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SUMMARIES OF TESTIMONY AND AFFIDAVITS

Appendix to

**"A FOOT IN THE DOOR:
ENSURING FAIR MARKET ACCESS
FOR FEMALE- AND MINORITY-OWNED BUSINESSES"**

**Report of the Minnesota Legislative Commission
on Small Business Procurements**

January 1990

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Report & Appendix (2 parts)

ST. CLOUD HEARING, NOVEMBER 18, 1989
(summarized by Marilyn J. Taylor)

ART GAHBOW, chief executive of the Mille Lacs Lake Band of Chippewa Indians for 17 years. Testified to discrimination against Indians, barriers to businesses, and need for set-aside program.

80 percent of band's businesses have failed; they were developed as means of relief to 42% unemployment. No businesses operating currently. The businesses have encountered discrimination. Did operate an electronic assembly plant and a construction company. Construction company did not get bids for construction. Heard bad things about its work, but it was a problem with the specs. Electronics plant was assisted by IBM and operated for 10 years.

Neither assembly plant nor construction company was in state set-aside program. Failure was lack of capital. Plant had BA contract with government to make harnesses for tanks. Federal inspector okayed, but Chicago inspector decided differently. This happened because they were Indian. Construction company operated as regular general contractor for 3-5 years. Federal agencies said it didn't meet qualifications or deadlines, but it did meet them. It built the Fleet store in Brainerd.

Discrimination not expressed as directly as supreme court requires in Richmond cases; ct decision misses the mark. Discrimination is out there, look at the situation in Wisconsin where people held up signs saying, "Save a walleye, spear an Indian."

Without set asides, chances of success are greatly reduced. Outright bigotry exists, but is only one form of discrimination. Subs and contractors are selected from a small network of people. All affirmative action seeks to accomplish is to expand this circle. Everybody benefits: businesses have more qualified applicants to choose from, Indians get jobs.

Suggestions for a fair policy: 1) continue work of commission in documenting discrimination; 2) define economically disadvantaged firm using race as key factor; 3) allow flexibility in meeting of affirmative action goals; 4) state should hire subs directly; 5) state needs to be involved in assisting more minority firms by making capital available and by reducing bonding requirements or assisting in obtaining bonds.

JACKIE PRIGGE, WBE chair of Mn chapter of National Assoc. of Women in Construction (NAWIC), materials supplier for three years dealing in fiberglass, metals, toilet partitions. Business based in St. Paul, certified with state and MAC. Member of NAWIC 10 years, WBE chair for 3. About 50 members in state. Testified to discrimination because of gender, loss of business since Croson.

Feels she's been harassed. One contractor said he didn't want to talk to or deal with a woman. Said she is not respected, talked down to. Has had bid taken back when it was discovered she was a woman. Finds general discrimination against women. Doesn't get responses from general contractors when she bids; she had to call them, but doesn't feel harassed by this.

She's lost half her business since Croson decision and set asides suspended. There's also been a decline in getting bid information; Builders Exchange doesn't have list of bidders any more. No change in way contractors have dealt with her since Croson. Seems like her bids were high, that's what they've told her. She's gotten her contracts through certification and advertising.

She's a member of the AGC and thinks they've hurt minority businesses with negative articles about preference, etc. Croson not discussed at AGC meetings, but they did have seminar about it before they filed against Minn. and went into it fairly deeply. Some relationship between NAWIC and AGC, implies NAWIC members may feel inhibited in filing affidavits with commission because of this connection. Feels AGC might withdraw support if women came forward. Thinks there's no more than 10 women in AGC, doesn't know why not more. She got a scholarship to join three years ago. Does not know if that program still exists.

Difficulties in getting paid, feels it could be connected to being a woman. No problems with suppliers. Financing a problem sometimes, but no more than anyone else.

RITA GOODMANSON, certified in 1986 as audio visual and sound equipment businesses, later insulation. Testified about certification problems with Dept. of Admin.

Got order for color tvs for SCSU. Two weeks later, got call from buyer that Don St. Claire, minority businesses, was "tearing place apart and demanding that bid goes to him." Then Ted Pegues called her in and said that St. Claire had charged that she was fronting for supplier. She was then told she shouldn't ship the order, that they were taking the bid away. Then Pegues told her to go ahead, it would be ok. The head of the U of M procurement called and said St. Claire was threatening if she was allowed to bid. Her supplier said it had been warned by St. Claire not to do business with her. She asked five times for copies of bids from the state but was told nothing was being bid. Did not believe this. Next, got letter from Dorothy Lovejoy about the Small Business Procurement Advisory Council saying that at a meeting of the council, St. Claire had raised the question of her certification, said she was a front. Pegues didn't know the letter had been sent, nore did Haggerty. She then brought a lawyer with her into a meeting of the council. Was told that there was no quorum at the previous meeting and no minutes of that meeting. Haggerty told her this was wrong and would be corrected. Her attorney wrote haggerty requesting a response and appealing the council's decision. No answer was given. U of M took her out of its program, and the supplier refused to do business with her.

Lovejoy, manager of customer and vendor services, DOA: explained that St. Claire had found small part in rule that forced removal of Goodmanson from program: either had to carry inventory or have agreements with manufacturers, otherwise would be broker and not eligible for program. As far as known at the time, Goodmanson had them with distributors. The AG gave ruling that said no go unless agreement with manufacturer. Rule is unfortunate because small businesses can't get contracts with manufacturers. One of St. Claire's charges was that Goodmanson was a front. When that was found not to be case, he jumped on the other provision.

In construction work, insulation, was first woman Opus ever put on the job. Man had fit when he found out person he had contracted with was woman.

Women shouldn't get business just because they're women, they should earn it. But they should get the opportunity. Women have more requirements placed on them than men do.

KAREN RETKA, owner of Karen's Electric, Waite Park. Electrician for 6-7 years, has master's license and contractor's license. Only been in business about 1 year. She was certified just before set-asides ended. Testified to discriminatory treatment by school board and others.

Couldn't get answers from anyone. Had to learn on her own. First time she bid was on a rehab job at a school; it was thrown out because she didn't have bonding. So she went to bid on bigger project. Was lower bidder on school in St. Cloud in early spring. Had bid security in a cashier's check, but didn't know about bonding. When she tried to get bonding, she was told she just couldn't go into business and get big jobs. She was told you don't do things that way. But she felt that if she could qualify, why couldn't she bid on these projects.

She was really low on the school job but felt comfortable with it. She knew her competition. Once she was awarded bid, she had to come up with a performance bond. She went all over, called everyone she could think of it get one, but couldn't. Before this, the school had asked if she was comfortable with the bid. The architects also called and asked if she realized this was a big project and she has no experience. They asked if she was able to get a performance bond. The construction manager called her sometimes twice a day to ask if she could handle the job. Then he told her she had three days to come up with bond. The bid book said she had ten days. In attempting to get bonds, she gave them her financial statements. She also gave them her father's but they told her he would have to have millions in cash for her to get a performance bond.

Architect called each day to ask if she was got bonding. She looked everywhere but couldn't get it. She knew she could lose the cashier's check for \$17,000 with her bid. But they told her they'd return the check if she signed a statement withdrawing the bid. She felt that if she pursued this, her name

would be mud in the community. She felt she was being told you don't make waves; you can have the small jobs but don't step in their territory. Architect and construction manager said it was only fair to the next bidder that she withdraw. She was pressured and wishes she would have taken it to an attorney.

Gender is an issue. Suppliers want to know exactly what she's bidding on. She feels some suppliers may be getting pressure not to give her good prices. She gets small contracts, but has trouble with bonding and financing and supplies. She also has trouble getting electricians to work for her. General contractors didn't take her seriously when she first started.

It was hard to get credit from suppliers. One company would give her prices above what it was charging others. Suppliers found out she was bidding on the school and called her. That's how she found out how the prices were so much different. She feels that if she stays small, they'll leave her alone. There's no room for her to grow. She only got financing because her father co-signed and has been doing business with the bank. She's trying to become part of the contract network--the old boys club--but thinks it's going to be a long time coming. Very cliquy in area. Even when she was an apprentice, she had to work twice as hard as a man. She had to prove all through it that she could do the job. For example, she was expected to carry a ladder by herself that normally two men would carry. She got her journeyman's before some of the men, who were upset. They told her she must have gotten it because she was a woman. One man said someone must be helping her. She heard the same about her bidding.

ANNETTE JOPP, owner of Security Shredding, St. Cloud, started 3/1/88. Complained that county bought shredder and gave work to another company (apparently a sheltered workshop supported by United Way) instead of contracting with her company. Had problems in getting bonding because of sensitivity of business, but no problems because of gender.

BEMIDJI HEARING, DECEMBER 1, 1989

(summarized by Marilyn J. Taylor)

DARRELL WADENA, chairman of the White Earth Reservation and president of the Minnesota Chippewa Tribe. Testified that biggest problem in economic development is that Indians on reservation cannot get financing. Complained that White Earth lost WIC program to county because of state regulations; also complained about potential conflict of interest in coordinator.

Regarding economic development, biggest problem is that "people who have the initiative and knowledge to go forth with an enterprise are hampered by the fact there is no way they can get financing." Banks won't buy into risk situations. He did not know the number of businesses on the reservation, but cited one person's failure to start a pizza parlor because she didn't have \$3,000.

