hire – getting them to be able to buy that piece of equipment. Then their revenues are just doubling with a very small investment. I can see the national trends of how the smaller dollar lending is getting smaller and smaller. The true micro of 50 and less. And the more the macro is growing. I don't think that's going to address the needs of low income people of color.

Respondent #5:

Experiences: The recently increased outreach for employing women and other minorities has helped to employ more people in those classes in the construction industry. He did hear of one complaint, unsure if it was filed with the state, at the US Bank construction site where people of color were given more menial tasks of picking up garbage, etc. The supervisors of this group were “put on notice” but he didn't know if it went any farther than that.

Recommendations: Depts. of Labor and Industry, Admin and Commerce should continue to increase outreach to women and other minorities. Changes should be made to the bonding requirements, trust requirements to allow minorities and women to obtain trust funds and also make it easier to get paid. This type of employment should be marketed more as a career than just a job. Apprenticeships and mentoring types of relationships could also be beneficial in this industry.

Human Rights Interview Notes

Respondent #1:

Experience: Her experience relates to treatment of her own adopted son. Her mother's heart feels passionate, for treatment he's received, for treatment for being a large black man, with a Muslim name.

At one time Baxter police pulled him over because he had a large muffler, was dog searched, vehicle seized, car torn apart, and put in holding cell. He'd needed to catch a train to get to his job in the oil fields. They probably didn't realize he had family connections. When they realized, they released him, and the police wouldn't look at the mother, who is a diversity trainer.

The mother called HR commission, received a call back within 30 minutes, from Jessica who was helpful, wonderful. She felt like she was heard. She needed to talk with her son but he feels very vulnerable. He doesn't want to be THAT PERSON. She told him they can't retaliate but he didn't want to follow through.

The mother understands but at the same time it was really hard because he never followed through.

HR commission was right on top of this, informative. They must be very busy but she felt like she was the only person that called them that day.

Even though her son didn't follow through, the HR commission did. In the future moving forward she'd feel comfortable contacting them if something did arise.

He's an adult, as a 31-year-old male. It's easier for her white sons to get jobs, to navigate in this system. He has not been raised as a victim, but he's victimized.

When she picked him up from jail, other adult children came home, 34 year old started to cry, said no different than if his sister had been raped.

Recommendations: I wish as a citizen, as a person that experienced the situation, -- I wish something like this could have been documented. For me as the white lady/mom, because I witnessed it, I would have had more of a voice.

I felt that it's best for Yusef to feel empowered to follow through himself.

He probably would have responded if they'd called him, but he already felt violated and disempowered.

I am a professional working in this world and navigating resources. Then when I became the mom and this was my child, I had to work at finding resources. Who do I call? For me to even access this information, I realize it probably would not be as easy or accessible to someone living in poverty. We can think we put it out there, it's really not. It's not as accessible to those in poverty. WE need to do a different job, get the message out beyond just the white middle class people. They know how to navigate, I'm a white middle class person, and I know I have a voice. I just know it. I don't know that we have really reached people of color or people who are living in poverty.

Experience: It's really hard to prove, but when my son puts "Yusef" down on a job or housing application, he never gets a call back or no housing availability. He's started putting Joseph, and he gets calls back.

If you have a Muslim name, it's really hard. He's trying to get into apartments. He tried to get into about 20 places; some have a \$25 application fee. He did not get any calls back. He's thinking about changing his name to Joseph.

It's hard to prove but I see this in my work, working with women of color. I advocate, I see times people have been discriminated against, disenfranchised, historical trauma/indigenous and they don't trust establishment.

I have an incredible amount of fear. I am either doing a horrible job of advocating (I don't think so) it is time consuming (loss of work, have to talk, file) and fear of retaliation. They have had a sense of not feeling heard or having a voice their whole life, not really trusting the system.

I work with one person and it's been impossible to find housing for her. I know it's because she is an indigenous woman, with four kids and a single parent. Called back to come and look and talk to the landlord, and they rent to someone else. At the same time, we've placed many white women in housing units. In central MN, it's most difficult to find decent housing.

Respondent #9:

Experiences: The local transit system has reached out for input on things like traffic signals, curb cuts, procurement of transit, wheelchair restraints for example – so they are asking for input.

They held a press conference to encourage people in wheelchairs to use public transit.

Couple filed discrimination complaint against a new clinic, did not want to put a lift in for people who could not stand. The building was newly built. They went through the process and it worked out. They tried to mediate with clinic, went nowhere, then went to government and it got changed. They went through the Department of Justice.

Don't see much activity from HR commission in Moorhead, on Human Rights commission. It's been fairly dysfunctional; don't have enough people to have a quorum. City council has not appointed members – maybe outstate this is an issue?

Trying to draw up ordinance so it could be a smaller group so we can have a quorum more easily. They have not moved on it for months. Don't have enforcement authority.

There is lack of interest. A couple of council members don't think we need the HR commission.

Need HR commission to educate – we have a (presidential) candidate who wants to ban Muslims. Many new Americans here are fearful, fire-bombing in Grand Forks of a café.

ND and MN – complaint process is easier in ND, you can file online HR complaint with Labor Dept., and they cover all protected classes. They start an investigation.

In MN, have to call and explain. I called and they told me don't bother you don't really have a case. In ND, they would have had to investigate

MN had to come up with an Olmsted plan; people with disabilities have to be served in least restrictive way. We're just starting to improve that. It affects ability of people with disabilities to live independently.

Gas station owner told me I could not come after 3:30 because he did not have enough staff.

There were two people there. I was told I did not have a case, without investigation.

Recommendations: HR Commissions outstate need members for quorum, also need budget/resources. Hard to budget the money, get funds and staff to do it right. Local government aid has been cut so staff at city hall has been cut back.

Building code enforcement is important, especially in smaller communities. I grew up in a small town, now I could not stand to live there, can't get into buildings. People who renovate or add

on don't do basic accessibility; nobody seems to be enforcing that. Living in a small town, if you raise problems, people get ostracized. People are fearful of that retaliation, having no friends.

Respondent #14:

Experiences: Leaders/people of diversity don't last very long in the state of MN. Speaks to concerns about culture. It starts with leadership – how leaders are recruited, vetted and the impact leaders have. I think the biggest commitment is the leader's deeper commitment to diversity, affirmative action. Governor Dayton has demonstrated heartfelt commitment to humanity. How to create a more mindful government that is even greater service to the people it serves.

MN has an outstanding record for human rights. MN commitment to affinity groups is outstanding. MN has a highly responsive human rights dept. Serves MN quite well.

Recommendations: Get at a culture of inclusion. Issues that go with culture have to do with what's implied, inferred, and unconscious.

For leaders who are appointed, selected, whether by a board or governor or other, want to make certain that MN recruits for knowledge, skills, and abilities but also for assuring that state is thinking about leadership temperament.

Mindfulness, high social/emotional intelligence, intellectual curiosity for all people, sense of equality, interpersonal communication skills and listening commitment to values consistent with a civil society, and a life that says commitment to these things.

I'm deeply committed: the most important value across all societies is to advance the ability of people to care for one another.

Respondent #16:

Experience: People don't feel welcome, don't feel they can file the complaint, then the bad stories circulate in the community, people say "what the hell". There are racism and systemic barriers.

Not a policy issue, it's how you build the people that work for the government have a different mindset so they are able to help the community.

One time renters filed complaints about landlord, got kicked out right away. Having cases publicized in one of the white papers, then he got targeted, he's the one who is starting this, he's not a welcome tenant. She's willing to stand out and lobby, as an activist, she has that baggage.

Respondent #21:

Experiences: Have heard things but people are scared, afraid if they say something they will be "that person" and that they will be tracked. If someone got discriminated against, they'd rather not talk, don't want to be the one that is telling. Don't want the attention.

Housing, started to work on anonymous recording, people experience things, don't want to be the one who complains. She has been working with some legal aid lawyer to report things anonymously, rather than telling her, find a lawyer who can file things without disclosing name, etc.

Recommendations: Go into community, say "this is what I do, this is how I can help you." Need to reeducate, re-tell. Have key people in the communities, have them understand how the communities work, have people coming to talk during gatherings. Host a table, educate about

how to do this, if this is what you are interested in. Interact with community in their way. Show them it is possible. If they are able to report anonymously, more likely to report anonymously.

Respondent #23:

Experience: Didn't always experience the things I've been experiencing lately, over time the longer I've been here, things began to come out of the woodwork, was having trouble with employment and rent, got into public housing. Ever since I've gotten in it's been a nightmare; I don't have family here. I'm on a limited income in public housing.

Have tried different agencies here, in Minneapolis and MN. Racial discrimination/black; also, discriminate against Muslims. Muslims are not very welcomed wherever we are or live, but tremendous difference among whites how they respond to immigrant Muslims versus US, treat them considerably different versus African American Muslims – we are lesser because of history of racial conflicts between black and white. Many whites seem to think African people from Africa are superior, more tolerable than people who are born and raised in this country. I have become very observant of interactions of whites with different populations of color.

See it in employment, in housing, these people are refugees or migrants, want to help them, give them the better housing, prefer to put them more around whites and white communities than indigenous blacks.

If you are speaking up for your rights, I've noticed a lot of these people in public housing environment tend to not even regard their own guidelines, not fair treatment. Seems like they want to punish you for even coming in to public housing. Maybe they feel you don't really need it, maybe they think it is cheap and you don't want to pay your rent elsewhere.

Even if you are on limited income and government assistance, can save money. A lot of public housing administrators are looking at us that way so they punish us that way for being here, not going to make it comfortable for them. Have residents they bribe and adopt them to abuse other residents. They want us to be silent, not complain. Keep the people chaotic, nasty, turned against one another. Keep us against each other so we can't join. Manage to keep you well under control. Cyber stalking, cyber monitoring, I've been targeted – able to monitor your phones, listen in on your phones, devices in apartments. They insist upon coming into your apartment when you are not there. They have others spy to tell them when you are not there. Could be planting drugs, listening devices, cameras, stealing money. Even if you are gone for the day, rummaging through things, stealing. Employees are often drug/alcohol addicts. People have had experiences of people rummaging, going through food, sleeping in their bed. Have heard it more than one time, from people going home to India, Somalia – monitor, can do what they want without any fear because they have the access of coming and going.

It's like a prison.

My car has been broken into, only time I realized I was being cyber monitored – could hear the people access the apartment overhead, the man and woman – I hear the same ones in my car. Look online they have the tiniest cameras, spyware for your computers, etc.

Contacted Dept. of Human Rights, they told me to contact HUD. When I did, they referred my case to regional HUD office in Chicago. They assigned an examiner, a lot of these people are all in it together, looking out for each other. She was saying in so many words that she cares about her job. The MPHA people work together. First went to my manager, then his supervisor, then the next person up.

They believe it's going on but they are trying to save their jobs. I know so and so that you are complaining about. I am not going to go against them because they are my colleagues. They are worried about going against their colleagues, coworkers.

That's all I've gotten since moving into public housing, carries over to these officials.

Complaint is not going anywhere. We are never going to get justice because they are all together looking out for themselves.

I notice that a lot of African Americans are in these leadership positions, but these so-called black leaders, they do not want to be. They lie and make it look like the whites are the only ones against the blacks. A lot of these black leaders/administrators don't want to see anybody have their rights acknowledged. A lot of the whites, who might not be aware of that, keep chaos among all of us. Not for democracy, justice, fairness. A lot of the blacks are even worse – they are looking for their own supremacy, they want the whites to bow down to them and want to oppress all people. A lot of these black leaders are some of the main perpetrators, don't want fairness for anyone. I don't think a lot of the whites have been looking at it like that. Blacks say they want to help, a lot of time they don't.

Black leaders don't want to give the money to the people, give it to themselves. Want black supremacy –when around black people, lie and say it's only the whites who are prejudice. A lot of the black leaders are obstacles in the way.

Black civic leaders, black leaders in government and administration who could make a difference don't really want that, it's a black against black mentality and a black against white mentality. Responsible for injustice and chaos, that's why things are not going better. I'm so sorry that they are also misleading – Muslims, wanting Muslims to join BLM. Muslims are not supposed to be part of that sort of thing, violence, causing confusion, etc. If they are sanctioning this kind of wickedness, they are misrepresenting Islam.

This is about evil – trying to erect a diabolical black power agenda, it's not right.

Recommendations: They need to change the laws to allow people to have more rights. I called the mayor's office or a representative's office and the aide would take the message, but I never hear back from the official. Sometimes may get a letter, not taking any action. Going in circles.

Respondent #24:

Experience: Working well - for filing discrimination complaints, there is no charge, so if filed in district court would have to pay, but they don't have to pay. Backside to that is that when community thinks of Civil Rights dept. they think of being represented, but their office is neutral when investigating. For example – discrimination is very difficult to prove. When we issue our findings, sometimes the public are disappointed in the outcomes; they think our office didn't help them in any way.

Mediation works well – most times people want their voices heard, so that can help. So if respondent listens to complaints, sometimes they want money, sometimes they want the respondent to go through training. Sometimes the respondents don't want to pay an attorney, so early mediation is helpful for both sides. They are told right away. This is at MNDOT. If MNDOT is purchasing land to build a highway, someone might file a complaint because they don't have access to the bus system or sidewalks.

Downsides – a lot of people don't know we exist – we have buildings and offices throughout the state. Sometimes people don't know who to complain to, and sometimes staff does not know to refer people to our office.

Can file with our agency, can refer them to human rights – protected classes. It depends on what protected class they are under whether they file with us or the state Human Rights department. We have 60 days, and then have to file report to commissioner, and then they have 30 days to get it to complainant. When we send out the letters, if there was no evidence of discrimination, they have appeal rights.

Mpls mediation works well. A lot of times the complainants if they don't have an attorney, don't know how to represent their case, typically the respondent has an attorney.