White Earth is involved in building the HUD housing on the reservation. The tribe contracts with local contractors to supply labor--roofing crews, etc.

White Earth has had WIC program for 14 years. Now community health organization in Polk County gets priority for WIC. Have to have 30,000 population to have program. Wadena said this is discriminatory because reservation does not have that many people. Polk county Community Health Organization got the contract. Counties can form coalitions to meet the 30,000 requirement, but reservation can't do that. Also, community health organization is counted as organization in itself, even though it works for the county. That results in organization being considered as 100% health related. State says White Earth can't qualify because the tribal council signs the contract. Under this, the health function is then considered only 28%. Wadena feels this is discriminatory because criteria set by Human Services automatically disqualifies reservation.

Their coordinator, Steve Engle, came to White Earth and asked if they wanted to help Indian population only. Wadena said they didn't feel it was appropriate that he approach them in that light. Engle also helped Polk County and White Earth fill out applications. Wadena feels this conflict of interest spelled their defeat. White Earth has appealed ruling to administrative judge and feel they will be eliminated because of the law. The reservation's 14 year track record is not recognized. Wadena has not contacted legislators because wants to see what happens first in administrative process.

MIKE KINGBIRD, small business consultant with the Bemidji Area Indian Employment Council. Testified to problems Indians have with getting start-up capital and with employment. Economic conditions on the reservation forestall potential entrepreneurs from getting capital to start their businesses. Without a set-aside program, there are probably quite a few Indian-owned businesses that would go under. Within Bemidji, there are 11 to 12 Indian businesses, many in logging.

Last year, BAIEC got a one-year grant from the Northwest Initiative Fund to help potential Indian entrepreneurs in a 75-mile radius of Bemidji. Originally, they had 23 clients; those were narrowed down to five that looked like they had excellent potential for succeeding. Only one was able to put together the funding, and he did that only with the help of the Minnesota Chippewa Tribe: this logging trucking business in Red Lake got funding from Red Lake (25%), he had 25%, and bank came up with 50%. Not all of the 23 were at the point where they had business plans; all 23 were Indian. A lot of them are still interested in starting a business. Of the five he worked with, one would have eventually bid on SED contracts.

Basic problem is that each individual had to come up with between \$5,000 and \$10,000 to get the business off the ground. A lot of them approached area lending institutions but came up empty. They had strong business plans. But without that initial capital, chances are real low that a business can get going.

He described one individual who was going to start an upholstery shop in Bemidji. He had 14 years of experience on White Earth with the same business. There was only one other upholstery shop in Bemidji at the time and it had burned down. Kingbird helped this person put together a business plan, and the

individual then had to come up with \$4,000 to \$5,000; he couldn't get it. Kingbird believes this stems from being Indian.

Financial requirements are the same as for other businesses, but the problem is that most of these would-be business owners are coming from the reservation, where there are no job opportunities so they can't get the money to start with. Unemployment on Red Lake is 80 - 90%, and the poverty level is 3-4 times greater on a reservation than off. Obtaining financing is a greater problem within the Indian community.

Bemidji is a hub surrounded by three big reservations. If they can't find work here, they could be affected by discrimination. Finding work is key for the entrepreneur. Indians are being excluded from some of the higher-paying low-skill jobs in town. He cited the example of UPS, a major employer in town that didn't have one Indian employee. The union also was excluding Indians. The BAIEC contacted UPS's Mpls office and got one Indian hired as a driver. Jobs would come up in UPS but they wouldn't be advertised. Head office ended that practice by making the local office advertise jobs. "We were an Indian employment service, and this was a major national company" and they wouldn't tell the service about jobs, Kingbird said. Indians can't get jobs they don't hear about.

AL GOODWIN, owner of Al Goodwin Construction; he's out of business now. Testified to importance of set-asides for staying in business and forcing large contractors to work with minority businesses. Also testified to discrimination against Indians.

He left contracting and went into retail in Bemidji. He then found that a lot of people didn't want to buy from him because he was Indian. He said he couldn't be more specific because he lives in this town and his business is here.

As contractor, about 90% of his work was through MnDot set-asides. The program as it stood before the 1987 change was a very good one that helped him a lot. Had it been an open market when he started, he doesn't think he would ever have gotten a job. "Free market is not going to take care of small minority businesses, absolutely not unless they have a lot of money in their pockets."

If set asides had stayed the way they were, he would probably still be in construction. If it hadn't been for set aside, general contractors would never have sent out notices to him, he said. A lot of contractors don't like to be told they have to use a subcontractor. Without a program, they're not going to do it.

Up until 1987, he did business with a general contractor in Fergus Falls called Mark Sand and Gravel. When women and minorities were combined in set-asides in 1987, Mark Sand and Gravel started doing business with a woman-owned firm in Fergus Falls. The woman-owned firm, Lampey's, has been owned by a woman for many years, yet she is considered disadvantaged. Since the two groups were merged for setasides, woman have predominated in getting projects. He said they might have been getting 10% before; now they're getting 50%. He thinks minority contractors should not be thrown in with women, since they do compete. Feels there are fewer slices of the pie this way.

Other problems: when he was listed as a general contractor with state procurement, he attempted to bid on a roofing job but the director of the program would not let him, saying a general contractor was not qualified to do roofing. Goodwin, however, had done roofing.

Good faith efforts and late bid notices: He would get letters asking for quotes three to four days before the job was let, not enough time. A couple of companies habitually gave late bid notices. Didn't tell them about this because the mentor/protege philosophy came about about then. He would bid these but never got a job. The guy who did all their work--the protege--always got the work. The mentor/protege concept killed it for him.

Contractors also would tell him that his bid was too high, that they could get bids from nonminorities for 10% less. He doesn't know whether they did that because some of them did the work themselves. When asked if he was ever forced to lower a bid, he answered that when you're running out of work, you

negotiate with a contractor and hope it comes out in the end in your favor. Five percent could throw a job his way sometimes, but other times it didn't mean much.

He couldn't say whether contractors sub shopped, although he suspects it happened. Shopping is normal in the construction businesses, but he doesn't know if it's bigger problem with minorities.

Higher prices from suppliers also reported. Contractors would tell him he could have the bid but they would buy the materials. He thinks this is probably because of the price differential, being a small contractor. He couldn't say whether it was the result of discrimination.

Being Indian was disadvantage. Indian contractors didn't have a good track record, he said; stereotypes probably ascribed to his business by suppliers and government. Ninety percent of his employees were Indian.

He had problems with start-up capital, but never attempted to borrow any money. He "worked out of my back pocket," which is a disadvantage. He never had bonding, because most of his jobs didn't require it.

Several things would strengthen a set-aside program: support in getting bonding and operating capital, and make state look at line items and set standard costs for them.

GARY FRAZER, executive director of the Minnesota Chippewa Tribe. Urged reinstatement of the set-aside program.

The tribe has had a small business program for 14 years. About 60-70 Indians in the state qualified for set-aside program. Tribe's procurement goals were pretty high, and used set-aside dollars to help achieve these goals. Since March 1989, noticed the loss of set-aside has really affected these goals.

He was involved in the set up (with federal govt) of a small business program for all minorities in Minneapolis, but lost it because couldn't meet procurement goals. Procurement goals were set by the U.S. Commerce Department, among many other goals. Because the set aside programs were in place when this project began, they thought it would be easy to meet those procurement requirements.

Minorities have lost since the end of the set-aside programs. Without set-aside, big companies will keep getting big and small business will suffer because they can't compete. Set asides allow minority companies to compete more successfully. Would like to see time frame for participation tied to profit; once company is on its feet, it should get out—that should happen if program is working properly. Five percent bid differential would certainly help without being too big a difference.

Successful minority companies on the reservations help the reservations and other minority companies by providing employment and establishing track records with banks, general contractors. The effects on the general community are positive, too.

DOUG LEMON, owner of Express Business Services, and president of the American Indian Chamber of Commerce. Testified about difficulties in obtaining financing that he feels are directly the result of discrimination.

When he first started his business, he got a loan approved with no difficulty. Then, six months ago and 3 years after starting the business, he needed expansion money--was getting the first AT&T franchise in the state--and went back to the same bank. The banker he had worked with had gone to another bank. The president of the bank kept putting off appointments Lemon made with him, then when he did see him only gave him five minutes. The president wouldn't return his calls, wouldn't work with him. Sonja Tanner of Mn/DOT called the president, who then said that if Lemon could get MCDA to guarantee the loan, he'd do it within 30 days. MCDA (Iric Erickson) would guarantee 75%. He never got a straight answer from the bank. His wife, who is white, went in and got a warm reception at the bank until they found out it was Lemon's businesses. He was told it was a long-term working capital

problem, so he said he could restructure that. Again, the president still wouldn't return his calls. AT&T was waiting, too for an answer. Lemon also worked with MEDA (Metropolitan Economic Development Agency) on this. The president finally said he couldn't give Lemon the loan, so Lemon asked him why he had taken so much time and hadn't said so right up front. AT&T also thought it was a racial problem. Lemon never got a clear answer why his loan application was turned down. Another person took Lemon to a bank he knew at Norwest, which got the loan deal done in a week. Lemon feels he was discriminated against because he is Indian. He asked the bank for a written statement of the loan refusal, but he never got one.