Recommendations: Education – we don't have many staff so we don't have as much ability to educate people about their rights, and ability to file.

Respondent #28:

Experience: People with disabilities find work meaningful. They appreciate their jobs, make great employees, show up for work on time, respect their co-workers, and work to their capabilities. If given the right job, could be 100% productive.

I'm talking about development, physical, emotional disabilities – the whole spectrum.

Generalities don't work, the state tries to deal with them as a group rather than on an individual basis.

Discrimination is most likely when disabilities are visible.

When we have people go out to the employer, they don't want us to go out there with them because they don't want people to know they have disabilities.

Even funding sources don't think of people with disabilities in the same way as race, gender, etc.

Perceived barriers to people with disabilities:

- Discrimination/prejudice
- Expectations – expect low performance
- Might be necessary to accommodate – but there is a misconception around the cost of accommodations.

Employers miss benefit of hiring someone with disabilities. Positive effect on their business and human resource management. Outstate magnifies the barriers, less opportunities, northern MN has a higher population of people with disabilities than the rest of the state, fewer jobs. In iron range, taconite, timber and tourism.

Social model – when they leave MDI it's a graduation.

Recommendations: State could be more proactive in increasing the number of people with disabilities working for the state

We could do a better job of funding these kinds of entities.

Respondent #31:

Experience: I filled out the paperwork maybe 10 years ago. I don't recall the response; I don't know if I even got a response. I had lived in Detroit Lakes and I didn't have transportation at the time. I lived next to the STEP office; you go to if you are MFIP. They wanted me to go to Natawash because I'm Native, I did not have a car to get there and it was 45 minutes away.

I have thought of it but I've never followed through. I don't know who I would even do that with. I feel like, what's even going to happen?

I face discrimination every day, in stores, places like that. Instances where I've put in applications to move, rental applications, they are all good and ready to meet me, when I get there and they see me, "it's been rented." I feel like filing a complaint won't matter, they won't care, how far to push it. In the past when I've brought stuff up like that and talked to different people it has never made a difference.

I would not know where to file, asking people to find out. And did not know I could.

Another instance where I was looking for a job, most of time I don't get a call back, went to an interview, when I walked in the door, only time he looked at me, then never did again. Asked me two questions, then said he'd call me back but never interviewed me.

Recommendations: Put literature somewhere, like where it will be seen. Like the forms on the papers, people don't even read it unless it's pointed out to you. Not really anywhere people could find out that information unless I'm reading the form, filling out forms for county. Most everything is rushed, so it's not addressed. MFIP go to the county to turn in paperwork, paystubs, address and things like that, any changes. Most of the time when I'm turning in my stuff, I just talk to receptionist. They are not even informed themselves. They are not social workers; don't know what needs to be included. Have had problems and it stalls everything. I need to know it and there needs to be someone there to enforce it. Who file complaint to? Where would you go? Can I even do that?

Respondent #33:

Experience: Minneapolis does not interview anyone, does not request evidence from respondent. Other agencies are more robust. Minneapolis' process is not very transparent, does not move along, dysfunctional.

Charge for 3 years, never asked for witnesses from our side, never asked to submit any evidence – charge rehiring.

I sent it over anyway. Asked colleague, how investigation proceeds without asking for evidence. Issue that has not been investigated won't reveal issue.

I like the fact that there is the option for mediation right away. If I have a charge and I see room for improvement, I can take the opportunity to mediate it. If somebody has mediated and tried to settle it, maybe it should not be made public.

Usually our charges get kicked down to the local office.

In community, there is not a whole lot of outreach. It does not seem like people understand where they can go, process, what is discrimination, what are my rights? Sometimes I get criminal-nature questions (law enforcement, bias crime) so it would be nice to have the dept. more visible – all the agencies (state dept. of HR and two locals)

Example: A Muslim African American woman, some of the things her supervisor was saying to her, but she had just started in July, received sub-standard training compared to her white counterparts, and then started to get disciplined for not performing at level of experienced colleagues. No one was offering assistance, support. They were asking about her religion, making inappropriate comments. I pointed her to the EEOC to file a charge, because that's been my best experience and the jurisdiction.

Recommendations: Would be helpful for employers to have more outreach, I know where to go for help but I don't know that other employers do. Paying attention to the hot topics is

important— animal service animals/emotional support, mental health, religious accommodation. I feel like organizations, housing and employers, want to do the right thing but don't know what the right thing is.

Practical hands-on, policies should look like this, here's what you cannot and can say in interviews, and here are the accommodations you can make.

How to reach those that don't have public funding but the agencies still have oversight over.

I was facilitating a table at voices for civil rights. My deep interest is how do you get the folks who don't get it? The department, agencies, and advocates in these groups – I believe white mainstream Minnesotans need to be leading it too. We hear the conversations, when cops are talked to by external folks, turned off, but if a cop came in they were interested.

Used to be white people did diversity training, and then it turned to people of color leading it. But the folks who still turn out have a different attitude when there is a person of color leading the training or discussion.

Recommendations: Recognize that this is key and important, and equity is important – every department deals with equity issues – these departments could work with all other departments – MNDOT, DNR, etc. Usually these have civil rights depts. are low on totem pole for resources and what not.

Respondent #34:

Experience: We take local complaints of inequality, opportunities not being given equitably. We are assigned a couple of times a year. We have a big book with guidance on how to help people navigate the system. It's a little scary to me – it feels like a lot of power given to a volunteer to help navigate individuals who are very vulnerable, very much trusting you. I hope the vetted people on the commission are very good – from a high level look at the system a lot of things could be missed.

It's formalized on paper but nobody really sat down and talked through this booklet with me. Someone with less experience could make some poor choices. I love that people can apply to be on the commission. Do they all use volunteers? Is there paid staff in other counties?

Recommendations: In Iowa number one thing that came to us was people getting fired because they were pregnant – could see a systemic issue. In MN seems like data will never be formalized this way, not going through the same portal.

Number one thing in Winona is housing – doubt we're unique; a lot of housing is “reserved” for college students, not necessarily HUD. A lot feel discriminated against for housing. It is a systemic issue here. I always ask myself the same question – is it the same for all of MN? If so, is there a way to collect data collectively and do a something statewide.

If I could find a group of collaborators who have been through that that would be helpful.

And because we were divided, civil rights arm (enforcement/lawyers) were litigating, we were more of an education arm, people felt safe, not potential repercussions, could come to us as mediators/educators so could be advocates, less hard for people to come to.

Civil Rights and Human Rights collaborated, not silos, but day to day could safely ask us questions.

In Winona, if someone has a complaint, they go through city or county and they reach us – or someone might know one of us personally. We open cases, and then we try to find solutions based on the statute or what they are telling us.

Winona county HR commission– about a dozen people, so many from the county and so many from the city. If we're not enough, it'd be skewed. Some have been on there a long time. It seems like there are enough people in Winona interested in these issues.

If people get the answers they are needing they are probably happy and if not, probably not.

It is a volunteer group assigned for Winona. System is daunting, did not know where to start.

Do we do it differently than other counties? Is there a best practice? Is there room to talk about it at a state-wide level?

We are in constant contact with DEED and DHS – do we have something of that caliber in Human Rights?

Respondent #35:

Experience: Surprising how many people are not aware that these things are going on.

The problem is city councils create human rights commissions, given a certain parameter in which to work, residents apply and are appointed or not appointed depending on how the council feels about them.

One of the big issues is you have specific problems that require some experience, at least life experience; some of the people don't have these experiences. Makes them less effective, coming with own life experiences, not a lot of minority participation on human rights commissions, people coming in with own life experiences that aren't necessarily beneficial in the real world.

City councils are coming to the conclusions that the commissions are not effective, calling them something else - diversity commissions, community engagement commissions. The way things are going, they won't be qualified for membership– we have to expand our bylaws.

Some cities mediate their own human rights complaints when it comes through to the city, but the main way those reports are filed is through the MN Dept. of HR, appointed by Governor.

Investigators, authorized by statute, investigate HR complaints.

They only have a year to file from the time the incident occurs. Sometimes people don't realize events were human rights violations, and a couple of years later they are finding out it's too late.

This might need to be changed for people to file a complaint.

We have taken some overflow in my other non-profit org to try and resolve the situation because they are not finding other support.

For example, someone was terminated from their job, did not look at it as an HR violation. Then a couple of years go by, something similar happens and then someone tells them it's a human rights violation. They realize the previous event was too but can't file any more. Want to hold them accountable. Sometimes even the respondent does not know that was a human rights violation. Some of its education. It's against the law.

There are people who don't know how to go about doing it. They don't have money for attorney so they don't file, but if you get in in that year period, no cost, state uses their resources to investigate and come to a conclusion. If you don't know that, the time can expire. State does a pretty good job of processing – during the time period.

Recommendations: I know they do educational things – but I think there needs to be some way to make a broader statement as far as what a human rights violation looks like and what someone can do when they find themselves in that situation. I know they have educational forums, etc. but that's just a certain group of people – 87 counties, how many people/cities? They are not showing up at the forums. It's a smaller educational group, so the state needs to figure out a way to broaden that message.

One of the ongoing frustrations, because of data privacy, state cannot report much to the complainant. Maybe that law should be looked at. If you brought the complaint, you should know what the outcome is, not sure what the rationale is behind that.

We get reports of how many and what kinds of complaints come from what cities. Very limited reporting of what they can do.

Respondent #38:

Experience: I initiate cases myself, promote hiring. Need input from respondents – employers and landlords – as involved and in many ways, the biggest beneficiary of the HR investigative process. 80-90% are not cause. Non-cause findings generated through a public entity, if individuals took them to court they'd have to go through an investigative process that they'd have to pay for.

A number of jurisdictional plusses to cities that have HR ordinances so people have the availability to file complaint with EEOC or State or City, very good options in place. Needs to be standardization/alignment of the investigative process among the organizations. Federal and State housing and employment are investigated by all three of these entities, have option.

Personally, I'm biased but we have more resources to apply to those investigations. We think our investigative processes are pretty thorough, more familiar with our environment. We know the employers, know the landlords, and know the complainants. Most recently within the tenure of this commissioner there has been more alignment, standardization of expectations of investigative time, and more resources put into the state.

Alignment lends itself to better efficiencies--how cases are prosecuted, opportunity for choice for complainants. Gives opportunity for employers and housing providers to become more informed of their responsibilities, lends itself to clearer understanding that investigations are neutral.

There is room for outreach especially for new groups, as we get more diverse, particularly those with limited English speaking who are still in cultural transition. Groups where culturally the idea of governmental protections are alien to them. Using their language, effective education and tools, their people, elders, religious entities to communicate the government's protection of their rights.

If we continue with leadership of Commissioner Lindsay, exchange of expertise. Effort of HR protection needs to be continually resourced to meet the demands we have. City is ok, governor just made more resources available for outstate.

Respondent #40:

Experience: Open to new opportunities. Went to government office desk, they told me to go to the web site. I dropped 2 resumes through the career fair. I do have a lot of work I have done for 4 years working in Southern MN. I am a little disappointed – opportunities for Latinos are being passed over. From what I have seen in these past years, a lot of them go to African Americans – even Governor's office – few or no Latinos in cabinet.

Not sure if just being viewed as undocumented, agricultural? 250000-300000 Latinos in the state, and only 5% are undocumented that we can tell. A lot of Latinos work in the MNSCU system. CLUES has a good group working for Latinos. One of the first things, many are undocumented so our community tends to be silent and not participating, not rock the boat, don't want to be seen. Many don't speak up. Participate in churches, used to do community forums in churches, give out their hard-earned money.

So, educate through churches and schools – safe places in the communities. Guy Miguel Garate who works for Riverland in Austin – gathers people.

In Rochester, what I've seen has become toxic for communities of color. There was a SAFE program, Regina Tiebrook was heading this group to empower students of color, she moved earth and sky to support these 100 students in the school system, and then they eliminated the position. I went to them to please reconsider, they were eliminating best practices, she was helping these students, supporting to go to college, etc. They replaced with Equity Workers – they don't have the personal relationships with the students, connecting with teachers. Husband of assistant superintendent has been getting the work that Regina was getting. Asst. Superintendent said program being replaced with mental health services – does she think students of color need mental health services?

Northfield has Torch program, wraparound program, went from 30% to 100% graduation rate in 7 years. Did not rehire Latino principal for middle school – everyone loved him. Those two admin of color in school district are gone.

School board is all white, superintendent is Latino but I have not seen anything out of his office supporting students of color. Report shows that Latino and Black students get disciplined more than other.

In southern MN, we believe the Twin Cities gets a lot of the resources and we get left out. Happy to see that half of the 1.5 million dollars going to southern MN. We are the gateway to the changing population.

Director believes urban and rural Latinos have same needs – I beg to differ. They don't have access, transportation, education, interpreters, and driver's license, how to take kids to school when can't even drive. No mass transportation. I heard he was just 2 votes short of the driver's license bill.

Respondent #46:

Experience: As we are providing services to clients, sometimes client is unhappy with decision we make regarding whether we can or cannot provide certain services. We give documentation to the clients about rights etc. We subcontract with the state of MN, when apply for program given Equal Opportunity of the Law, Tennyson warning (how use info), lists to contact if they feel they have been discriminated against.

1 – talk to case manager, 2 – talk to director some will go to the governor's office. When that happens, depending on what is going on, come to me and ask me to look into it. Get info and figure out solutions.

There is a difference between what they should be getting and their perception. They may see it as their right, and it is not.

There was a time period over a few years when we'd been helping a number of people receive truck driver training. We appealed to them. Somali people coming to ask for truck driver training. Thought we'd pay for it. It was a concern because people were not even eligible for our program but the word was out that we would pay for their training. Schools were sending people there. Schools were telling people you'd pay for it, third base when we were just at bat, determine eligibility. Sometimes they were eligible, some others were not eligible, and we'd look for other programs they might be eligible for. We always try to help people. (Around 5

years ago) not as prevalent in last 3 years or so went to the schools, found out some did not know there was an eligibility requirement, some said they had not phrased it quite like that.