TERRY HODDER, owner of Eagle Contracting, in business for six years. His work force is between 30 and 35% minority. Outlined problems with suppliers and need for a set aside program. He believes enforcement needs to be better, both in set-asides and prevailing wage.

Set-aside program gave him an incentive to go into business. He probably would have started it without a set-aside program, but the business wouldn't have been here now, he said. He never had a job where he was the low bidder. The program set up contacts with people, opened the door for him. For first 2-3 years, set-aside was a major part of his business, which was trucking. Then women and minorities were merged and he stopped getting calls for trucking. MnDOT procurement is now about 15% of his business. He thinks women contractors are fronts. He didn't know about minority businesses, but said there are a couple of them used extensively by contractors, implying they might be fronts. More enforcement against fronts is needed.

Without set-asides, major contractors aren't going to contact minority subcontractors. Set asides are probably necessary for minority contractors to keep them going until they get some strength. There are now about six minority contractors in his area, and there would be more if there were no discrimination. Set-aside program helped to alleviate this to some extent.

BUTCH GORDON, president of Gordon Construction. Encountered many of the same problems mentioned by Terence Hodder.

Ten percent set-aside didn't work for him. He was always too high or not known by the general contractors. He's trying to become a general contractor, instead of a sub.

Higher prices quoted to minority contractors is discriminatory. It's known in the business that certain contractors get lower prices than he does. This is because of competition, he thinks. Pipe salesmen claim they quote everyone the same, but the prices he gets are higher. The bigger contractors get a break on material, but he doesn't know why.

3-4 years ago, a culvert project was set aside for minority contractors. Eagle was the only bidder, but mistakenly sent back only part of the proposal. The bid was thus thrown out, and the project went on the open market. Eagle had bid around \$80,000 because its pipe price was \$68,000. When the project went on the open market, it was let for \$60,000 (with \$50,000 for pipe)--a total lower than Eagle's pipe price. Supplier knew it was set aside for minority. Eagle did not quote the project when it was on the open market, because Hodder was offended when the pipe price came out lower.

Enforcement needed on prevailing wage. In trucking, payscale of \$18-\$20/ hour with another 35% for benefits, so it's up to \$27/hr. Somebody's lying on these certified wage reports. He followed the prevailing wage but says that others wouldn't be in trucking if they followed it. Under prevailing wage, he pays fringes directly to the employee, thus he ends up paying more than a union contractor has to. Wages are \$20/hr in Duluth but in western part of state where he's from--"it's like the Bangladesh of the state"--it's \$6-7/hour.

He believes that set-asides is the only way minority contractors are going to make it. "I know it's against the capitalist system, but at 10%, 5%, we'll never make it."

He's had many problems with financing and bonding, but same problems every small business has. He's

had about ten bonding companies and has never failed on any job. He has had business problems because of being on the reservation. Cited case of buying a backhoe from a New Jersey company that got concerned about collecting when it learned the equipment was being sent to a reservation. Bonding is a big problem. Payment is also a problem because of cash flow. Payment for delivered materials is prompt, but payment for labor is not made until they are three months done.

DULUTH HEARING, DECEMBER 2, 1989
(summarized by Marilyn J. Taylor)

LIL STOCKE, owner of realty company. Testified to discrimination because of gender by financial institutions.

Cited gender discrimination going back to 1962, when she started teaching: a male head of household got \$50 more than anyone else. Female heads of household were not qualified for the extra money. Plus, district paid insurance for male head of household, but not female. In 1974, started selling real estate. Did well and knew she was equal to or better than the men in the office. When she went to get credit, though, she was told she couldn't because she was a woman. When selling for another company, she applied for a manager's post. She was told they didn't want a woman as a manager, that others in the office said that. She didn't get the job and asked the others in the office, but they said no one ever asked them what they thought.

She started her own business in 1980 and did well, but some said the reason for that was her husband. Two years ago she applied for \$36,000 loan from a bank to buy some property. The loan committee said they would do it but only with her husband's guarantee. She objected. It didn't ask for the guarantees of the spouses of the two male partners in the project. She said that if they didn't give her the loan, she'd do something about it. In the end they gave her 1/2% better interest, but she felt she was put in a minority category. And that "sizzled" her. She wanted to be treated as equal based on capabilities. Since then she did get a construction loan to build a house on some property.

There are not a lot of woman-owned businesses in Duluth and she doesn't know how it may be for them. About 20-30% of the Chamber of Commerce is women. Stocke is a past director of the state association of realtors where, until last year, there were no women on the board.

ODIE POWELL, equal employment opportunity officer for the city of Duluth. Testified to general job environment for minorities, women.

MARY BODIN, owner of Accounting Systems and Professional Employment, which provides accounting and recordkeeping systems and temporary employment of bookkeepers. Worked with similar business for 10 years, then went on her own after legal battle with employer for whom she had worked as a distributor. Testified to discrimination in lending, purchasing because of gender.

When she went on her own, banks didn't count her ten years of experience. After the settlement of the legal battle, she needed \$10,000. Visited two different banks. First loan officer made her feel like an idiot by demanding that she put up all her jewelry as collateral for a loan and not treating her as a professional. Another bank was going to give her only part of the loan until she said her father would cosign, then it was no problem.

She also called on a couple of city officials, seeking business, and felt she was treated like "go away, little girl." One bank didn't believe she was who she said she was, had to call one of her clients for verification. She believes this treatment was because she's a woman and a young woman.

CLAUDIE WASHINGTON, purchasing agent for the city of Duluth. Testified about city's set-aside program and effects since Croson, including sharp decline in the use of WMBE contractors.

The city implemented a WMBE program in 1986 by administrative order, not legislation. Before then, city did very little if any business with MWBEs; it didn't have a way of identifying those businesses. Program was approved in August 1986 and came about because of pressure from the feds, basically follows federal program. From then through the end of 1987, \$349,678 worth of contracts went to MWBEs, and \$1.3 million in 1988. Much of this increase was due to increase in construction and freeway monies. In the first half of 1989, \$408,000 awarded to MWBEs; program suspended 6/15/89,

waiting to see what state does. City had no set-aside program for services or purchases, just for construction. He thinks it's imperative that state program include all services. City's problem was resources; it just didn't have them to go into all areas.

When state combined women and minorities, Duluth found contractors stopped using minorities and used women to meet the goals. Goals need to be separate because of this. They had an outcry from minorities about it, so they separated their program. Then there was some outcry from women and new vendors. Goals fluctuated based on dollar amount and type of contract and availability of contractors.

Contractors are reluctant to subcontract to minorities because they have no experience in doing business with these vendors. There has traditionally been discrimination against minorities. He also said they have seen a lot of women contractors spinning off their spouses' businesses. They mix more freely with white males.

There is discrimination in Duluth. He knows that from first-hand experience and from the figures he offered on purchasing. Unless there's legislation to encourage contractors to treat WMBEs the same, the money going to these vendors would be substantially less. He would like to see the state's requirements extended to all political subdivisions. To be specific about discrimination would require resources he doesn't have; however, he said the number of women and minorities working in construction indicates there is a problem. Contractors say minorities have to belong to the union, but the union says the bench is full. Contractors argued that women and minorities don't have the experience. But there was never any complaints about their ability to do the jobs. When the program was suspended, there was a sharp decline in participation. Washington feels this reflects discrimination.

Without experience, it is difficult to get a bond. State or local entities should intervene to help minorities and women get bonding. Contractors also have problems with cash flow; they may get paid in 45 days, but employees still have to be paid every week.

Washington agreed to provide commission with documentation of contractors dealing more with women than minorities; documentation of WMBEs business volume before and after program was suspended; results of his poll of general contractors that shows substantial decline in use of WMBEs.

MIKE VIDMAR, economic development director for Bois Forte Reservation. Voiced strong support for set-aside program and cited bonding as one of biggest barriers.

On reservation, where there is no history of small businesses, set-aside programs allow that foot in the door, then to be judged on merit. Bois Forte members would not be in business without set-asides. Small business can't get a contract without experience but it can't get experience without a job. In response to the woman who said she just wanted to be treated equally, for most minority businesses sometimes equality has to be promoted a little. Bonding is one of the biggest barriers.

DAVID DANIELSON, member of Fond du Lac band. Spoke to problems of discrimination and necessity of set-aside program.

Not one private Indian-owned business on the reservation, which shows the existence of discrimination. Argued that minorities and women need opportunity to speak. A lot of times, state money is dealt with by governments (tribal and other) and people don't have a say in how its used. Need guidelines to direct flow of those monies.

There is a real need for set-aside money, it does give minorities and women an edge to become competitive.

When he tried to start a business, he had a wealthy nonIndian willing to cosign for him, but bank wouldn't take it because it said he could only use that to establish credit, and he'd already done

that.

He described a recent day when he and two other Indians walked into a bank together. It was a joke among them that this was probably the first time three Indians had ever been in the bank at the same time.

FRED DOOLITTLE, owner of Alliance Steel Construction for 13 years. Testified that when set-asides were suspended, his company almost stopped getting solicitations for state work. Solicitation received this week was the first since the suspension. Without the state program, he doubts he would ever get another contract. Before the suspension six months ago, he got solicitations almost every letting, one or two a month.