Respondent #48:

Experience: St. Paul chapter receives 95 complaints every week to 10 days, either discrimination complaints or request for assist for legal redress. Refer a lot of people to city and states HR departments. Many people have interacted with HR dept. in past, reluctant to do it again, HR dept. has to have sign-off with attorney general's office before it proceeds to litigation.

People are frustrated that the dept. for years had a tremendously long backlog; dept. seemed to be gun shy about bringing cases forward about racial discrimination. More comfortable with religion, gender, age, sexual orientation, not perceived to be strong advocates about racial discrimination.

Not sure if it's because recent court cases in which person discriminated against has to prove they were discriminated against. The larger the institution, the more difficult to convince the department to wade into the water.

Not being funded. State legislature both approved the dept. opening up an office in St Cloud. St Cloud is located in 4 counties. Law enforcement in that area is notorious for making life difficult for people of color and immigrants. I used to teach at the prison there, you could not talk to someone from St. Cloud without hearing about challenges they were facing with the U. Group of white students beat up a female of color, she was arrested. State HR dept. was supposed to put an office there, sparsely staffed and people in St. Cloud were frustrated. Staff person only there sporadically rather than when people needed the department. The office is far from downtown St. Paul and not convenient. Poor people in particular not very computer literate and don't have reliable internet access. Immigrant populations have difficulty interacting with computers, oral culture, and language difficulty, used to dealing with intimate issues on a face to face basis.

Department got budget and staff limitations, outreach limitations, don't see the department at festivals and events, hundreds of community vendors. Difficult to trust institutions you don't have a relationship with or don't see in your community on a regular basis. When we have encouraged people to contact the state dept. of HR, or local office, tend to ask what other options are available. People reluctant to turn to them, to pour their hearts out, etc.

Dept. of HR numbers of complaints and resolutions, NAACP is a civil rights organization, come to them from state agency to state agency – one paycheck to another, not necessary a comfortable advocate. Their funding is not great. People not interested in going to work there when a position does open because the knowledge, connections in the community are thin if at all. People want to support their intent but over the years they have had limited documentation of success on racial discrimination.

Sexism, other discrimination cases but not race – maybe because there is no basis in fact for the complaint, but a lot of people don't feel like the department explored every option/alternative or gave a lot of weight to the complainant vs the weight to the respondent. I don't know if it's because of the turnover, the staff, and the changes in the law that the person has to prove the other party discriminated against them. Sometimes it's easier to go after a minor complaint that can be easily remediated. AG's office has not been a strong advocate in the area of racial discrimination. Very frustrating to people who feel they have documentation, witnesses, etc.

We've also heard concerns that tend to be light or on the soft side when they suggest remediation. We are probably number 50 of 50 largest cities in number of people of color, highest percentage below the poverty line.

Don't feel they get fair treatment. Get same type of concerns about the St. Paul human rights department. Both do contract work when EEOC gets discrimination. We will compensate them for taking the case and looking into it. We refer them to pro bono lawyers, legal aid, etc. We have a number of lawyers on our board to give legal advice.

Complaints about how children are treated in school, traffic tickets, arrests, have little resources/\$ and when want help, compounds the misery.

Recommendations: When you can't help somebody, tell them clearly and specifically as soon as possible. The longer it takes to say no or tell them there's no probable cause, they get hopes up and more frustrated. Tell them up front. They are vague. Come in and we'll take care of you if you are discriminated against. After months, wonder why they wasted time with them?

Up front do preliminary review and tell them would like to gather more info, meet with you asap, or tell them unless you have some specific documentation or witness, if it's your word against theirs, it is difficult for us. No one will find in your favor.

Even if budget is tight, outreach/public education/cross cultural work in different communities, have a table, clear materials, appear on radio and TV programs in heavily policed communities that get a lot of complaints. Have people in office who specialize in racial discrimination. Want to talk to someone who looks like them. Look at makeup of their staff. Somali person would want to speak to a Somali person. Need to strengthen their relationship with organizations who can and should refer people.

This is a hard row to hoe with Republican decision makers.

More clarity, more outreach, more timely response is needed.

Have people who specialize in employment, education, race discrimination, etc. Everyone who files a complaint ought to feel that the department bent over backwards for them.

Instead of just saying "no probable cause" give them info about other options.

We have lists of about 200 resources available free-of-charge in the community. Try to give them info. We deal with issues that deal with groups of people, not individuals unless patterns and practices.

You'd think we'd be partnering and working with them on a number of initiatives.

I was on a task force on civic engagement. People of color were not being invited to serve on boards and commissions. About 60 people, spent about half the time talking about what we could not do. I did not continue – too polite, courteous, seemed they had an outcome already planned. I did not think it would be the best use of my time.

Respondent #53: Disabled person who works for State disability agency

Experience: I only have 6.2 staff. So, I can't quite take on the world. We can take on half of the world, but not the whole world. And since I have come on board – early on when the council existed, we did everything. We worked on all issues. That was why we were created. There wasn't another council. Around those 43 years of our existence, of course, other entities within the state have come about that work on similar issues. Not similar, but more specifically the deaf commission, there's a blind agency, DB Council and so forth.

With that when I came on board 12 years ago, because we just keep – like government we get smaller and less money and less staff – and it's one of the things we worked on since the Americans with Disabilities Act was created in 1990. That is really one of our focuses because there is no agency in the state or private entity either for that matter that works on quasi enforcement on the ADA. I mean federal the only way to go is through {too soft} – we really are the watchdog for that.

Yeah, and so what I tell people – some people that I really have no enforcement authority, but we just pop up and make people feel like we do.

I'll be honest with you – my perspective just to throw this out there because it is NAACP – you know, with the state's big push for equity and diversity – I go to all these meetings, and I call it the YAP[?] {too soft} what about people with disabilities because we cross all socio-economic boundaries. It could be a person of color and a person with a disability and you never {too soft} never. Never, never, never, and I'm sick of it. Seriously, they see me rolling in the room, and they're just like oh, my God, you should go. You know what I mean?

The #1 barrier right now for the state of Minnesota, for somebody who uses a screen reader, a brand new clear website is not accessible. You know, and they have known that for a year, and they say they're working on it. They're spending millions to Oracle to make this thing, and it's not freaking accessible. They held that big state career fair a week ago. I sent another letter saying – how do you expect the community – and anyone can use the screen reader if you've got dyslexia. If you're blind you have to use that. You can't access our state website to get your job in the pile with everybody else. That's like a freaking door. That's like a step for me. You know what I mean?

In the ADA that's a huge violation. Right now, the Department of Justice, they're holding off and suing too many companies right now. They're going to wait to 2018 when they really {too soft} new President he's going to strip the Department of Justice. That will never happen. But businesses are out of compliance. The states are out of compliance, and {too soft} the way it's written right now – companies are one heartbeat away from being there. Whoever, black, white, pink, purple – you know, uses the screen reader, you would sue based on that. So that's a huge barrier.

If you have an intellectual disability of any sort you know? (That is a big deal, and it's also actually a cultural barrier for people who come from non-oral languages.) Oh, my God, yes. (Or non-written.) I have a guy for the last two years who has been stalking me at work, and his issue is because he wants me to work on his behalf on he's got a reading disability. Yeah, so it's huge. That's my kind of stance on the whole thing because it does impact people of color.

I mean it's like you know, Edwin H - he's the Deputy Commissioner over at MMB, he's new. I met with him {too soft} and when I sent that letter again right before the big state career fair, I'm like how do you expect our people to even participate? What we did, it was a week before the event, because again, why would they tell me they're having {too soft} holding a big career fair – again, lack of communication. I said our community is not even going to be able to participate. We quickly organized a come bring your resume, and we'll get it.

See, here's the thing. And this is for anyone. If you put your resume in the system, it shuffles it around to answer – the state. They do it by questions. You don't just submit your resume like you do a normal. Who thinks that's a good idea {too soft} that's a whole other issue.

That in itself, you can't even get your resume in there. And so, you know, just you and I just trying to do that, you have to go back in there and reformat what they put in because the system is not going to format it right. If you were to do your resume based on how it's going to upload, you would do something not in bullets but just like a colon I guess. Education: and then real discrete, bad sentence structure I guess putting it in there. That in itself is a problem. I have an accessible document specialist that {too soft} the guy makes a lousy \$20 an hour, and he's really {too soft} the best {too soft} teacher I've got in my office. He's severely disabled. The VR told him {too soft} told him to go and become a movie ticket taker. That guy knows everything about software, and he's helping these big agencies in the state become accessible. \$20 an hour. (Who told him to become a movie ticket taker?) Yeah, the vocational rehab. Yeah. So, he went through and said here are all the issues you're going to run into when you try to put your resume – you can get your resume {too soft} screen reader posted. But then he said everyone {too soft} we edit it because it's not going to be in the right category. He said that is the part that you cannot with your screen reader get in to do the edits. You will {too soft} nobody will look at your resume because it's not even formatted.

So, they have left it like that for at least a year. And they tried to do a fix in Oracle, and it didn't work. So, they had to go back to the original format of not being accessible. {too soft} money – so I have no idea if that's going to be {too soft} budget. I have no idea. But let me tell you what I do know. If this was strictly a race issue, they would have fixed it. (So race takes precedence – racial inequity is more of the concern.) We are so low yeah. We're constantly –

You know, and one of the other pieces of ADA that we have going they have been sued twice on that we got a huge it's called the Olmstead Act, and it's a Supreme Court ruling in 1999 – President Clinton signed that in to law. It was based on Title 2 of the ADA. Two women with disabilities wanted out of a nursing home. And here's how it relates to work. They were stuck there, and they didn't need to have 24-hour supervision. They sued based on the ADA. And anyway – part of this Olmstead Act is about being able to choose where you want to live in the community of your choice.

But with that comes you have to also decide if you want to work or not. And not just be told you got to go to a {too soft} patient center – otherwise known as a sheltered workshop where they make \$2 an hour to put widgets in a hole. And so, states are now like Rhode Island and Oregon are being sued based on just the employment piece where states have just been automatically {too soft} learning disability put your right into that sheltered workshop and you get to work there for 30 years with no benefits, no – making \$2 an hour or \$.50 or whatever it is. Yeah, and so now Minnesota got sued twice. {too soft} in 2009 then based on it started with restraints and then now it's gone even further to the employment piece.

Well, I wasn't part of the original law suit. Two other agencies were – the DB Council and the Mental Health ombudsman. However, it is still ridiculous because I in 2006 started working on the Olmstead and I {too soft} that year, but we did it anyway. And so the exact same players, 14 agencies {too soft} that were on mine in 2006. (But you're not.) But I'm not. The good news is I probably do more damage being not on some of those anyway because I can come and testify and tell them how stupid they are and what they're doing wrong. Sometimes it works to my favor. If I was on there, if I would have to behave, and so {laughs}

So, you've got – you need to put them based on the Olmstead Act that the state needs to – and people of color are part of that. It's about work. It's not just about living in the community of your choice. It's being able to say I want to work. You want to work better, and the state's got

to figure that out, and they're having a hell of a time figuring that out. The state is in a lot of doo-doo.

So, what they're doing is they put together this person center planning, it's about the person. So, people need to ask the person do you want to work, where do you want to live, that kind of a thing. That's a start. But here's the problem. They're still like state wide, and some of these small towns, there's nowhere for you to live other than group homes. If you need support, you know, personal care {too soft} shortages {too soft}. Let's say you find a job, well, if you don't have a personal care attendant to help you get dressed and whatever and you've got a severe enough disability you not going to be going anywhere anyway. You know what I mean?

Multiple layered issues that exist out there. And then transportation is another huge factor of getting to jobs. Yeah, so it's a multilayered process.

Part of Olmstead too it's not about putting more {too soft} it's the state needs to figure out what's in their given system. It's hard to do it with existing money. That's a hard one. You know what I mean? (I do.) And that's the thing. I'm not {too soft} advocate for money. I'm advocating for can you shake the bag upside down and we figure out what you're doing with the money? You know? They don't want to do that either.

(It sounds like there's a big awareness issue even. Like you just have to call it to people's attention over and over again like they miss it.) Right, constantly. And now because everyone has been kind of beaten to death over their head with Olmstead, it's become a 4-letter word. It's like – oh, okay with the legislature like oh, my God – so it's incredible. You know, it all impacts everybody. I think you know, {too soft} impact everywhere. From what I see – disadvantaged, when people use that category it's like – {too soft} accessible. And so, if you are a business {too soft} person with disability that owns a business, {too soft} documents are accessible. {too soft} contract that's even accessible. Now I know they're working on that, but it hasn't been really {too soft} the last couple of years {too soft} people. The state continues {too soft} don't have accessible bathrooms. We have had meetings {too soft} about that. {too soft} for God sakes {too soft} worst violator when they put their {too soft} system {too soft} buildings. Or the bathrooms in the basement. We don't have an elevator {too soft} (Really?) It's like I said the level {too soft} it's incredible.

Yeah, well yeah. We've got people call us all the time in my agency, and so we have to give them advice on where to go. Most ADA issues don't go in the direction of human rights departments. Most of them go oh, the attorney general's office refers them to me. I'm like I don't even have any {too soft} on my staff. {too soft} The Department of Justice is where we send people, and that's generally a 1-2-year wait. God knows after Tuesday I'll be glad {too soft} forever. (Isn't it a nightmare? I know. It's a nightmare.) Yeah, and {too soft} totally dismantle the ADA. There's big chunks of business there. I am sure the ADA will {too soft} yeah. It's going to be bad. And our own legislature turning Republican, holy shit. I'm going to be lucky to survive. Last time it was this way in 2009 they tried to get rid of all the small agencies.