Carl Fransen of MnDOT said that they have continued to let contracts since the suspension, that neither the letting schedules or the dollar volume has changed.

MARGARET FRYE, owner of Margaret Construction Co., Inc., which does culvert construction, demolition, concrete work. Testified to discrimination against women and how set-aside program has helped her. Feels not having a set-aside program would be a deterrent for women and minorities. Set-aside program gave her a foot in the door. Bonding is problem that needs to be addressed.

Most of her work is with government agencies. Without program, she doubts she would even have an opportunity to bid. There is a lot of discrimination against women. She has a hard time getting people to accept her as Margaret Frye, not Mrs. Donald Frye. While she has had no problem getting bonding or insurance, she feels a lot of minority people do.

Since suspension, she has continued to get solicitations for work, and gets about the same amount as before. But she does have a better chance of getting it with the program. Because she's been in business a long time, she has a good relationship with the general contractors. She's been in industry since 1969, formed her own company in 1982.

LES NORTHRUP, from Fond du Lac reservation, Lake Superior Band. Graduated from UMD. Testified to difficulties of starting a business on the reservation due to lack of financial resources there and tribal government actions.

Has been looking to start a business on the reservation, but finds disadvantage because there is no money available there. Reservation has the highest unemployment, drug and alcohol dependency, and mortality rates. Interested in starting food/gas store and possibly liquor. Also looking at obtaining a current business, small golf course and banquet facility, now owned by nonIndians. He believes there are no Indian businesses on the reservation because of the political structure: the tribal government seems to have the first chance for money from government agencies. He believes this relationship hurts the individual and that the tribal government does not encourage businesses. He said tribal government may open gas stations in three areas of reservation.

Danielson: Fond du Lac has agreement with state in which it gets money for not selling gas, cigarettes, other taxable items. Tribal would sell at lower prices because would not have to pay taxes. Private individuals could not sell those things below taxable level. Private business possibly would be hindered even if it wasn't a business that the tribal government was involved in.

MICHAEL FRIEND, owner of Friend Construction Co. Testified that set-aside program was important to his business and suspension has hurt his firm.

He got many solicitations before this fall. Since the suspension, he hasn't received one. The difference has been black and white. He had about 25 trucks running last year, and only 12 this. Everything he has done has been through set-asides; it's a family company, he hires minorities.

CARLA MALMSTROM, owner of KGM Leasing, construction company. Started in '79 as leasing, but in '82 changed to clearing. Heavy equipment, clearing, pipe installation, trucking. Testified about need for set asides.

Gets between 10-40% of her business from set asides. Set-asides have helped people realize female and minority firms are there. Program should education people on how to get work and promote their businesses, not just depend on solicitations from generals.

State cut in funding last year hurt construction in this area. Bonding is a problem.

FRAN HARKONEN, owner of Poly Phase Enterprises, Duluth. State certified. Testified in support of set asides and to problems in finding minority apprentices.

No set-aside contracts right now; feels program should be continued because it gives a chance to get a foot in the door. Contractors get to know you and ask you back; that's what's happened to her.

She's a union contractor who wishes there was a way to get word around to get women and minorities into electrical apprenticeship program. She tries to get minority apprentices but can't--as soon as they're in the program, they're gone (to other employers). There's a big demand.

No problem with bonding; she's known and she and her husband went into business with Lakehead Electric in 1963.

Washington: I've had at least two blacks who completed the vo tech education and couldn't get into the apprenticeship program. They need guidance through the program. He's asked contractors to help because minorities get the door slammed in their faces.

MINNEAPOLIS HEARING, DECEMBER 8, 1989

(summarized by Marilyn J. Taylor)

LOU MOORE, African-American owner of Moore Supply. Testified to problems in getting start-up financing.

He said financial institution turned down request for loan with verbal reason that it didn't think the idea was good. Loan was refused without documentation and despite fact Moore had money in that bank. Bank did not explain why it didn't think business was a good idea.

Company got started by going to private companies that were sympathetic and gave it business. Through this, he was able to establish a cash flow, but no start-up loan set the business back at least two years. He said this kind of thing was prevalent for minority-owned businesses. Before this business, Moore was in marketing for 20 years, working for General Mills, International Multifoods, and the government. He felt no credit was given by the bank for this experience.

His company was in the set-aside program for about five years and this participation enabled the business to grow.

MEEK COX, African-American owner of Cox Paper, supplier of toilet paper, paper towels, other paper products. (Submitted written testimony.) Cited problems in dealing with government purchasing, private businesses, and lending institutions.

Government agencies are controlled by the bottom line, the lowest bid. Quality and service do not matter. Most minority-owned companies can't bid against volume discounts. Some agencies let floor person do the buying, not the purchasing agent. This does not allow for competitive bidding. Educational institutions are the same way: looking for bottom line, not service or quality.

Lending institutions haven't changed: they lend only on collateral and ability to repay, not interested in enterprise or in helping anyone out.

People say there is no discrimination, but just look around: There are no minorities doing anything.

Buyers are not interested in buying from minorities. Minorities in business are not concerned to be up to par. Through the media, minorities are seen to deal with drugs and dealings not acceptable as normal business. Most minorities don't fit in the business world.

Most people he encounters wonder why they should give minorities preference or opportunities. Other businesses complain that he gets a break they don't. But just count how many successful minority businesses there are. If he could get 5% of state purchasing, he could hire the hearing room full of people.

He was certified for set-aside and was in the program for five years, but he never got a contract. Major and common problem was "no competitive bids," in which particular item was specified that was already being supplied by someone else. If "or equivalent" was listed on the bid, it wasn't honored because the end user wanted that particular item.

Favortism is another problem; connections of friends, club members, etc. Goes on in set-aside programs, too.

JOYCE MACK, owner of Co-op Manufacturing and Marketing, lighting systems. Testified about problems getting into set-aside program, with bidding, and with financing. She also discussed the problems of collecting accounts from companies that can afford to use the legal system to avoid paying.

Business started in 1985 as sole proprietorship. At the end of 1986, she applied for SED; was

rejected in Feb. 1987. She sent letter of appeal but never got a response. Between March and April, she made eleven calls, none of which were returned. When she did get through to someone, she was told they were looking into it. She asked Sen. Sidney Pauly for help, then she was rejected again. She finally got someone to come out to her office to see that she in fact was the owner of the business. She had been rejected because she allegedly had failed to establish majority ownership and contro. "I made the mistake of hiring my husband as vice president of sales. They assumed he was in control because he was the man and my husband." She was finally accepted into the program at the end of June.

While in the program, she did get a couple of bids, but none she could be competitive with (one was to house grain). Last February, she followed up an ad placed by a local college for bids on a lighting project. Despite two calls and a followup letter, she never received the specifications for the bid. She believes they already knew who they were going to buy from. She saw no point in pressing the college on why she didn't get the specs.

Regarding loans, she got her first one from the bank with no problem. But the bank required her husband's cosignature for the second set of loans. She doesn't know why the bank made this change.

WARREN MCLEAN, executive vice president of Metropolitan Economic Development Association (MEDA), which provides business consulting services to minority-owned businesses. (Submitted written testimony.) Cited benefits of set-aside programs to minorities, continuing discrimination.

MEDA was founded in 1971 in response to the lack of participation and inclusion of minorities in the free enterprise system. Serves about 450 clients annually. Businesses started with MEDA help attain 60% success rate.

MEDA agrees that set-aside programs have been beneficial for many minority entrepreneurs and will continue to be, especially in startup. These programs are necessary to allow minorities to get a foothold in the market.

Discrimination is still alive and well: this year MEDA helped two clients reverse discriminatory decisions. In one case, an Asian client had the lowest qualified bid, but was not awarded the contract. In another, an Indian client's bid to purchase some property was diened, although it was the highest. Both cases involved government agencies.

JAN MORLOCK, vice president of business development, CHART/WEDCO, which provides business consulting, education, and loan packaging to women. (Submitted written testimony.) Testified to problems of discrimination, access to credit, and access to business opportunities.

Greatest limiting factor to success of woman-owned businesses is expectations: theirs of what they can achieve and others of what is "acceptable" behavior for women.

Discrimination is consistent problem. Although lending discrimination based on gender is illegal, it is hard to prove in court. Clients never get chance for serious hearing of their loan proposals because they're not taken seriously. One client recently went with her male financial advisor to meet her banker. The banker dealt only with the male and in fact phoned him to convey his loan decision, not the woman owner of the business. Situation is worse in rural areas, where the small town banker relationship may be more personal but also has greater permission to discriminate. One client wanted to start a sheep herd; she had experience and family collateral. She was turned down, but a few months later, her son got a loan for a rather exotic mushroom growing venture using the same family collateral.

Collateral requirements are especially high for women. For minority women, the situation is worse: they have barriers of color and not as much collateral. One black woman business owner jokes that there are actually six "c's" of credit in the banker's mind, the sixth being color. Women frequently start businesses with little or no capital and may not have family assets to use. They may not have extensive personal credit histories, especially married women, and lenders may not look at work or

volunteer experience as credible record for starting businesses.