So yeah, my job just became 100 times worse. Whatever. Yeah, but the bottom line is they got to figure out how to do this human rights thing. The human rights department, they're another one like me – under fire. I know Commissioner Lindsey really well, and we were talking on Wednesday night {too soft} crossfire? Oh, yeah. They'll try to get rid of us again. Here we go again. {too soft} crap we use for ammunition before. It's bad. Anyway, I just – we've got {too soft} get our hands tied and can't use them. It's not {too soft} file discrimination with the

human rights department. Kevin has done a great job the last couple years to get it moving quicker. But in the past it took forever. That depends {too soft} leadership in that big old office called the state capital.

(Why do you think a lot of the disability cases end up at the attorney general's office rather than going through the human rights department?)

Well, and they don't go anywhere in the A.G.'s office. They tell them to call elsewhere. I think lack of knowledge of where to go. I sometimes think the A.G.'s office could do you know, a little bit. We're all {too soft} we don't have enough money to do things. That's part of the problem. But yeah, the streamlining process {too soft} got to get better because it's {too soft} good things to get things moving. It's still not where it should be by any means.

(So the speed of how things go is one of the frustrations.)

{too soft} staff person, she's been around the government longer than I have. She's my operations person. We're working with Minute. That's another godforsaken {too soft} agency. They had a new commissioner and he's good, but how do you fix just a foul agency? (Which agency is it?) Minute computers and operating system. Oh, seriously. Just it's they're part of the problem too. Again, it's a layered thing. You know it just is one thing. You fix one thing and this over here doesn't work. It's horrendous. To give these people authority {too soft} implement the authority with. CYO {too soft} he hasn't been able to do anything because they don't give him any money to do anything with.

Respondent #54: Works in State agency for equity and diversity

Experience: So but I still kind of have my hand in a lot of the discrimination issues. We have an attorney now that does most of that work. But early on, I did part of that work myself, and what I experienced was we would get people that would come forward eventually to basically say, "this just ain't there anymore." And they get to a point where they kind of started that dialogue. We'd go down that road of investigation and start to investigate. It's pretty common that the investigation would bring forth some real issues. But our office can only do the investigation and the summary – and it goes up to senior management. And senior management then makes a determination of what's going to happen. I have seen far too many times where there's been just cause – people have complained. We have done the investigation. We have verified the just cause, and management chooses to do nothing. It's a very frustrating system. And then we don't – we lose some credibility with the employees because they feel like they've complained, and they have been discriminated against, and yet nothing has happened. Then, we're also very limited in what we can tell them. All we really can tell them is we've processed this, we have investigated, and we have made recommendations and moved it up the chain. We can't tell them anything more. People doing this work and want to see some changes so that this doesn't happen. Then the end result ends up being that nothing ever gets addressed at the source. So, it just continues.

Honestly, my – at this point, seeing many of these similar things happen – what I think is happening is people at the deputy level, the people that are responsible for large groups of employees – and these are prominent, mostly principle engineers or I mean they're people that have worked up the ranks – and they're high up on the level of supervisory – I think it's a protectionism. And so, when all of them get together to make these decisions – they get talked out of decision by the people who are managing all of that. And I think it's seen as a negative from the perspective that this is happening on their watch.

Where I don't really – you know, it really shouldn't be finger-pointing. It's just here's an issue. Let's deal with it. And get on top of it. But it's more taken – I really think it's more taken personally, and so to save face, they end up talking themselves out of doing anything major. I think for fear of it looks like it's a reflection on their management ability.

Recommendations: Well, you know, I almost think that the people that make the decision have to be a different – more diverse group of people. So maybe where this all ends up at senior leadership table that's a very specific group of people of deputy commissioners, commissioners, assistant commissioners. Maybe instead of the decision ending up there, I mean it should certainly go through them – but there needs to be other people on the team that listen to the problem, that listen to the investigatory results. And that can make a decision of what should happen. Maybe a broader team to review and have some control over what happens. I think when you get more people involved, you know, sometimes that can be clunky. It can drag things on. But I think that takes the onus out of somebody having a finger pointed at them. We really have to get past that.

(That's great. So, I have some people who are less connected to it sounds like – and more diverse. When you say more diverse, do you mean more ethnically and etc. diverse? People with disabilities, etc.? Or do you mean people from more different parts of – different roles?) You know, I actually think all of the above because I really do think nobody understands the kind of belittling or how targeted language affects somebody – than somebody who has had that done to them. So, I think from that level of diversity there needs to be a variety of individuals representing different cultures on that {too soft} so to speak.

But I also think there should be people with disabilities that should be people from – that aren't connected to those particular areas. So, that it's not a protected action or defense. So, from – I do think it needs to be pretty broad. And include them.

I always get told that we're limited in what we can tell the complainant. So, and I don't know if that's a statute limitation, if that's a rule limitation. Or where that limitation comes from – so if that's in the statute, I think that needs to be looked at. I always get told that we're limited by law what we can tell a complainant. I have never checked it out. I never looked at the statute myself, but that's what I'm always told. We're very limited in what we can say.

(I have heard that from other people as well, but I have always heard the recommendation from somebody pretty high up that people should be told more. I'm wondering the same thing now.) Yeah, and it may very well just this missed statute piece that people believe exists and gets perpetuated – and quite frankly, that's not my main area, so I don't want to spend a lot of time looking to defend that or not. But that should be looked at in the statute. If there's something limiting there or even just how are the results of someone's complaint – how are they relayed back to the complainant?

And so, as agencies, I have sat in on inner agency workgroups, and we have looked at this process, and we have made recommendations. But the recommendations kind of go in this black hole and business continues as usual.

So, one was a Native American, one was a woman, and a woman in a truck station in an outstate district, a small town, that was a challenge for some of the men there. And during that interview, the investigation, to look at the claim, we found some pretty substantial reasons and valid reasons that they weren't given a chance. They were targeted. And it was a group target – although we could only find one person that really was the main person.

But even identifying that in the report that was forwarded to management, I was a part of that interview team and so I was a part of sharing the results at a senior leadership meeting. Well, at that meeting I was told – oh, you – we’re going to do this, we’re going to do that. We’re going to clean this up. We’re going to start at the top. We’re going to do XYZ. I left thinking oh, finally something is going to be done. Well, that dragged on and dragged on. Then, eventually, nothing happened. They chose again, not to do anything.

Sit around trying to determine what they’re going to do – the challenge comes back that it’s just too big of a task to change a culture like that in a work location and they give up. I tell you thought I had heard myself some pretty strong convictions that this is what they were going to do. They were going to start from the top and reassign people, shake things up – they really wanted this to be fixed. This was a repeat of something I had heard – a similar thing that happened many years ago in the same place. Again, it just yeah, there’s just a lack of oversight I think. Nobody knows this stuff is going on. The people that have filed the complaints, they get told yeah, it’s being dealt with. It’s being dealt with, but they get no other information – and we’re told we can’t give them any other information. And it just eventually goes away. I was just going to say until this changes, and until there’s some visual action that’s done – and perceived by the rest of the employees in that location, the culture is not going to change. It’s going to stay exactly the same.

I do, and what I mostly sense and feel happens is you know, the complainants, they spill their guts, it’s quite emotional. They may be experiencing – I mean all kinds of stuff. So, but they share it, we listen. And they think oh, somebody is finally listening to me. Something is finally going to be done and we tell them we’re going to look into it. We’re going to do XYZ. We do that, and then it ends. And we’re stuck. We’re left looking like what happened? I trusted you. I told you my story and you were going to do something and you didn’t. Well, we tried, we did. But it’s the system that there’s a problem with.

So, we end up losing some credibility. You know, not being able to share. We have learned ways of saying trust me– it’s working its way through the system. Hang in there. We’re the cheerleaders, rah rah people saying – we did what we needed to do. We did an independent investigation and it’s moving forward. It’s just slow. But hang in there, have faith. And then we end up looking like idiots.

Respondent: Attorney response to Human Rights Survey:

In the past five years, have you filed a discrimination complaint with the MN Department of Human Rights in any of the following areas? Employment

Please state the basis of your complaint: I have filed dozens of employment complaints with the MDHR on behalf of clients in a variety of matters.

How long did it take for the MN Department of Human Rights to acknowledge receipt of your complaint? Typically, only a few days.

Did you get an answer from the other side? Yes.

Was your complaint investigated? Yes.

Was your complaint resolved by the MN Department of Human Rights? No.

How long did it take to resolve the complaint? N/a.

What aspects of the process worked well? Getting position statements from the Respondents.

What did not work as well? The investigators at the MDHR seem to be completely biased against charging parties. I have never once received a probable cause determination from the MDHR, even on cases that later succeeded on the merits in court. The investigators all explicitly hold the belief that unless the charging party has recordings or written evidence contradicting the employer's account of what happened, then there is no probable cause to believe discrimination happened. This leaves employees who are involved in a 'he said-she said' situation, but who did not record the conversations at issue, without a remedy at the MDHR. For example, in one case my client claimed that he had verbally requested an accommodation for his disability from his manager. His co-worker submitted an affidavit stating that immediately after having this conversation with his manager, my client told him about it. However, the investigator found that because the manager denied that my client had ever requested an accommodation, there was no probable cause. This same scenario repeats itself over and over. I would like the investigators to understand that their job is to weigh the credibility of the testimony of both sides and come to a conclusion about who is telling the truth, rather than just automatically credit the employer's version unless the charging party recorded the conversation. I've even had an investigator ask my client why she didn't record the conversations at issue with her boss and tell her that she should have done so if she wanted to prevail on her claim. I now actively avoid filing charges with the MDHR altogether if possible because it is simply a waste of time. Investigators also do not seem to have an understanding of the applicable laws – I have had investigators tell me that unless a request for accommodation was made in writing, it does not count; that because the Respondent also employed other persons in my client's protected class, discrimination could not have occurred; that because my client did not record her verbal complaints to her supervisor of discrimination, and there were no other witnesses, that my client could not "prove" it; and numerous other false and biased interpretations of the law. I cannot overstate how biased the MDHR is against charging parties, which completely goes against its entire mission as an organization. I of course understand that not every charge should receive a probable cause determination – however, similarly, not every charge should receive a no probable cause determination, which is what I have had occur to me every single time, even when I have had direct evidence of discrimination.

What do you recommend the State of MN do to make the process better? Provide training to the investigators about the applicable laws, and tell them that their job is to listen to both sides of the story, then make a credibility determination about who is telling the truth, not simply credit the employer's account unless the employee has recordings proving their account. The investigators are seriously biased against charging parties, which goes against the entire mission of the MDHR, and that needs to be changed.

Respondent: Attorney response from Human Rights Survey:

Employment suits. On behalf of clients, I have filed between 10 and 20 charges over the last 5 years. The charges have been filed for a variety of issues, including: disability, age, sex, race, national origin, sexual orientation, religion, and retaliation.

Around 10 days according to the dates of letters from the MDHR, but then for some reason, the letters – unlike other mail – often seem to take an additional 4-11 days to arrive after the date on the letter.

The term “resolved” is a bit ambiguous. Some of the charges were settled through the MDHR’s process, some of the charges were withdrawn to initiate suit, some of the charges were issued no probably cause determinations, some were issued probable cause determinations.

Cases took 6, 8, 9, 12, and 18 months to resolve once the charge was filed. The investigations have seemed to be more thorough than the EEOC’s investigations.

Any transfer of files from the EEOC to the MDHR has created major delays. The mediation process is improving, but better mediators are needed. Coordination between the EEOC and MDHR is lacking. A closing letter from one of the organizations may come 6-18 months after a closing letter form the other organization – even when the case has been fully resolved.

Recommendations: Improve coordination with the EEOC: file transfers from the EEOC to the MDHR must occur smoothly; there should be no gap or delay just because a file arrives at the MDHR via the EEOC (i.e., the charge was initially filed with the EEOC but transferred to the MDHR by the EEOC for jurisdictional reasons such as a filing that arrives after 300 days (fed deadline) but before 365 days (state deadline) and charges of sexual orientation discrimination which are not covered by federal law). Closing of files should occur simultaneously to avoid confusion for clients.

Respondent #50:

Is your inquiry going to cover any areas where the state sends funds? Local city grants, etc.?

(Say more about that. It just depends on if it’s related to those three areas, yes. If that’s part of the process that isn’t working – I have heard people talking about it’s hard to get money. It’s hard to get paid. It takes too long for small businesses – there’re all kinds of different ways that money comes into play.)

So you’re looking for barriers. **(Barriers, yes.)** Okay. Is your query going to amount to an AI, Analysis of Impediments? **(I’ve never even heard that term before, so I guess in a sense, it’s qualitative, right? So I’m listening for what are the barriers. I guess an analysis of impediments would be that.)** The state has a requirement just as all the cities do – to identify the impediments to procurement for instance – in any given community why is it that you aren’t getting these opportunities? What is the impediments to social programs, to help – to whatever it is that the government is providing in the form of benefits to the community. What’s preventing those benefits from getting to the community? So in a sense, it sounds like you’re doing an AI.

(Yeah, it does sound like that. It’s probably not going to be as thorough as an AI would be because I have been hired to conduct about 60 interviews. It’ll be more than that.

Whatever I can get in there, and they’re supposed to be kind of divided between those three areas – so there probably will be impediments that I miss.)

Are you comparing your information to the state’s AI? **(No, that’s not part of the scope of what I’m doing. That’s not to say that James and Michael aren’t.)** I would think they would have to because if you’re going to see what the impediments are, then one would think you’d also look at what the state has already identified as impediments because the state is required to go to the different communities – and to in a sense of the word, speak with the people in the same sense you are. As a matter of fact, we’ve done that – myself and a group out of here –

worked on one for the region. So an analysis of impediments allows the state to be able to submit their report to the federal government and even to the state itself to say these are the issues that we're finding in the state and how we're going to overcome those.