In access to opportunities, women are disadvantaged because networking is not as open to them. In many markets, government contracts have been only viable opportunities to women, but contracts may be too large for many woman-owned firms to handle. Eighty percent of woman-owned businesses gross less than \$100,000 per year. Breaking contracts down into smaller pieces would help.

Set-aside program could be improved by providing more information. Government needs to get information out--anything below threshold bid goes on personal contact.

GARY CUNNINGHAM, deputy director of the Minneapolis Civil Rights Department and co-author of "Barriers to Progress: People of Color and Women and Minneapolis Construction Occupations." (Submitted written testimony.) Reviewed findings of the report which show that women and minorities have been systematically excluded from construction opportunities in Minneapolis, which affects their ability to form businesses.

He maintained that employment opportunities and minority- and woman-owned businesses are linked. The issues examined in his report are not confined to construction. Discrimination is pervasive in all industries.

Historical patterns of exclusion and denied opportunities have contributed to underrepresentation and occupational segregation in construction craft occupations. Numerous efforts to correct these problems have had little or no effect on integrating union membership and/or desegregation of skilled crafts.

Disproportionate representation of women and minorities in Minneapolis skilled trade unions, based on 1980, 1986, and 1988 membership data, compared to white males. In 1988, of minorities in construction trade unions, 29.18% were in skilled crafts and 70.82% in unskilled laborers union; in comparison, of white male union members, 72.12% were in skilled trade unions and 27.87% were in unskilled laborers union. Females were only 0.78% of the skilled union and 1.28% of the unskilled union membership in 1988. Out of 7,734 members, there were only three minority women.

In construction-related apprenticeship programs in 1988, there were 79 women, and they had higher rate of completion and lower rate of cancellation than males. Minorities had low rate of completion and higher rate of cancellation than other groups. Standard deviation analysis of union memberships and state-sponsored apprenticeships reveal that the underrepresentation of women and minorities is statistically significant, that the disparities are gross and the result of patterns and practices within the construction industry. The Minnesota director of the U.S. Dept. of Labor's Bureau of Apprenticeship and Training said nothing is being done to implement affirmative action provisions on joint apprenticeship programs by the Minnesota Division of Voluntary Apprenticeship Programs.

Of the 118 minorities and females interviewed for this study, over 90% indicated that they experienced racism and sexism as employees in the construction industry.

Research also found that city of Mpls. actually participated in denying opportunities to women and minorities.

DAWN ADDY, director of women's programming for the Labor Education Service. (Submitted written testimony.) Testified to educational and occupational barriers for women.

Education opportunities and occupational choices are not the same for women and minorities as they are for men. In the trades they are terribly isolated.

In one case of woman in nontraditional job, she couldn't bend over without some man coming up behind and humping her. Local union officers came to Addy to find out what to do. Problem was, all these officers are white males; they don't listen to women or minorities until there is a legal ramification

or so many in number that they can't ignore them.

Women and minorities can be tossed out of apprenticeship program if complain, so they are placed in situation of great battering. She reported that the Coalition of Labor Union Women said that sexual harassment is the more prevalent problem in male-dominated industries. One female apprentice was sent into a lockerroom to do wiring. The room was loaded with porno pinups, but after she complained to the foreman, no one would speak to her for two days. The Teamsters in Minneapolis are assigning female apprentices in teams of two for support and so there is a witness.

Recruitment is an area with problems: if you can't get a job as a carpenter, who are you going to start a carpentry business? She cited example of an Hispanic electrician who wanted to make a video tape to help recruit minority kids. He went to the Building Trades unions but no one would give any money for the project; they told him to go to the affirmative action agencies. It wasn't a lack of money, it was a lack of desire to listen. This results in a lack of women and minorities in the trades.

Another problem is that minorities are hired almost exclusively to fulfill minority quotas. For minority or female apprentices, this may mean that they only learn one skill area and therefore are not adaptable or are not perceived as a good hire possibility for other jobs.

JAN POHLEN, highway maintenance worker with the state of Minnesota. Testified to problems of isolation and harassment women face in nontraditional jobs.

RAY HAMER, trade specialist with the Minneapolis Urban League's Leap program who works with Building Trades Council in placing minority and female apprentices. Testified about problems faced by minorities and women in construction trades.

There are certain jobs that women (he called them "ladies" throughout) don't apply for: ladies don't fancy walking six-inch I-beams 40 feet in the air. In carpentry, after they become journeymen, there is not as much employment. Contractors will use until they're up to 5,000-6,000 hours (cost more). Lots of companies actively seek women and minorities because they have goals to meet, but as soon as they've done that or have to layoff, it's the minorities and women who have to go. There is a problem out there. One foreman was looking to break the minorities and women. He was making one woman who was 5'4" stack cans five-six feet high.

DIANE OSCEOLA, trade specialist, American Indian OIC. Testified about discrimination and harassment she encountered working as a carpenter, which she did for six years.

She was refused one job because she would be "too much distraction." On jobs, remarks would be made about her race. She couldn't depend on her local union for help; the secretary-treasurer made sexist comments to her.

Being part of a quota was a problem, too. She would get her "4% female" hours, then be laid off. This hurt her in looking for other jobs, because potential employers would question this work record. The 4% female jobs go to white women, not minority women. These quotas also are discriminatory because they are set at 15% minority unskilled, 8% skilled, and only 4% all female.

She took a major construction company to court over discrimination. From the first day, things were said to her. If she complained, she was harassed. After she did complain, she was told that "things happen on the job"--working eight floors up, hammers do fall. It's hard out there: "that's why they can't find women or minority women."

As trade specialist, she hears excuses from contractors who don't meet their goals. They send good faith letters about available jobs but when she would call, they would say they didn't have any openings.

DIANE MOREY, Indian Business Development Center, Minnesota Chippewa Tribe. (Submitted written testimony.) Center provides management and technical assistance to minorities. With MnDot consultant, produces a weekly newsletter that goes to about 70 minority and women contractors; includes information from letters from general contractors soliciting bids from subcontractors. Testified to problems with timeliness of these bid solicitations.

Over past four years, extreme problem with timeliness of bid solicitations. From 10.27.89 through 12.5.89, of nine of these letters received, four were received 15 or more days before bid opening. This means 56% were late. Spot sampling of letters from last spring showed 66% late rate (eight days or less). Late letter means subcontractor is automatically at disadvantage. Time pressure may lead to mistake. Also affects Center's credibility.

She has pointed out these problems to contractors, but that helped only slightly. One contractor didn't respond to two letters and continued to send late or after bid opening. Fourteen-day advance notice was required on this project, but when she informed contractor of this, got hostile response.

When gathering information for this hearing, she called engineers to check subcontracting policies on projects they've gotten letters for. First one professed not to know what she was asking for and didn't want to take time to look for the information. He hung up on her. The next engineer knew what she wanted but gave her the incorrect information. Finally learned that compliance is regulated for the general awarded the contract.

Thus, nothing apparently can be done about late notices unless general is awarded the contract. It's an incentive and motivation issue. The more closely subcontracting policies are followed, the better the chances of obtaining the award. Set-aside programs should take this into account. There has to be an incentive for general contractor to solicit and use women/minority subcontractors. Requiring contractor to put in bid with minority subcontractor in first might be little more effective, but match is still being forced.

DEBRA KELLY, carpenter for four years--with a lot of gaps because of discrimination; now a law student. Testified that discrimination is problem; she has law suit against her union over it.

STEVE CARLSON, reporter for the Asian Business and Community News. Testified that minority media should be used more to let community know about contracts and jobs. Maintains these media outlets are treated differently by the state, questioned about how effective they are, whether they reach their constituents. Would like to see set-asides extended to include media.

ST. PAUL HEARING, DECEMBER 9, 1989

(summarized by Marilyn J. Taylor)

NOAH E. HURLEY, African-American owner of Traffic Warning Inc., in business 11 years; certified by MnDot since 1981, also with metro agencies. Testified to importance of set-aside program and incidents of discrimination.

If set-aside programs not reinstated, company would have to declare bankruptcy. Needs state and federal contracts, plus competitors' advantages make it difficult without such programs. In past 12 months, only got one MnDot project. Also bid on metro agency jobs, which they got, most by low bid. Has bid on 185 jobs in last 12 months, successful on three. In past had rate of 20-25% of all bids come through. Since suspension of programs, doesn't get returned calls from some of the contractors he used to work with. Thinks that Croson sent a message that they don't even have to look at minority firms any more. A whole attitude change has taken place.

Only other minority competitor was bought out by white competitor three weeks ago.

NSP has had contract with his company since 1980. Started working with Northwestern Bell in 1980 but four years later business started tapering off. He heard that Bell didn't want to work with a minority business. Bell supervisor maligned his company.

Discrimination has come from major contractors and government.

Examples: 2.10.89, solicited to bid by Kramer & Sons on a MNDOT project. Sent written quote 2.19, then called to make sure it was received. Called again 2.27 and was told Kramer had bid jointly with Ames. Then called Ron Ames, who said he'd received Hurley's quote but never looked at his prices because he was going to use a competitor. This has been Kramer's practice for four-five years.

In April 1986, got request from Lundeen Construction to bid. After letting, was told that they didn't get job even though nothing was wrong with the prices. Lundeen called to only to verify good faith and get record of the long-distance call showing that. Hurley told him to remove his name from their mailing list, but Lundeen said he wouldn't because MnDot required good faith.

Also described situation in which complaints were made that warning lights weren't working on one job. Turned out they were being checked in the daylight, when they don't operate normally. Says this was because of discrimination.

Contractors in southern part of the state are worse than elsewhere. Everytime he's down there, they call him Ernest Lloyd, even though "Lloyd's better looking."

Suggested that the set-aside program consider proving financial incentive to primes to assist and mentor SED firms. Could be tax break, bonus, etc. Said having minority contractor lined up before prime bid awarded wouldn't help. Described situation in which he got a call from a subcontractor who wanted to flow \$300,000 worth of electric supplies through his company.

FRED SHAW, Chinese, president of Shaw-Lundquist Construction. Testified to discrimination against minority contractors and to necessity for set-aside program.

Maintains that failure to win bid on a Minneapolis project was the result of discrimination. City selected alternate instead. In another situation, a joint project of MnDot and St. Paul, he was low bidder but after opening, they couldn't find his bid packet. He thinks someone threw it out, which disqualified him. After he got a lawyer involved, he got the job.

State needs set-aside program for minorities. It's very hard to do business in this country. "Why are we always in the basement? Why can't we be prime contractors?"

MEADOW MUSKA, organizer and president of Women in the Trades. Testified to discrimination in vocational training and at work. Presented nine photos of sexist and racist graffiti on insides of satellite toilets on job sites, plus example of pornographic material brought by men onto the sites. Also submitted story of discrimination and harassment problems faced by women at construction site of Dan Ryan expressway in Chicago: testified that same conditions exist here.

She was the first woman to graduate from the electrical program at Dunwoody (1978); teachers there made sexist remarks. In early 1980s, applied to Minneapolis electrical union local 202 but wasn't hired (without explanation). Went to St. Paul 110, where she was given "girl" jobs--sweeping, etc., nonelectrical work. Usually worked alone because foremen didn't want calls from jealous wives. Was ignored on job. Says affirmative action in the trades is a myth. Three out of five journeymen were laid off last winter. Union would tell her there were no jobs, but when she called the city, they'd say they couldn't find women or minorities. Women were laid off because of seniority rules.

MICHAEL GLAPION, African American, president of Insurance and Surety Specialists, since April 1987; only minority-owned agency in US doing only commercial insurance and risk-management consulting. Testified about discrimination problems and necessity of set-asides.

Finds it abominable that his firm gets business around the country but not here. Bids with metro agencies, Mpls and Ramsey Cty, but only gets responses if he copies Sen. Rudy Boschwitz on his letters.

Examples of discrimination included: selected by USWest to be minority co-broker for the LaSalle project in Minneapolis, which has affirmative action goal. This would have been the first major construction project with professional services qualifying for the affirmative action goal. Lead broker was in Omaha; Glapion did 60-65% of the work. Contractor guaranteed USWest that it could provide insurance for \$1.8 million, but he couldn't find it for under \$2.2 million. He worked hours with Mortenson to identify costs, but it was all "smoke and mirrors." His investment was almost \$15,000, which he lost. USWest let contractor provide insurance instead of buying it. In another case, he was called at 4 p.m. on a Friday, with a noon Wednesday deadline, to propose insurance for the roofing of the Timberwolves arena. Job was awarded to a majority broker. When he asked why he didn't get it, he was told they really didn't know what to expect when they called him.

There is a preference out there, he said, and it's "I prefer to do business with my white friends." Croson has made it open season. If there was a bad attitude, Croson now made it ok. The request for proposal tool is as much a tool to qualify as it is a weapon to eliminate. Institutional racism in spending money for professional services means never co-brokering.

Although he never got business from set-asides (state won't certify because he's an insurance broker), he feels his firm would have been a lot more successful and quicker if they were there. Without set-asides, a lot of minority firms are not going to survive. He also feels process of certification is demeaning. "I was born black, no one has to certify that fact." His blonde female employee is not asked if the firm is certified, but he may be asked that. No one asks his larger competitors if they're certified.

REBECCA MONTEZ, Hispanic. Feels she was discriminated against when she tried to get license to operate massage therapy business in her West St. Paul home. Based on promises of council member, she invested \$7,000 in building a new garage so the old one could be converted into the massage studio. She also bought equipment. She filed for her license in Jan. 1988 but was not put on the council agenda until 12.88, and license was refused. She asked for variance or trial basis license, but those were denied.

GEORGE HAWKINS, executive director of the Minnesota Chapter of the Associated Builders and Contractors; chapter has 250 members, four of whom are WMBEs. Testified that association is opposed to goals and quotas; also discussed association's views on the definition of a DBE and reasons for not

using DBEs. ABC offers discounted dues for two years to WMBEs.

Questioned whether the definition of disadvantaged business enterprise (DBE) is appropriate. Is it reasonable to give the general credit toward goal when he gives the contract to a female-owned firm employing no minorities or women? Is it fair to deny the contract to a male-owned firm employing women and minorities? Despite past discrimination, there are able female-minority firms. Should they be excluded because they'll take the place of firms less successful because of discrimination? Definition should encourage those who have been discriminated against and guard against fronts and transfer of company ownership.

Offered a hypothetical situation of a black electrician starting up a company, bidding on a job and not getting it. Is that discrimination or a wise business decision?

ABC opposed set-asides and goals, but recognizes there may be no better way. Set-asides can be useful if they have some mentor characteristics, but should be used mostly for start-up, training and growth. Suggests scope of work determine contracts: certain amount for firms of certain qualities. Sees problems when goals and timetables don't take growth into consideration. When you reduce competitive forces, you reduce chances to improve.

Need to establish programs to eliminate reasons DBEs not used: training programs (encourage ABC, bonding companies, etc. to do these); impose affirmative action on DBEs and agencies--when contract up for bid, agency should identify DBEs.

DEE PERRY, owner of Dee's Supplies. Testified about problems in bidding on specified brands. Cited incident in which she was low bidder on detergent and bus wash for MTC but was told her product was not one of approved brands. MTC took some of her product for testing, but meanwhile awarded contract to vendor who had had it before. She wanted fairness and chance to bid.

CHIMA OKORIE, African American, owner of Northwest Blending Inc. of Minneapolis. Testified to problems in bidding on name brands, discrimination by state agency official. Certified in 1984, went three years without a contract through set-asides. Complained that set-aside program is not implemented, and only way he would get a reply to his requests is through letters to Boschwitz; also said John Haggerty, Admin, won't talk to him because he's black. Said he filled out 21 questions for MnDot certification only to be told they don't buy chemicals.

DONNA MUELLER, owner of Minneapolis Solvent and Chemicals, Inc., distributor of Okorie's products. In business six months; sent in certification forms but has had no reply. Testified that being required to put up nonrefundable money to bid makes her uncompetitive; that lack of specifications on certain items and/or name brands makes it impossible to bid. Cited one \$140,000 bid for paints, varnishes, sealers and stains: required bidding on all categories; she could do five of six, but six was in manufacturer's name and no specs were available. If she had specs, she could manufacture to them. She has requested specs but not been given them.

JOE LEWIS, African American, former contractor for 20 years in Minnesota, now resident of Missouri. Had been certified by most state agencies. Testified about general discrimination, problems with various certification requirements across agencies. Cited problems with bonding and financing, need for set-aside program.

GUNVANT BHATT, Asian, owner of SBS Mechanical, Inc., mechanical contractor. Cited benefits of set-asides, ongoing discrimination, and problems with \$1 million limit on contractor eligibility for set-asides.

Set-aside brought his firm some contracts; certified since 1982. If they weren't certified, wouldn't get the jobs. When they weren't certified, they got no work with general contractors. The set-aside program helped his company to grow. But limit of \$1 million on contractors is problem--not very much in that business; inequity with \$2.5 million limit on consultants.

NGHI HUYNH, Asian, publisher of Asian Business and Community News. Testified on behalf of the Minority Media Coalition about the set-aside program, which excludes them. State agencies ask minority media to publicize contract bidding and employment opportunities, but do not buy ads. The state antismoking campaign gave no business to the minority media.

DOROTHY CARTIER, owner of Gladstone Construction since 1985, did \$2.4 million of business in last three years, 60-70% in public sector. Cited problems with discrimination in contract letting, bonding and financing because of her gender.

Cited several incidents that occurred in last six months but are typical of problems encountered since went into construction. In bid for post office, was not given bid addenda, although all others got it. After she complained, bid was cancelled and rebid two weeks later.

Usually doesn't bid to other generals, but occasionally construction managers will let out to mechanical contractors. When she asks bid holders for the plans, the ones she gets are incomplete. She also gets told by architects and engineers that it's an invited list when it's not. Sometimes the company's the only bidder but is asked to wait until a bid can be obtained from someone else, which then comes in \$100 lower on a \$21,000 total. Other times, she's been told bid is low but not quite right, so she bids again; she's still low and the bid is cancelled. On one public (federal) project, she bid \$21,000, while a second bidder gave \$33,000 and said he would do the job in 12 days, not the 19 she gave. The second contractor got the job, although there was nothing in the specs basing the award on the number of days. On a Minneapolis hospital project that had a minority goal, she bid meeting that goal. Her competitor didn't use minorities but got contract because bid \$200 lower on \$63,000 job.