There is another group here the Frogtown Neighborhood Association – I recommended that they contact you. And whether you hear from them or they hear from you – hopefully, they can get into that same process. I represent them on the working group, but a lot of my work also has been from the Access Group. So the information that I sent you is from the Access Group. So their particular vantage points or issues I have asked the director to present to you herself.

(So should I reach out to them also?) Yes, as a matter of fact, I am going to see if she is here, upstairs. And if so, I may ask her to peek her head in. **(That would be great.)** But also the state should have been audited by HUD to determine if – HUD does a compliance review because the state gets funds that they have to administer. And as such, the state/HUD should have done/conducted a compliance review which would have included an AI, should have included an analysis of impediments.

(I have a question for you. I talked with somebody who was having some housing issues and living in government funded housing – and she said when she went to the human rights association, they sent her to HUD – and then they sent her to somebody in Chicago to represent her. Then, she didn't end up feeling like she got represented. Is that the correct process? Is that what should have happened?) She was sent to the HUD office in Chicago? **(Basically, she had somebody in Chicago calling her.)**

Basically, the local office in Minneapolis fields the complaints, but any complaint that has any merit is usually investigated from the regional level from Chicago. But - what you have presently – and this is what we're suffering here in the cities is a refusal by the federal government to investigate housing and civil rights complaints – and that's part of what we have provided you – and that's why - and it is necessary that this becomes part of the complaint process, this audit- is because there are a number of actions that have taken place on the federal level – and a deal that was cut that gave the city – what almost seemed like a blanket immunity.

Part of the housing issue, for instance – there are a number of property owners in this area here – who are part of the law suit. Their lawsuit started somewhere around– 2000 and 2003 – that law suit wind up in the federal courts – a law suit against the city, St. Paul. That law suit wound up in the federal courts, and went as far as the Supreme Court. I don't know if you heard or know anything about what they call the Quid Pro Quo of St. Paul? **(No.)**

Have you ever heard of the *Magner v. Gallagher* Case? **(No.)** The *Magner v. Gallagher* Case was a case where landlords and property owners were stating that the city was using code violations to basically take their properties – to move them out of business – to eliminate the low income housing for individuals of color – and based almost like gentrification in a way. So they were saying basically, you're using housing codes to shut us down. Now not speaking on the merit of that case, the case had made it to the Supreme Court – because the case had made it to the Supreme Court which means that it had got approval or it had gotten an affirmative verdict

out of the 8th Circuit which meant that HUD was supposed to investigate the civil rights allegations. Any time there's any affirmed violation in an area by a court or otherwise, then the federal government is supposed to investigate because they provide funds to the city. The federal government didn't investigate.

What the federal government did was the federal government shut down that case from going to the Supreme Court. What they did was the federal government cut a deal – HUD and DOJ cut a deal with the City of St. Paul that they would kill – use one case to kill that case. **(It seems like they're supposed to be protecting the people.)** Exactly. And this is one of the impediments here. When the government is an impediment – is considered a violation of Title VI, what the government calls "Simple Justice" – basically, the government cannot use your tax dollars to entrench the conditions that you're in – or to segregate you from others by violating your civil rights or any other rights.

So basically, that's what happened here. Now, how that worked is that the federal government, what they did was – they cut this deal, they basically took a case I had – but now I'm going to give you my case. We brought – we had been fighting for economic opportunities here in St. Paul. We brought HUD to the town in 2009. HUD found the city with in noncompliance in Section 3. And that would have meant – thousands - millions of dollars actually. The city had done \$1.5 billion dollars over a 3 year period in development. Section 3 said that the low income community – a lot of it is the Black community as well – but the low income community was supposed to get at least 10% of that. So the community would have gotten at least \$150-million dollars' worth of contracting and job opportunities. It did not happen. We brought HUD to town HUD confirmed it, held the city in noncompliance, HUD entered into a voluntary compliance agreement. But HUD violated the voluntary compliance agreement. I'll come to that in a second.

At the same time, we filed a false claim act law suit. According to federal laws, if the city or anyone who received federal funds files false certifications – that's a fair housing act violation and they can be brought up on qui tam or false claims. We brought the city up on false claims. The federal government started investigating it from 2009, and in 2011, they used that qui tam case – that false claim act case to persuade the city to take the *Magner v. Gallagher* Case out of the Supreme Court. So what HUD basically did – HUD and DOJ did was they went to the city and said – okay, and the congressional report says – who told who? Who decided that this deal was worth doing? And who suggested it? Now, they insist that the city had suggested it. But if the city suggested it, the city basically traded away the rights of one group to ensure that it wouldn't have to pay a penalty on another.

So what happens is, the HUD office sends my attorney to St. Paul out of, coming out of Washington. He comes to St. Paul, talks to different parties – and talks to the party who is the attorney for the city who is an outside group – talks to them and says would you trade – basically, you've got this case that you are dealing with for the city. The city has this other case that the federal government wants to go away. Will you basically cut a deal that if we don't support this case, you'll make that case go away. And that's what happened.

Congress investigated it. All of this was part of a congressional report. That's part of what I sent you (**I see.**) So they traded away the rights of this community. And when you trade away the rights of – you can't get justice if the justice department is a part of it and if HUD has basically violated your rights by taking all of your rights and trading it away for something that they felt in the government interest. At the same time, because there was false claims, the False Claim Act, the same individual who was Thomas Perez, Assistant Attorney General, had just sent out an email – a memo about a year before saying if there is a false claim by city or anybody else, you take that false claim, and you investigate and see if that city is violating the civil rights of the people in that city.

He took my false claim act law suit and refused to investigate civil rights violations. He had just said to his department – go investigate it. You get a false claim – go look at that city to see if they're violating civil rights. He did not look at the civil rights violations. And at the same time, he then traded away for this package deal that gave the city almost blanket immunity. In the congressional report, it shows the emails for the city. What the city was saying to them – you told us you was going to give us documented evidence to help us to fight the Newell Case if the Newell Case goes on after you decide not to intervene.

Talk about analysis of impediments. The impediment – the government was the impediment. It's all been proven. But this is just the start of it. This was in 2011, 2012, right in our period here for this audit. Secondly, after this, we requested the government to come in, investigate the civil rights violation. First we said you violated our rights by trading away all of our rights – and you did not investigate. HUD says basically they denied. We have a number of responses from them that shows that they refused to investigate, that they dismissed complaints, that they lied. I mean I have 5 statements from them that said they investigated certain reports/complaints that were filed in 2012. Then, last year – January, February of this year, I finally got someone who – Chicago office admit we didn't investigate the complaint that you sent us. But for 2 years the Washington office kept sending us back letters saying we have investigated that complaint, and thereby we will not respond to.

So everything that we were showing that the city was still in violation, they wouldn't investigate, and they were basically dismissing. Then, finally, when they admitted in 2016 that they did investigate the 2012 complaint, within a month they dismissed it and said it was not filed timely. But the issue even further is that the 2012 complaint was a supplement to an appeal – so it was an ongoing investigation, but they refused to investigate it because when they did that deal, they said the city was in compliance with Section 3 – 2 years into a 4 year agreement, voluntary compliance agreement. And then they use the voluntary compliance agreement to exonerate the city to say we won't investigate the city for false claims because the city basically is in compliance with Section 3. But the Section 3 voluntary compliance agreement says you cannot use this voluntary compliance agreement to offset the false claim. So they basically, it's the federal government who have basically cut a deal that basically protected the city.

And as I mentioned in the information I provided to the auditors, not only did that happen according to HUD's regulations, according to federal government, if the city had violated any program – section 3 being one of the programs, then not only were they supposed to investigate

the city for civil rights violations, the federal government was also supposed to identify the city as a risk for civil rights violations.

If they are considered a high risk for civil rights violations, HUD is supposed to monitor the city to make sure there's no ongoing violations. After HUD basically – DOJ issued a determination in 2011 that the city was an egregious violator, the Department of Justice stated that the city was an egregious violator of Section 3 – and basically of the false claim act – I mean not false claim, but violator of Section 3 – violator of the assurance of false claim – filing false certifications – and finally that move indicated a violation of the Fair Housing Act. So if they are in violation of the Fair Housing Act in November of 2011 – why in June of 2012 does HUD identify the city, partner with the city as an investigator of Fair Housing Act? **(It doesn't make any sense. Why do you think? Do you have a hypothesis about why they're doing this?)** Because the congressional report reveals – and HUD and DOJ acknowledge, we cut a deal with the city to keep this case from going to the Supreme Court. We felt that it was in the best interest of the government that. **(The federal government?)** Of the yes, the federal government – to basically cut this deal to prevent the disparate impact case from going forward in court.

So it's all acknowledged that we cut a deal with the City of St. Paul. We told the city we will not join Newell's case if you take this case out of the Supreme Court. But what they never acknowledged or address – and they said – okay, we know that Newell's case was going to bring back \$200 million dollars to the government. What we had done, we had said to the government, we want you – anything that you get from this law suit, we want it to come back to the City of St. Paul to be used to build the capacity of the low income community. So instead of it going to the Federal Treasury, we want it to come back to here. The government said – I tell you what if you give them part of your recovery, we'll give our portion back. And this was the deal we cut, but the federal government cut a deal that basically brought the \$25 billion dollars mortgage that Countrywide and all them, that's what they used to get the Countrywide settlement, but they did not include the people of this community in that deal. They took the money – they took all of our rights, the civil rights that we had on the table because they were supposed to be investigating civil rights violations. They took the economic rights that would have come through Section 3 because they basically leveraged the Section 3 VCA – basically gave the city a clean bill of health – while at the same time we had one contractor here who had filed a complaint in something like October, November of 2011 showing the city was in noncompliance. I had already told them that the city was in noncompliance.

I had a retaliation complaint against the public housing that HUD had just issued showing that public housing had retaliated against me and the HUD issued this finding – this ruling – yes, public housing retaliated against you. I had a retaliation complaint against the City of St. Paul because the City of St. Paul refused to put me on a contracting list for Section 3 vendors even though I'm the one who had pressed for it, and I pressed for a particular project that the city wasn't doing Section 3 on. I pressed them to do Section 3 on it because it was a requirement.

Finally, from 2005 up to 2010, I pressed them about this contract which was a service contract, which was the lead risk assessment. When I pressed them for this lead risk assessment contract and they were to lay it out as a Section 3 contract or at least comply on it, they refused. They

kept saying we don't have to and all this documentation I sent to HUD. Finally in 2012 that in 2011 the City of St. Paul issued that contract as a master contract, sent it out to all supposedly Section 3 businesses who would apply for that project. And at the same time, they never contacted me. So they sent out specifically to Section 3 businesses who does this service which is what I do – and said to them, would you like to bid on this contract?

When I find out in 2012, I contact the city and I say – why wasn't I notified? They said you are not on our Section 3 list. But I contacted the Section 3 office, and they said yes, you were on the list, and then they said somehow the city says – send me back email saying you weren't on the list that we was provided, so basically they retaliated by removing me from that process. And all of this I had in writing, in documentation. This is the 2012 complaint that HUD would not investigate because it revealed that their determination in 2012 that the city was in compliance was false.

So there is a big deal that was involved in basically covering up – giving the city immunity. And while that's the case, the state provides funds to the city based on the HUD grants, and so the state is also liable or culpable for any of the city's actions under Section 3 because the city has to respond back to the state and say we're in compliance according to the contracts that they have with the state. So the state has liability there. Well, while the state has liability we said to the state and this audit – not only did you have liability when it came to St. Paul, but you also are continuing to get HUD funds and according to a HUD 2013 audit of the Recovery Act funds, you did not comply with Section 3 according to that audit. So we provided them with their audit – not just any hearsay but the audit that I'm talking about happened because of the fact of the quid pro quo. Congress then investigated and said to HUD, let's see what else you're doing wrong in Section 3. So they investigated based on 2011 and said – what did you do with the 2011 funds based on public housing? And they came back with out of the 3,300 public housing agencies nationwide, half of them were in noncompliance, and the state was on their list.

So in a sense, the state then gets called in to – and that's why this audit was so important – to say the state is also in noncompliance which means that all of the economic opportunities that comes through the state that goes into all these cities should have been benefitting the low income persons and particularly members of the protected class.

(So who – this is going to sound like a really naive question – who is supposed to be responsible for all that? Who is in charge?) The Governor has the final responsibility because the Governor is the grantee if you will. The Governor according to the 403 of the statute and I have to go back and pull up whichever statute it was, but the Governor is on record as receiving funds for the state. He is considered the agency in the site of the federal government.

(And then what do you want the state to do? What do you think the state should do?) What should they do? We have tried, and I'm going to start with what we tried here in St. Paul – you heard me say we had 150 yeah, \$1.5 billion dollars in contracting here at St. Paul for that 3 year period. Based on that \$1.5 billion, we had set up – our proposal was – is that those opportunities be returned to this community in the form of future contracts and opportunities. That they basically say these opportunities will be returned to this community and allow the

capacity of these cities and these communities to be built up – by instead of bringing contractors in from outside of the cities on a program that require you to comply by hiring the local contractors who hire poor persons or low income persons – rededicate this program in its true intent. So what we wanted was the state to basically and the city to basically say okay, these have been denied opportunities–

There is a Long Beach Rainbow Harbor Project from – the most recent of it is 2012. It started back in ‘99, ‘98. But the agreement was what HUD had determined was that Long Beach had a \$40 million dollar project that had Section 3 requirements. Based on that, \$32 million was actual contracting opportunities and job opportunities that went hand in hand with it. HUD required or the agreement was that Long Beach would return out of the \$32 million dollars that went for contracts, Long Beach would return \$3.2 million, set them aside as contracts for low income contractors. Then, they identified a number of training and job opportunities. We set that as the precedent for what we wanted which was go back and look and see what you denied the community and provide those opportunities in the form of future grants, future projects, future opportunities. In other words, go back and rebuild that community by future projects. We are not asking you to go and pull money out of your budgets and give us a lump sum of money. We do need money for lending. We do need to build all the capacities necessary. But the government had that ability to do that anyway. Just focus on the community that you have caused that disparity or you deprived.