Has encountered harassment when nine people go through a completion inspection on one of her jobs, when normally it would be just the architect or the architect and the superintendent.

Bonding problems: because of networth equity, her company could clear itself at a certain amount but is not allowed to do that. It can be bonded up to \$300,000 per job, and an aggregate of \$650,000; its networth is \$450,000, but bonding agents won't accept that unless she puts more money in the company. Also, larger companies have deeper pockets, can go below what she can do because of bonding power. Bonding industry does not like to use small contractors.

She's also experienced discrimination in lending. Bank won't give loan on commercial property she owns, won't lend to her from her line of credit. Bank has asked for her husband's cosignature on loans.

STANLEY GARDNER, African American, president of Gardner Stone Company, in business since 1984, certified; doing \$1.3 million/yr. Cited problems with 5-year, \$1 million limits on contractors in set-aside program; bonding capacity; discrimination by majority contractors; and bidding and bid shopping. Testified to need for set-aside program.

Regarding set-aside, \$1 million limit is real deficit for contractors. Five years isn't adequate either, because it takes a firm like his five to six years to get established for bonding. Set-aside is necessary: his firm would never have gotten SED contracts unless it was also low, but majority contractors would not recognize him without it. He said he wouldn't need SED if he could get into negotiated work.

Bonding problems prevent Mortenson and other primes from coming to him: they want bonding capacity.

His bonding rate is \$26 per thousand, while other companies have \$9 per thousand, and he can't compete with those disparities. [Bonding rate depends on size of company, available credit: point clarified by him after he testified.] Also, bonding forces him to indemnify the state and a general he might not want. If the general makes a mistake in the bid, the state lets him off. The state might let Gardner off, but the general won't.

Cited situation in bidding on SE Hall/Whitney Young High Rise: Urban League asked him to bid, HUD money involved. BorSon was general. He called in several subcontractors, one of whom told him he wouldn't get the job. He bid \$214,000 on the job, but it was five months and several phone calls before he found out who was the low bidder. BorSon said his bid didn't include utilities or fire protection, which wasn't true. Those would have made his bid \$230,000, and the low mechanical bid was \$232,000. BorSon asked him to rebid, which he did at \$229,000. They said he was getting close to the lower bidder, who was the white company the subcontractor had said was going to get the job. It did.

Unions are a source of discrimination: in pipefitters local he deals with, there are 10 minorities. Nine are unemployed, while only 60 of the 1,000 white members are: thus, 6% white on the bench compared to 90% minority. Same situation with the carpenters and laborers.

M.A. Mortenson is one of the worst offenders. On a bid for the sports facility, the number two bidder, who used Gardner, told him that Mortenson used a female-owned firm to meet the goal. That firm is supplying \$60,000 worth of wire mesh but she also got the contract for steel erection, which she doesn't do. This kind of thing needs to be stopped.

Bidding process continues to be problem. Subs now bid 48 hours before the generals. Used to be on the same day and naming of minority contractors and dollar amounts used to be required, so general couldn't get out of it. Change was made to stop bid shopping, but doesn't work.

AFFIDAVITS

(summarized by Marilyn J. Taylor)

MELVIN B. AANERUD, chief operating officer of the Mille Lacs Reservation Business Enterprise; managed electronic assembly plant for the Enterprise.

Discrimination caused major problems in obtaining equity and debt financing, establishing banking relationship, securing start-up financing and bonding, finding competitive advantages, and obtaining access to customers and suppliers.

Securing bonding was a major problem. He knows of firms that were denied bonding, others that were allowed bonding only after they transferred their insurance. Others were given bid bonds and then refused performance bonds because "who would ever think those (Indians, blacks, women) would ever get the contract." Bonding agents were willing to take the bid bond fee with no intention of providing a performance bond.

Firm was discriminated against by private sector firms, lending institutions, bonding agents, and suppliers. One supplier delivered parts so late that the plant missed two contract dates. The supplier's reason was, "we don't know who you are but because of who you are, you will have to wait."

Had problem getting contracts to bid on at all. Despite all the electronics business in Minnesota, plant's main customers were IBM in Rochester, NY, and General Motors in Ohio and Michigan.

Plant had chance to get a contract with Western Electric, but need 220Watt power to get it. No 220 power was transmitted to the reservation, and Aitkin Co-op said it would not provide it. They said, "What would the Indians need it for, anyway?" They finally agreed to run the line if the Indians paid the total cost of it, which was hundreds of thousands of dollars. When he threatened to take this to the state as discrimination, power company's engineers came up with less costly way to transmit the power.

He frequently had to explain to potential prime contractors that Indian work habits were no different than others'. Bankers also seemed to watch the MLRBE closer than they would other businesses. Bonding was a joke.

He was discouraged from operating the enterprise for the reservation because of who the owners were.

ARI CAMACHO, Hispanic president of Industrial roofing and Sheet Metal, North St. Paul.

Business has had problems in securing work, and has been discriminated against by private sector firms, prime contractors, and government agencies.

A prime contractor, John Palmquist of Adolfsen & Peterson Inc, Minneapolis, discriminated by shopping firm's bid and using other bids when its was lowest. On May 10, 1989, firm submitted lowest bid but was told by Palmquist, that he did "not feel comfortable with your company."

Firm's owner was told by NW Bell manager of building construction, V. Paul Williams, "I don't like your marketing approach," but when asked for explanation, he gave none.

Was told by William Isch and Olex Ilievsky, 3M, that "you need to be around for five years to be considered."

Pillsbury's consumer facilities civil engineer, David frees, said, "Come back in five years--then I know that you are going to be around."

Owner says: I am in the construction industry, an industry dominated by the "good ole boy's network"...they are the ones who obtain the work. There are many forms of discrimination. It is

difficult to prove discrimination because the perpetrators protect themselves and ;each other very well.

Without a set-aside or preference program, his firm would be less financially viable. "The doors to many working opportunities would be closed."

GEORGENE BERGSTROM, owner of Bergstrom & Company, computer hardware, software, supplies and printing, Minneapolis.

Discrimination has caused major problems in obtaining equity financing, establishing banking relationship, securing startup financing and bonding, finding competitive advantages and pricing products/services; it has caused average problems in obtaining debt financing and managing cash flow.

Firm has been discriminated against by government agencies and lending institutions through late notice of opportunities, not accepting bids, shopping bid, and making disparaging remarks to employees.

Bid to one prime contractor was lowest but contract denied because it "didn't feel we could handle the service."

Firm would be less viable without set-aside/pref.

Owner applied for line of credit after being courted by Marquette bank officers. Had established line at another bank for \$35,000. She gave Marquette all information to secure line with accounts receivable, which was case at first bank; but they told her that they would give her a line only with a second mortgage on her house. They said this was necessary to get line at any dollar level--\$2,000 up, and if she was confident in her business, this should not be a problem. She had been in business for 5.5 years, profitably, by this time. A few days later she found that one of the manufacturers which whom she has done business for five years has a \$100,000 line of credit at the same bank, secured only by their accounts receivable. Manufacturer is partnership of two white males who were never asked to put up any personal property against this line.

Problems with first bank when established current line. On borrower's certificate, which she is required to fill out every month, there is a space for filling in amount of receivables less than 90 days old. the "90" had been scratched out and "30" substituted. When I told them that this was unrealistic, they changed it to 60 days. They also require that she pay the line in full for one month each year, which is difficult to do when she uses the line for operating expenses.

Her company recently sold some computer equipment to the U of M. When technician was delivering equipment, head of department questioned him about Bergstrom & company. "Who is this B & C, anyway?" When technician told him, he asked, "What does she do? Sit in her kitchen, bake cookies and solder computers together?" The implication is that a business run out of a home by a woman is not legitimate and possible the products are not of the highest quality! She doubts same comments would have been made about a male in the same position.

State of Minn. Print Comm. Division also expressed doubt that company could handle service of computer system it was low bidder on. They were awarded bid, delivered the equipment, and had some problems with screen integrity. After much testing, etc., determined that the equipment was receiving interference from an outside source and would require a color monitor that had more shielding. The agency wanted us to supply that more expensive monitor at no additional cost. When she refused to do that, they told them to remove the equipment and refund the money. Since then, she has checked in the department and found they have equipment from a competitor (from whom the agency wanted to buy in the first place) that includes the color monitor.

After set-aside program was suspended, she tried a month-long test of bid communication. When program was in place, her company would get 75 to 100 bid requests a month. For month of July, she picked up all bids firm was qualified for--125. Firm was sent 10 requests during that same month, all of which

were advertised bids over the \$15,000 limit; firm was not successful on any of them. This is not surprising, since small businesses do not fair as well against the larger companies on larger dollar-volume contracts. Of the 125 requests under \$15,000, firm got about \$55,000 worth of business. Firm obviously saved the state some money. After one month, Admin wouldn't allow them to pick up bids any longer, she had to go back into the "lottery" and business fell considerably.