According to HUD’s regulations – 24570, which is part of Section 109 states that if the city finds or if the state finds that in getting federal funds that they have actually caused a disparity of if there was a disparity that exists, they have a compelling interest in taking the future funds and addressing or ameliorating the conditions or past discriminations or if there was no discrimination, the disparate conditions all together. Just retarget the money. So that’s what we was asking for. We were basically saying – government, you’re saying that these communities, these people are suffering here. We have shown you the cause which is failure to comply with the federal program that would have provided these opportunities. We have shown you the effect which is disparity on employment, etc. Now go back and fix the conditions by changing your mandate, changing your policies to ensure that these areas are targeted. That’s what we wanted from the federal government. That’s what we wanted from HUD. That’s what we wanted from the city. That’s what we wanted from the state. But first, we had to prove to them in noncompliance because they denied and continue to deny – when we push this issue to go before this audit, we got a letter back saying we’re not going to look at Section 3. Our question is how can you not look at Section 3?

Not only are you getting and in your next annual plan, your consolidated plan you have shown that you’re getting \$24 million dollars for this next grant round. And that \$24 million, according to HUD, any time you take that \$24 million which is matching grants, you only send out, you may send two million here or one million there – \$500,000 there. But according to the thresholds, when you send that amount of money out, then whatever matching funds go with that, section 3 compliance must be applied to it. So even though the city was getting in those years \$20 million because the city put it into the general fund and thereby was doing \$1.5 billion over a 3 year period, all of the \$1.5 billion because a requirement – Section 3 required

compliance program.

At the same time, what the federal government says is – is that the true program, Section 3 says that the 10% is a minimal if the city, if the state is found in noncompliance, they're supposed to go back and do compliance on 100%, not on 10%. So these communities are losing out because the federal government isn't complying – isn't enforcing, and the cities are not complying with. And we was asking the Governor – hey, if you're going to champion this issue, let me show you a bigger issue. This thing isn't just in Minnesota. Not just in St. Paul, not just in Minnesota. It's nationally. And I have been not only before Congress testifying to this – we have evidence up and down from every state there is that this is the problem. We're in a time where the nation is looking for equity, looking for economic opportunities and trying to determine why these disparities. Get behind this issue in Minnesota and push it forward. You pushed fair housing as a state and you laud that, but now fair housing trumped Section 3 in that quid pro quo.

Is that when they did quid pro quo, they were protecting the Fair Housing Act. They were protecting Mondale's Legacy because what they did was they said we don't want this case, this Gallagher v. Magner Case to be the test case before the Supreme Court because we could lose the Fair Housing Act. So they said let's protect it. And that's why they took away the rights of the people in St. Paul. How can you take all of our rights and just simply ignore or flush them down the toilet by simply refusing to investigate? We have asked them to investigate. We have sent them complaints requesting further investigation, and we have – we keep getting denials from the federal government.

(Why are they denying it? Do you know why?) Part of what the city had requested according to the emails as I mentioned, not only did it state that the federal government was going to send them material support which is against the law, material support to fight my case, which is a violation of my civil rights, but also the city had asked that all complaints against it be dropped. So every complaint that we filed since then has been either ignored – they did, the investigated the MICAH Case over in Minneapolis. But why they investigated the MICAH Case, we had provided evidence before the federal government that showed that the very persons who cut that quid pro quo deal also are the very persons who filed the MICAH Case.

My attorney out of Washington went over there. But while he went over there, we also showed the federal government where he came in and violated the Federal Seal – came in and discussed my case with the other attorneys which was conflict of interest. **(Is he still your attorney?)** No, he dropped out of being my attorney right after the deal was announced in 2012. And he never told me anything about it until at the congressional report – and then what was it? November of last year, we started requesting records saying why were you meeting with the attorneys for the city without your client knowing about it? Why were you discussing a case that was under a federal seal that states that – we kept trying to get the government to let us discuss with the stakeholders in the community because of the deal we were cutting. How were you discussing a case that was under federal seal with them?

(Who was he representing when he did that?) Exactly. But what we had – we have emails from the federal government where a certain young lady in HUD who was also the young lady

behind this case, and she have been found to – has done a number of cases where her and him worked together. Where she basically sent an email to Thomas Perez in the Department of Justice and said Michael, my attorney, is going to the City of St. Paul to talk to different ones about blandishments that they would take this case – remove this case from the Supreme Court. So her email basically is saying we're talking Mr. Newell's attorney – sending him in a sense because how do you and HUD know what my attorney is doing on this case that ends up using my case to remove? We presented all that to HUD, and you would be surprised I mean the way that the federal government has responded to everything we've done. It has been a fight against the federal government to get them to acknowledge what they have done and they have dismissed just about everything I said. Every time they dismiss it – I told you 2012, they kept saying no, no, we have investigated, investigated. Finally, I got a lower level person – I requested an investigation report.

I said okay, if you've investigated my complaint in 2012 or 2013 like you said, send me a report. Let me see what you found. And when I requested that, the individuals stalled this was November of last year. November, he would not respond back to me. December he would not respond. This is the regional director of Chicago. Finally, I sent it to another person in his office who had investigated my retaliation complaint. I said should there be an investigation report – I would like a copy of it. He sent back that same day and said we didn't investigate it.

So I sent the complaint to HUD and said HUD, I have evidence that top level officials from assistant secretaries have knowingly filed false statements because they have for the last 2 years said to me we investigated this complaint – and we also have evidence that they have not investigated my complaint further. They did not process my appeal. And they - just went down the list. At that time, the Secretary refused to acknowledge that. He has not responded to that one. The individual in Chicago who I had met with starting in 2013, and no 2014 I met with him and told him you didn't investigate it, he sent me back response after response yes, we did investigate. Finally, when I met him in person over here the last year – and told him – that's when I requested a report – when I go back in and request a report, he went for about a month and refused to respond after I get the response that they did investigate – about a month later, he sends me a letter back saying your complaint was not timely, and so we're not going to investigate it and closed it out.

So everything here is – has been a cover up action to prevent me from getting any further. And we said to them – okay, all the regulations show civil rights violations. If there is a finding of noncompliance, you're supposed to investigate civil rights. If there's this – civil rights. Every time we did it, the federal government have refused to respond to it.

So bottom line is, this community is - one of the impediments is the federal government, but we are also stating that it's the state government because the state has also provided funds. Part of what the state has not acknowledged is that according to our understanding the state put money in to the, what do you call it down there – that stadium. **(Oh.)** So if they put money into the stadium which we know they did, we are told that part of that money was also part of the Section 3 funds or the community block grant money. And so we want to make sure that if they're community block grant money – did HUD, did the state comply with Section 3 on that. There is

the also the department of – I mean DHS – they get money from the state for housing and then for assisting individuals. And we're told that part of that money comes from the community block grant money.

(I have a question for you – do you do this professionally all this fighting for this neighborhood or is this a volunteer project for you?) Volunteer. What happens is this. (I do want to know, but before you go there – because you're passionate and you are persistent, and you must have time to do it or you're taking time out of something. What if you weren't here? What would be happening to this neighborhood?)

Okay, in this office you have CSP right over there on this side. You should talk with them. They deal with housing and housing issues. I'm sure they will give you – and not only an earful, but they will help you study. You have Frogtown Neighborhood Association upstairs. They have their interests. We partner with them to help create jobs. So for the last two years they and I joined together on a what was it – Minnesota Department of Health job project – grant where we hired individuals from this community and took them through a training program and went about our disciplines which is lead.

We took them through a training program - taught them – took them out on projects, volunteered to go into people's houses – do some cleaning, give the individuals on the job training. So that's where we kind of partner with them and part of what was modeling for when we first started this Section 3 issue. But when we got into Section 3, I was officing in this building, my company was. I'm in construction, a contractor, [with] a number of services from demolition, lead, asbestos, I had all kinds of areas we did work in. And we would hire people from these neighborhoods. We would use HUD grants to hire them. We would look up. We would find out there's a HUD grant, we would send them to those classes and then we would hire them because that would get them off the street but also give them opportunities.

We had trained 50 people through HUD grants. We have partnered with all of these neighborhoods around here from Frogtown to Hamline – to Aurora-St. Anthony's, Selby. We went to all these neighborhood community groups and said to them – if you will nominate people, we will put them through a training course. We will hire them and we will do work in your areas. As you identify projects, we will have people from your community do that work in lead. When we got them trained, we got no work because the work was going through the city, and we are trying to get the city to cooperate and the city wasn't doing Section 3, so they did not follow up on the program that we had made with these communities, and so no work was coming out of it. That's when we filed a complaint against the city.

First, we tried for about 4 years, 5 years to get the city to comply. Kept saying to them – here's why you should. They wouldn't respond. We would send them to Washington, their response to Washington, and we connected the two of them back and forth for a number of years. We said to them, here's how the program work, they'd refused to do it, or they said no, we would send it there. We have sent back – and we just kept everybody in the loop. So that's how we got HUD in the town because we had built such a case that showed the city was in noncompliance, and tried to inform the city. And so DOJ and HUD both said Mr. Newell had basically provided –

removed every possible excuse they had. They are knowingly violating this program.

(Why are they?)

Because they were providing those opportunities to other contractors. When we in 2000 first came and went to the city, we worked a lot in Minneapolis from '95 until – and so until 2000 or so, we went to the city and said we want to sign up as a Section 3 business. And as a Section 3 business, we want the opportunity to get certified as Section 3 so we can take advantage of that 10% goal on these projects. And we can help you to fulfill Section 3. The city said to us – we're not taking on any new contractors which is a total violation of all their procurement laws. We were qualified us as a contractor for the city, registered with the state etc. We had the bond capacity and everything else. But the city said – we will not take on any new contractors. Basically, what they told me is what you can do – you can actually go to these other contractors and subcontract with them to do their lead cleaning.

Now, we're doing lead work in Minneapolis. We are one of the few lead companies around. We're one of the few Black lead companies around. You got an Affirmative Action program that you won't bring us in under – and you have Section 3 you won't bring us in under. And so you tell us that we have to go and be a subcontractor to clean up behind another contractor when we are licensed and have been licensed prior to this than just about any other contractor in the state to do this work. But they refuse to set us up or allow us to register as a contractor.

And then after that, from 2000 up to about 2009 or '10 – they basically had such a convoluted program over there that when we got registered at their VOP program they still – we was registered, and we kept saying to them – why aren't we even getting notices and so forth? And then we found out through email from someone in one of the city's offices – but you have to go to this particular office, and you have to get on their list. Because even though you're on the VOP list, they don't really use the VOP list. They have their preferred contractors list, and you have to get on that list.

So there was all kinds of barriers that the city had. They identified some of those barriers in the Hall Audit of 2007. But while they identified those barriers, the city keeps erecting them. Because what happens is, there are contractors with AGC and others – Assembly of General Contractors and others that basically get this work. They were not about to relinquish that work to new contractors because this is what they expected. And so federal programs were going uncompleted. Just like the email that what's his name or Ed McDonald sent to the city. You're not doing Chapter 84. You're not – the vendor outreach program, you're not doing 183, and you're not doing Section 3. Why? Because even though they had all this work taking place, we could never get in because the city had layer upon layer of bureaucracy and programs that were not responding back to the city as in meeting the goals of the city.

So it's always been a barrier for us to get in and to do work. We filed a Title VI complaint against the city in 2006. We filed a Section 3 complaint against the city in 2006. All of this evidence was supposed to bring HUD in to investigate Title VI violations. HUD never came. So this community has a real issue with trying to get enforcement against a city who now had

become a preferred city in the eyes of the federal government. They get more grants, they have been put on the preferred city list – and in other words, HUD has a program that if a city has the Choice neighborhoods – they have gotten more Choice grants lately – all better still, they have gotten Choice grants. They have gotten grants that we don't have access to. The city has been patted on the back as doing this great thing.

(How could that happen when they know that they made that compromise?)

Because they made the compromise. HUD basically says they did the right thing. But they aren't looking at what they did to us. We then, let me give you another one. In 2011 or 2013, I can go back and check – 2013, HUD finalized the disparate impact regulations rule which is regulations that state if the impact of any policy or decision by city – and we said that it should also apply to the federal government as well. If their policies has a disparate impact on any persons or group of persons, then they can be held liable based on disparate impact. We basically provided that information to the state, I mean to HUD in the regulation process that says you have caused a disparate impact upon the community here based on your quid pro quo and that whether it was intentional or not, you denied us our civil rights. You have also denied us the benefits of the Section 3 program because you have now exonerated the city and we laid out a list of things that basically says here's a disparate impact upon this community.

According to HUD regulations, any such report or complaint is supposed to require the federal government to come and investigate if that is true. What it is simply saying is if this community says that somebody is doing them wrong, you better go in and check before you spend more money. So we said to them – we provided that information to you that your disparate impact regulation and your actions to protect disparate impact is having a disparate impact upon the community in which you basically defrauded. And HUD basically sent back a letter that said we are aware of your concerns, and that's it.

(Do you feel like you're being dismissed?) Oh, yeah. As a matter of fact, HUD has basically said we will not respond to any more of your complaints. Now, I took that same complaint – now, Title VI – we said to them, Title VI you did not investigate our Title VI violation, and we request that you do investigate it. HUD sent back a letter that said you never asked us to investigate Title VI so we're not going to do it. I took the same thing I sent to HUD, sent it to the DOJ, and one DOJ office kept dismissing it, and I'm talking in a time where somebody from the Solicitor General's office basically told me “you've gone as far as you can go. You have complained against the Secretary – everybody else, and Congress has already investigated. It's been shown that this has happened, but since they are stonewalling you there's nothing we can do”. So what I did was – I kept nibbling away at the issues because sure you may dismiss me as a person. You've already done what you've done against me. But the people in the community – their rights must be protected. So we asked them to come in and investigate and in this complaint in 2013 – I asked them to investigate everything from the violations in the quid pro quo to the failure to investigate the Title VI. HUD refused to investigate it. HUD says you didn't ask us to investigate. I took the same complaint, sent it to a DOJ office. The DOJ office said that we have thoroughly looked at your complaint, and see that HUD was the right office to investigate your complaint of Title VI violation. HUD says you didn't ask us to investigate Title

VI violation, but the same complaint DOJ says yes, you asked, but you asked HUD. And so we can't oversee HUD. HUD's determination so if you don't like what HUD decided, then you should go and get you an attorney to see what you can do about HUD.

But they acknowledged, DOJ acknowledged that the complaint requested Title VI investigation. HUD says the complaint did not request a Title VI investigation. So the bottom line is HUD has used this paper trail to basically close off everything, the administrative process. Once HUD says no, it's no. no. And soon we took it, we sent it to Congress, we have this information and a lot of different laps. What we're basically doing is not only trying to fight for the Section 3 program that it can nationally be done, but the city, the state is becoming an example that I don't think they want to become.

I keep saying to them – please comply. When they don't. **(It sounds like corruption.)** It is. Individuals at the HUD office have told me – they said well, we were told that Section 3 is going to have to take a backseat to disparate impact because the government wanted disparate impact to be finalized this had been a battle for decades with the Fair Housing Act. And they did not like the threat that would be posed by this case in St. Paul. So they took what they could to basically defeat the threat, but it was it was us that they defeated. **(Yeah, it was people.)** The rights of us and then we asked them to go back and investigate, they refused to even open that book back up. And so now everything they're doing keeps trying to shut down everything that we're doing – we took the issue with the audit of the state. The state audit basically says that I mean the auditor of the Section 3 program nationally said that the city was in violation. We got a petition signed by 2 national organizations and a regional organization, in Minnesota that asked the federal government to come in and investigate the Title VI violations. Not just here but nationwide. We said we have that problem here in St. Paul and Minnesota. Please investigate the Title VI violations, and please investigate the false claim allegations that this audit has revealed, and please take corrective actions.

And so the federal government was asked because Title VI says we can't sue the federal government unless we petition the federal government to enforce the regulations and they don't. We petition the federal government to go in and do what their regulations say – enforce your own laws. When they didn't do it, then we sent it to Congress and said – we have exhausted every administrative remedy we have. We have done everything we can to get the federal government to enforce a program that will alleviate some of the disparities in our country based on laws that Congress passed. So we are constantly feeding them with this information.

(It sounds very, very frustrating. So I just want to make sure that when I'm here today that I get to hear anything that you want from the state or any recommendations you have for the state because that's who's going to be looking at this particular report. What do you want them to do? What do you think would make a difference if they did it differently?)

The recommendations would have to go a lot further than any conversation today - because just – I'll give my example of what we did. When we set up the recommendations for that VCA, in this community we went to all of the agencies and community groups that we were partnering

with and said to them – give us program ideals, show us what we need for capacity building. We went to Washington and said to them – we want this precedent setting model out of Long Beach. They said we will do – we won't do lost opportunities but we will do capacity building. We came up with programs for capacity building, and that's what we would look at – something – a program that would take some of the very same proposals that we put for St. Paul and look at on a statewide level what it would do and what these communities need because the idea of it is to take that which has been denied those communities and return to those communities.

When I met with Commission Hardy yesterday, talk about our statement to her was is that these low income businesses, these Black owned businesses are being squeezed out of business – being starved to death because they do not have the resources necessary. Their capacity has dwindled down to such a level where we're losing even the experience of our community. That's a resource that we're losing. Our Black contractors are slowly being put out of business – so we won't even have anybody who can hire. So we need to build the capacity of our community to compete in the marketplace. And for that to happen, we need to look at on the level of the workers because we keep getting from the contractors, you don't have anybody trained to do the work. You don't have any contractors able to do the work. You have so many reasoning that they come out with. We're saying go back and mitigate those conditions or those concerns by bringing and building the capacity of those contractors and set aside work that they can do to help them to then qualify for even greater projects. So there is a lot of need. And the needs have to be assessed before we can say here's the solution.

(Well, the organization that you were working on training people in the area, did you think about trying to get state contracts with that group?)

We were going after – we at the time were certified in federal programs. We was part of the TGB program at that time, and none of those things brought any opportunities. I mean we were on the TGB list. I don't think we did DBE at the time, but we were definitely TGB. We were a HUB zone which is a federal designation. We were Section 3. We was VOP. So we had all these designations of being a part of these programs.

But the problem is within the programs, the programs may have good intent, but the program has to then target – as the federal law states, it has to show a compelling interest where they can now do race conscious programs. And so at the present, this audit should reveal a compelling interest by showing there is such a disparity that the government has not only a right but a compelling interest in addressing this issue. And so they must meet certain standards – Croson, Croson Decision and all of that that allows them to do a program that will then set aside work – or designate opportunities to a particular people.

At the same time, just as we're working with this office here, one of the offices here, but it's solar power. Other areas of new development interest when it comes to the new jobs coming in to the marketplace. We want to start looking at how we get people in to that. We need to begin to give them the training and the opportunities to get into it. But like I was telling Jamie – it needs to go from – and I'll compare it to this. One of your presidential candidates was talking about this new package, almost like a stimulus package basically is what she's talking about.

But it's an infrastructure package. Well, she's going and talking about redeveloping this infrastructure – fixing roads, bridges, etc.

Well, when all of that come out – we're not going to be able to compete because we don't have the capacity to compete. Our workers are not ready. We don't have any training in those areas. And so what they have done or what has happened is we have been denied opportunities for so long – that when those opportunities come, then we were shut out because we're not prepared to avail ourselves. But the preparation – in the first place, it was denial of opportunities in the past that has caused the disparity that prevents us being people who take advantage of any rule changes in the future.

So just like the old WPA program back in the day – they need to then set aside work for these communities. Set aside training, set aside job opportunities. In essence, target them with by meeting their needs and putting them in a position that allows them to get work done. So until the government goes back and looks at the impact of these past policies, the economic impact, then they will never identify what the needs are to get a greater or a better return on their dollar. You can't just throw a project at someone and say – get it done. And then used against them when they are not able to. You have got to build their capacity. Now that's only a drop in the bucket of what we are looking at. Even here when we try to get the city to do – that was our {too soft} program.

Right now we are using low power FM in this neighborhood to start using as an information network. Allowing people in this nothing to have programming that can then start targeting their needs. In the early stages, we just got the antenna up probably about a few months ago. But that's part of our discussion – how we can get programming in that can allow us to then target these communities with information on jobs, on contracting opportunities – and begin to then look at how we can turn this into an opportunity for the community to grow.

Section 3 has planning opportunities. You've got all these nonprofits who's been fighting for these communities all this time. But they don't get paid very much to do it. These programs – most of these nonprofits that have been in this building – we now have several. We didn't have any in this building at one time. While they are Section 3 businesses, they can qualify as a contractor with the city because Section 3 unbeknown to many had a planning component that says the city has planning dollars for all of these developments, for regional grants, for grant applications. Ask them which way and what it's going to develop, they should utilize these small business – I mean these CDCs in their planning process – and also use their planning dollars to supplement. They weren't doing it.

The cities, the state, we took part of that regional planning grant. We finally got them to pay us portions to do it because there's the planning grant that they applied for – the regional planning grant – they had two million or five million. Well, while they had the five million, all of it was going to go large businesses who was doing the studies and this and that. These community groups they would come to them and copy their information – go back and put it in their report. While at the same time – they weren't paying these groups. So these groups who are in the community doing the work, fighting for the people aren't getting paid, but they should. So

we've been saying to them these groups you need to certify the Section 3 business – and thereby use the planning grants and then start planning for your local community. Start planning opportunities. Look at what jobs are going to come in. You're going to build a new building? X number of jobs are going to come out of there. Fight for your community because Section 3 requires that the people in your community get their opportunities first.

(So again, this is back to the responsibility of the people to do the things. Anything else you want?)

The problem is the people – not only have not been educated on the whole thing, but the government have not been enforcing it. So even when we have pressed for economic opportunities one of the impediments is having enforcement or the law and regulations to be enforced by city, state, and federal government. The cities who have a requirement to do it – sign dollars – sign certified they're going to do it – so they are held accountable. That's why we filed a false claim law suit against them. They weren't doing it. The state the same thing. The state has a responsibility when they file or provide money to the city to make sure the cities do. The federal government is sending them money. Had a responsibility to make sure that they do. The federal government wasn't enforcing.

We got the federal government to deny the city \$18 million dollars because the city basically was not following their laws. So the federal government said yes, it is in our book that we can suspend funds. They suspended \$18 million until the city decided to come into agreement. But it was actually the federal government's intent, from what we have seen to set the city up into this great loss issue that they could do the quid pro quo.

So a lot of what they did they used federal laws to their own interest, but the people of the city suffered the consequences because it wasn't for the interest of the persons.

Since you're doing all this taping, that's why I have been going on and on. But as a whole I would say to you that anybody looking at the federal laws if you look at the federal laws and the failure to enforce the laws, that the state must comply with, that the cities must comply with, there in – the laws have enough enforcement tools to ensure that opportunities would reach these communities. But when those enforcement tools aren't properly utilized, and/or not – when the federal government doesn't enforce, when the cities, state don't comply – then they become the impediment. And that's what noncompliance comes back to the – the impediment becomes the agency itself. HUD had a problem where the CPD – Community Planning and Development department wasn't doing – wasn't compliant with Section 3 and wasn't enforcing Section 3. And while they weren't enforcing, the Section 3 office is complaining we are trying to enforce, but this whole department is not – OIG came out with a report that says CPD you need to do your job and stop hindering this department, FHEO. And so when the – the department becomes the impediment, what do you do? When the agency refused to enforce their own laws, what do you do? When you request an agency to enforce their own laws, and you petition them to enforce their own laws which we have done and they don't do it – then you go to the Department of Justice, Department of Justice says that you had a right to do – but now what if the Department of Justice says go and file a law suit. But simple justice says that we should not have to go to federal court to do that. That Department of Justice should do this.

We are now pushing the Department of Justice more, and that's what we're doing in this particular matter with this audit. We are simply saying if this audit is not thorough and comprehensive, then especially when we ask for these things, then we want that known. If the audit shows that this problem is – the Governor has requested it to do – show us what the disparities are. Then, the federal laws state there is a process to ameliorating these conditions. Fixing these disparities. And if we show it as a disparity, we show that there's a law that says how to fix it, and if it's not enforced, if there's a federal government doesn't come in – we're going to be pointing at that. If the federal government comes in and the state don't comply, then the federal government has ways of addressing it – removing funds, whatever. We want the laws to be enforced.

There's supposed to be a disparity study is what I gather. Someone was telling me that Fondungallah was the one who was doing it, but I don't know that to be the case. And one of my concerns was if he's using this because the disparity study also does an analysis of impediment. If he's using your words towards that, then that's actually against the contract –

(I doubt if he is. He has not ever expressed to me that I need to have a list of impediments or anything like that.) Well, if he's asking you to look at barriers, then that's what he's doing. The state is doing it because any information that's provided to the state, the state must not only record it, but the state must provide it to HUD and any agency – federal agency that they're sending or receiving funds from. That's one reason why we want your study to be thorough because this must go to federal agencies. They can't ignore this. Now if you don't put something in, then we say to the state – why isn't this information a part of?

Now while that becomes the case, the disparity study – as you're saying – looking at the disparities on the statewide level, I haven't seen the paperwork on that. But we do want to know what that is about to make sure that it is {talking together}. But we also want this one because this one is they look at the laws and the procurement – affirmative action and human rights. But those laws are not separate from the actions that go – the laws are designed to enforce which means procurement. Who is getting contracts? What's preventing them from getting contracts? The federal government, the state – and city entered into a contract to sell the rights of the people in this community. Why isn't that being looked at? Because we're talking about human rights here. If the rights of the citizens of St. Paul have been ignored, if they were traded away on a federal quid pro quo, then that has to be a part of the information that comes out in this audit.

(Is there a way that the state of Minnesota could support you in that case?)

The state – we asked the state to basically request the federal government to investigate the improprieties that we have identified. And we haven't gone so far as the personal so the state can fight my fight for me. They really should have because the law of the state says if there's any individual whose human rights or civil rights have been denied, then it's the responsibility of the state to fight for that individual for the rights of the individual or the persons. So we asked them to intervene. But also because it is a larger issue. You have a protected class of people who all of their rights have been denied, and you are now saying you are looking into what

denying them their rights – but you refuse to look at the clear evidence that Congress and HUD and DOJ had admitted to. But yet, at the same time, the people in this community have suffered under.

And so if there is a clear violation of the civil rights of persons, then the State and the Governor has that responsibility to not only champion the cause of those people but to ensure that their rights are protected. And so we ask that in our petition too. And in our information sent to the Governor and to this audit. But if they don't do it we have options. We may file a writ. We may do a number of things. But the issue of it is, we are asking that this audit be clear and transparent. Be comprehensive and include this information because we have provided it to it. And once it's in it, DOJ is supposed to act upon it. The state it will be in their best interest to act upon it instead of DOJ having to cause them to act upon it. So it can either turn into that same protectionism that the city got where all of these evident violations were there but DOJ refused to – HUD refused to and the city refused to. Will that same thing happened with the state is what we're looking at.

And while that's the case, we are not just sitting on our hands saying oh, well, if nobody do anything. If nothing else, we're going to build a case. And if we build a case, we're hoping that the state will do what it said. The Governor said that's what he wanted to do. He wanted to see what's causing this disparity. And if you see a cause don't just be a monitor. Do something about it.

(I think that's why they were saying they really want recommendations. In that meeting that was the most important thing from the interviews was recommendations.)

And we understand that auditors have the right to recommend – and so we put in our letter – some recommendations that the Governor do certain things and that the auditors put in their report – recommendations that these issues be addressed. We know that the auditors don't have the authority or at least the power to investigate things on the federal level. But we have shown them enough evidence that these things exist. I mean I have to get back with the auditors because I gave them information of – but I have not given them the documents, and they have not even asked for them.

Yes, but that's why I said to them – if you can't handle this – Governor if this audit is going to be too overwhelming for them, bring in the federal government now. The Ferguson case – Ferguson Missouri... - we talked with the individuals at Ferguson, talked with HUD down there, talked with DOJ. Let's see – I want to make sure that we're talking DOJ at that time. But basically, with HUD, we said to them – in Ferguson we got rioting. We just had rioting through 2016, '15, and you go on back for a number of years, we had rioting in this state based on Jamar Clark, Castille and others. We said to them, we have the same conditions that's happening in Ferguson and others. The federal government has a compelling interest to come in and determine what's causing this. Section 3 was actually first incorporated or first enacted by Congress because of the riots of 1968. When the Black community rioted, they asked the Kerner Commission – go see why. The Watts Riots – you know, national, remember '67. And so the federal – the Kerner Commission comes back and says because lack of opportunities. The Black community doesn't have jobs, doesn't have opportunities to advance. Economic opportunities

have been denied to them. So lack of economic opportunities, racial discrimination and police brutality are the 3 main reasons why these people are rioting.

We said to Congress, we said to HUD, we said to the state – basically you got the same conditions once again. You got rioting in the streets. You got police brutality and we got racial disparity and racial discrimination. You got the same conditions that required that Section 3 be put in place to give these people opportunities, to make them a part of the community and a contributing part – not just – someone who you receive tax dollars on their behalf, but also contributors to the tax base. And while they are contributing to the tax base, they should also be able to benefit from. So Section 3 was enacted for the same conditions that we are under and we've been asking them...that's why we keep focusing on Section 3. Section 3 has a lot more solutions for the state's problems. If they would but look at it– I see different departments trying to do this, DEED, DOT. But while do they keep trying to nibble away at this, if they would just look at what Section 3 is providing, they can then do the opportunities.

Let me give you one more, and then I'll try to shut my mouth for a second. The money that's coming to HRA for instance – and I was telling Commissioner Hardy this yesterday. While they're looking at jobs, they're looking at police brutality – or they're looking at the factor that the disparity in police departments – very few people in their being Black – Blacks have lack of opportunities. The federal grants for housing authorities has over the years changed to allow them to use HUD funds to actually pay the police department to do policing on public housing properties. So most public housing authorities utilize that grant for that.

Minneapolis did theirs differently. They used to do it too. But they did that differently. I'm going to combine the two. First off, because they use those HUD grants, if the police department – hire to do policing on public housing properties, the police department is supposed to comply with Section 3. In 2013, thereabouts, that determination was made for New York. Basically, New York was getting \$750 million dollars that was going to the police department to police the housing authorities. HUD finally after complaints and requests – HUD finally acknowledged that police department – you were supposed to comply with Section 3 – which means the police department should either hire low income persons from those communities and train them or hire contractors from those communities who will provide security.

Minneapolis used to provide – use the police department to provide that security. Now Minneapolis actually let out a contract to security companies instead of paying the police department. They put out a contract – an RFP and security companies come in, apply – submit their bids and thereby they do the security. This provides individuals in that department – more people to the police department who can then be hired because you train these individuals. They have to have certain training before they can do security.

So this is a way of creating jobs that will then create opportunities for them to then be a part of and to change the look in that community from a White police force in a Black community – to a Black community for people policing their own issues.

(Brilliant.)

There's so many ways that Section 3 can address these issues. But they're not being complied with and so HRA has that same issue. They're on the list of being a large contractor with HUD when it comes to Section 3 properties, Section 3 covered funds. But yet at the same time, you got metropolitan police running around – are you using the Section 3 dollars to pay them to do it? Who is doing the policing and who from the communities are getting the jobs? So that's what we need to do – is start addressing how do we get the people in the communities to stop being – stop using them as a resource for getting money and start allowing them to participate in the tax dollars that you are being allocated on their behalf?

Basically, like I told somebody – now I'm not going to get into the Fair Trade issue – we'll get into that another time. But the overall issue is this is how you create opportunity. This is how you change the disparities. This is how you help people because this money has been going back out to the suburbs, and these communities are nothing more than a place for people to come in – nothing but a plantation. Because you've got all these people who basically their worth to the city is to get more money to continue doing the same thing for them. We need a roof put on that house over there. That's a Section 3 property. Okay, contractor come and do it, but the people in the community don't get a chance to do it. If this is going to be a place where money is spent and generating money through services, then people in the community need to be the one who benefits. **(That's so smart.)** That's what we need.

(You talked quite a bit about procurement and affirmative action areas here, and you haven't gotten really specific about human rights. You just talked generally about human rights, but in your experience, I'm real curious like if people have human rights complaints and they – yourself and others, want to file them – what happens? What is that like? What could be improved?)

When it comes to the state, I've not done – human rights complaints directly to the state. Now as sub recipient of the state, I file complaints with the city or hmm, I was trying to think do I do anything in Minneapolis? Minneapolis we didn't file complaints. We just went to them directly and began to see that they were in noncompliance, and they voluntarily said we will come into compliance. So they gave us X number of years now. I know that they still have some problems. I'm talking in areas where I was working – Section 3 in opportunities. But they have taken a more proactive role than the City of St. Paul did in the areas or issues that I had.

I know that the - let's see how do I want to do it? I almost want to extend back to the US Commission on Civil Rights. That was back in 2011, 2012. 2012 I think when we gave testimony to that commission. I would go back and take a look at that report that came out. It falls in the purview of where you are now. There was a number of us and others who gave testimony there. There's a study out – a report that came out that will probably help you. Especially if this is going to be a true review of the human rights program, then those testimonies, like I said, falls within your timeline and is surely fodder for your study. We did give testimony there, and that was 2012. But I know there's a host of others who may help to fill some of your numbers. But it is true that... let me not go no further in that direction.

Like I said when it comes to actually working directly in the human rights or civil rights complaint process here – our – most of my actions have been on the federal level – and reasoning, the federal Section 3 program, the federal civil rights laws are incorporated into the state laws. So the same applied, and the state has the same duties. While they do I can – I won't in any way seek to try to respond to the state's response – other than the lack of response. As I said in our – in the submittal that all of those things that I allege, all those things not only allege but has been proven in the congressional report proved out – all of those things happens under the shadow – right here in the state. So the state's human rights department never intervened.

The Human Rights Act does give the commissioner the responsibility or at least as a duty of his to investigate evidence violations of human rights. And he is to be knowledgeable of the federal civil rights laws that are also incorporated into his state laws, human rights laws. And so once he saw those violations against this whole community in St. Paul.

(Who is the commissioner right now do you know?) I want to say Lindsey. I got a feeling it is. **(I'll look it up.)** Okay, but the bottom line is - I should almost be able to spit that off my tongue, but that's alright. Bottom line is that while all of this was happening and all of this was in the press, it was in the newspapers, it was in the – in Congress, all of this was quite evident that this was happening in the state. And there's no way you can be an attorney and not see the improprieties. You can't work with the state and not see something happening in a community. And not allow the knowledge that you have of the Human Right Act to kick in to say that's got to be a violation.

But it turned into a lot of what I call protectionism. Everybody turned their head. Everybody just basically it was like a democrat vs. republican issue. The republicans seemed to be the one who was championing for us to say well, do you see this happening? But the whole issue was based on the federal government wanted this. The republicans didn't want the democrat's nominee to become the secretary of labor – so they fought on their behalf. But who fought for the rights of the people? And so even when I went before Congress, my whole point to them, I had no problem against disparate impact. I'm Black. Been there, done that. Suffered too. But while that being the case, I had a real problem with what you did to this community in the name of disparate impact. You can't just turn around and deny us all of our opportunities. We had fought for so much – the HUD had promised so much – I would just, the VCA that we got – HUD turned around and when they leveraged that VCA they took everything that we had fought for and traded it and then took everything. We had went to the next stage of saying we're going to take this money and use it. HUD said you will be made whole through the qui tam case or the False Claim Act case, and they leveraged that. All of the congressional reports shows the conversations in HUD and other places as if they knew. They just said what are you going to do for the relator? His attorney has to be paid. We're looking at the issue that the attorney had gotten paid. Because in one sense the attorney basically trades away but in another we see where I got attorneys here – who I ask for my records? They basically said he said - I mean his records don't show that he represented me in the false claim act case. Over a 3 year period. And they didn't - the attorney out of Washington was not listed in their records.

So it's like okay all of my rights – but my rights wasn't just it. My rights and what I'm fighting

for have been traded away. And the federal government is basically turning their head. The state is turning their head. It turns into a political issue. And I keep pointing to you the civil rights violations. So to me, the state's Human Rights Act had to have been kicked in or being half applied. And we're asking them to apply it at this point. We're saying even if somehow you missed this – we just put it on your table. And civil rights do not have a time table on it. Any investigation of civil rights violations are supposed to be investigated upon knowledge of it. And so that being the case, like I said, this audit has the potential of being damning to the state – as well as a catalyst for getting some changes. That's why we keep saying to the Fondungallah Group – we don't want you to play with this thing. You don't turn around and ignore these issues. We're putting them out there. We're going to ask to see your records where you have indicated that you received this. If you received it, then the state must respond to it. The state must pass this information on to the federal government because the federal government says that they must receive all civil rights violations and that they must record them. And if upon any audit that must become part of federal record any time – they apply for funds, they must be taken into account. The risk factor of whether or not there's civil rights violations in the past and whether or not this group was considered a high risk for civil rights violations. So and the problem for me is that somehow we didn't know this, and it's been going on all the time. That's what bothers me.

It isn't the passion of wanting to do this, but it's like, people knew this. They knew... somebody decided, well if they don't know, we won't tell them. Which means, I can imagine how many more things we don't know about, that's going against us? It's a sad thing when, and I know, somebody else was protecting their interest. It is with in their interest, that their money continue to flow that way, but they don't see the greater good.

It's not just about me, I wasn't just fight for black, or for white. It's people who needed opportunity. We went to the unions and said to them – according to Section 3, and they say - oh, no we're Section 3 now. We just got through going through the same recession that you all did so we can qualify. But the benefits are, we're going to take care of the billing benefits. We're still not going to give you anything. But the issue becomes how do you then fight for something where individuals are doing – protecting their self-interests? We're at a point now where all of a sudden, the labor force is changing. Most of the white contractors and their families and members have gotten older. They have less on the labor force that was getting into construction. But there's no guarantee that the black community is going to even get into that because we have been stigmatized to say they are non-working. They are lazy. They won't do. And I know people who have gone out and fought years trying to get in on projects. Get maybe 3 months out of the year worth of work.

People sitting on the bench and wait until – last hired, first fired. And then at the same time – expected to stay in that industry, you can't even keep your skill level up. And soon we lose those resources. And so others will now be put in because nobody will ever admit that we did this to you so you'll be labeled as Blacks who basically won't work, don't have the skills, and so we're going – we're bringing in Somalis, we're bringing in Native Americans – we'll bring in anybody else, the Asians, anybody else – they're great workers. But the truth of the matter is you can't keep fighting something and at the same time nobody answering the call. And sooner

or later you give up. So it is. It's a big issue. And as such – the thing becomes how do you address this? And like I said this audit and things like this – I mean it's a great thing the Governor is doing it. But hope that he don't bow to the pressures that we hear coming from every other group out there that's trying to shut this thing down. And that Fondungallah and his group don't turn around and just hand something in real quick because everybody I keep talking to – I keep saying to them – you got to scrutinize this thing. You got to take a look and see – I heard people saying – they got to drop out on the board – on the working group.

They say, we put issues before the Governor's office and they won't even acknowledge them, things like that. So if that be the case, I say to them – you need to stay in there because this audit has the potential of being read by others and presenting at – making a presentation that we got to be able to use whether it is good or bad. If it's bad we point out how bad it is.

Yeah, the first day – when – before the Governor and we were there we had a houseful. We had NAACP from across the state. We had a whole houseful of people who said they were there to support and work on that. Ever since then I see the numbers dropping. That's a real problem. I have everything – most of the things that I provide to the working group, I mean to the auditors, I try and include the working group just so they can be aware of what's going on because I don't want someone taking stuff and hiding it. I haven't just made accusations that I could make. But I'm trying to work with the working group and work with the state – in a way to allow them to see what it is that we can get out of this and what we're looking for. If there's improprieties like somebody said yesterday – if there are improprieties, let them come out. Let it be. Let the state deal with it. But if the state don't want to deal with it, then we got a bigger problem. So, transparency is part of what I am asking others to do, but they're also staying engaged.

I'm hoping that they'll also go ahead and consider the request for congressional intervention in this thing just because the issues arise to that level anyway. And since they rise to that level – bring DOJ in, and then they can, because they can't investigate the HUD issues or the Department of Justice issues on the disparity that happened to our community based on the quid pro quo. They can't investigate that here other than the state's participation. But if they bring HUD back in or request HUD and DOJ to come in, then they can include that – consider the disparities



Profiles of Participants:

Working Group Members: N=9	Women: N=33 Men: N=26
State employees: N=16 City Employees: N=4 Human Rights commissioners: 3 Contractors or Contractor Reps: N=8 Social or Community Service: N=22 General Population: 8 including 2 of the HRC	African American: N=17 Somali and other African immigrants: N=4 Latino: N=4 Asian: N=3 Native American: N=3 White: N=27
Person with disability: N=2	Works with people with disabilities: N=6