She has personally experienced discrimination since she has been in male-dominated fields most of her working life. She was a securities broker in the late 60s and early 70s, when there were precious few women and minorities in such positions. Merrill Lynch would not hire women or blacks as brokers. She had people refuse to work with her as a broker because they felt a woman could not know enough about financial affairs to be effective. The perception was and still continues to be that women simply cannot do as good a job as a man in the same position.

RONDA SCHIEBOUT, president of Lindell Electric, Blaine, electrical contractor.

Discrimination has caused major problems in securing bonding and developing good relationship with union. Firm has been discriminated against by private sector firms, prime contractors, trade associations and bonding agencies.

Prime contractors discriminated by shopping their bid. This has happened on several occasions. Owner assumed there was nothing she could do about it. She has also been asked on several occasions to "provide material" for another electrical contractor to meet minority goals. They don't want to sub out a portion of the job, only to have her run material through her account.

Also, all government jobs seem to require bid and performance bonds, which are very difficult to obtain. She usually ends up depleting her cash flow to provide a certified check for the bid bond. Another problem is that must have full amount of money in the bank to back performance bond before it can be attained.

She says the firm would be less financially viable without the set-aside program.

SHIRLEY M. WALKER, president and majority stockholder of Wells Engineers Minnesota, Inc., Minneapolis civil and structural engineering consultants.

About 80 percent of the firms 1988 and 89 contracts were the result of the SED program. Suspension of SED program adversely affected firm because "our clients no longer found it necessary to use our services".

Marketing to U of M has posed special difficulties. U's targeted businesses do not include design professionals. Univ. does not require participation in design by small or SED businesses. University's SED program has applied to construction contracts only, even though design contracts may be as high as \$4 million.

From Jan. 1988-May 1989, while the SED program was in effect, U of M requested proposals from design firms on \$106.7 million worth of buildings representing \$7,469,700 in design fees. Seven of the ten projects had design contracts in excess of \$200,000, with one over \$4 million. None of the projects required any of the work be done by SED design firms. From June 1989-October 1989, while the EDB program was in effect, the U advertised for proposals on \$105.6 million worth of contracts; all of the design contracts exceeded \$200,000. Work by EDB firms was not required.

The set-aside program is essential to the existence of this firm; it would not survive without it. Because of discrimination, remedial relief is necessary.

STEPHANIE L. SMITH, small business coordinator, Admin: related experience of maintenance service owned by black male and black female, in business for more than 28 years.

Company has been invited for bid walks but prime contractors would say they had decided not to go out for bids when they found out it was minority-owned business. Company has been told by several businesses that they do not want to enter into any contracts with minority-owned firms. Owner was at a premeeting for a contract with a county and the man in charge of the meeting turned his back on the owner and did not include him in the conversation. Company has been ignored on numerous occasions, including many unreturned phone calls. Potential clients have said they overlooked this company, have sent bid proposals out only two-three days before due date. Company owners feel racial discrimination is cause of these problems.

STEPHANIE L. SMITH, relating experience of white female owner of general construction company. Woman attempted, as individual, to buy some government property. Agency did not take her bid seriously because it was \$10,000 higher than next highest bid. It accepted second bid instead. Bids were not made in writing. Agency did not investigate or confirm her ability to pay the amount she bid.

STEPHANIE L. SMITH, relating experience of white female owner of computer sales and forms company. Business had been operating for three years when owner applied for increased line of credit, using accounts receivable as collateral. Majority of receivables are from government agency with payments on time and no uncollectible accounts. Bank would not grant line of credit without second mortgage on house jointly owned by woman and her husband. She couldn't get even \$5,000, but her husband was able to secure more than \$10,000 without a second mortgage, even though his personal asset level was not significantly higher than hers.

JULIAN BARRIENTOS, Hispanic president of Barrientos & Associates, Inc., 1001 Twelve Oaks Center, 15500 Wayzata Blvd., Wayzata 55391; transportation, civil, geotechnical, hydrological and hydraulic engineering and surveying.

Twenty-five years in the business. Discrimination has caused major problem in finding qualified technical or professional staff and analyzing competition.

Firm has been discriminated against by government agencies, through the selection of larger firms. Mn/DOT awarded consulting engineering contracts during 1987-88 to 42 firms, only two of which-- Barrientos and Wells, were minority-owned. He says that 60 percent of the awards went to four large, multistate firms. The two minority firms received less than 0.8 percent of the total dollar amount of all contracts.

His firm has participated in preference program and has received contracts through it. The firm would be less financially viable without the setaside program.

WILLIAM F. JOHNSTON, Indian manager of the Che-Wa-Ka-E-Gon Business Complex, Leech Lake Reservation.

Size of minority-owned businesses is a hinderance, since government needs large volumes of goods and services. Also difficult for these businesses, because of volume and cash flow, to obtain competitive prices on goods and materials. Slow pay on contracts is additional problem, as is redtape and time involved in bidding on government contracts. Too many times contracts go to companies that are fronts for majority owners.

ROBERT ELCAN, African-American president of Elcan Construction, St. Paul; demolition, pile driving, bridge construction.

Discrimination is very prevalent in highway/heavy construction industry.

End of set-aside would cost his firm its present mentor support and would cause him to have to declare bankruptcy. 75 percent of his business is from set asides. Business has seldom been awarded contracts when no SED goals were set.

Recalls at least two times in past 4 years when he was not awarded a job despite competitive prices and high-quality performance.

Believes his firm was discriminated against in early 1989 by a prime contractor who set different bid requirements for his firm than for others--requirements that caused him to come in at \$16,000 over the apparent low bidder. Believes contractor did this simply to be able to show good faith.

In a second incident, his firm was one of several DBEs bidding on a \$20 million highway project with a 12% goal. Minnesota DBEs got a smaller share of the work, where significant amount of it when to a Wisconsin DBE and an Indiana contractor.

He feels that too often, good faith postcards and phone calls are only facades shading the reality that the contractor intends to discriminate and exclude the largest portion of sed contractors before any contact is made.

HENRY CASAREZ, Hispanic owner of Casarez Trucking-Excavation, Clear Lake, Wis.

Discrimination is problem. Discrimination has caused problems in obtaining equity and debt financing, securing start-up financing, obtaining liability insurance, and obtaining bonding. Discrimination contributes to average problems in pricing products/services. Firm has been discriminated against by private sector firms, prime contractors, and bonding agents.

Prime contractors have discriminated by late notice of opportunities, not accepting bids, using other bids when his were lowest, and using his firm's name as a business--listed in St. Paul phone book--without his permission

On May 1988, his firm bid lowest, but prime contractor did not accept and said he did not want to pay the minority rate, even though it was specified in the contract.

Other experience of discrimination is prime contractor refusing to pay for work performed because he is a minority.

Discriminated against at least 5 time in past 3 years.

Has participated and gotten contracts in set-aside program. Without program, firm would not be able to survive.

RAYMOND VARELA, Hispanic owner of McGee's Concrete, Minneapolis. In affidavit, testified that discrimination caused him major problems in securing start-up financing, obtaining liability insurance, securing bonding, coping with government regulations, developing good relationships with unions, pricing his product, and obtaining access to suppliers and employees. He said his firm was discriminated against by subcontractors, prime contractors, and trade associations.

FRED K. MARLOWE, African-American owner of Marlowe Drywall, Minneapolis. In business for past 44 years. Certified as SED.

50 percent of business comes from SED contracts; there would be insufficient private sector business to sustain company.

Three times in past two years when not awarded job despite competitive prices and performance.

Business seldom awarded contracts when no goals are set. In past nine years, bid on 500 projects with SED goals and 200 with no goals. He believes that when no goals were set, minorities and women contractors were not awarded or seldom awarded contracts.

Discrimination examples:

In 1987, was low bidder on Mpls project with Kraus/Anderson but did not get job because "project manager felt we weren't able to fast-track the job. My calls were not returned; they avoided me, rather than dealing with me."

"The future for my children now seems bleaker than mine. Knowing full and well that if there are no SED programs, the opportunities are less for minority businessmen....That's a fact.

ROBERT N. DEAN JR., Aleut owner of Forest Electric Co., Circle Pines. In biz, 9 years. Without set-asides, would go bankrupt. 90 percent of bids are on sed programs.

Has often received contracts where no goals set.

Discrimination is prevalent in construction.

Was asked by Ellerbe Builders to bid for a subcontract on FMC Technology Center, Mpls. from Hunt Electric and Bloomington Electric. As Defense Department contractor, FMC required to use reasonable effort to award 10 percent of work to minority contractors. Hunt Electric used Forest Electric when bidding to meet goal. However, it completed the job without using Forest and may still be using Forest's name as a minority subcontractor.

ROBERT PERRY, Chinese-American owner of Perry's Truck Repair and Welding, truck repair/maintenance and rebuilding, Minneapolis. In biz 25 years. Business would not be able to support its fleet without set-aside program. 10 percent of business is from SED contracts.

Recalls one time in past 6 years when not awarded job despite competitive prices and quality.

Race discrimination: In 1985, bid on city of Mpls contract for repair, maintenance and rebuilding of city trucks, fire engines, and cars. His firm had low bid, without 5% preference; contract was for about \$240,000. Firm had the plant, property and equipment to perform the work, along with 20 years of qualified experience and performance payment bond. But contract was awarded to large nonminority bidder that had been repairing the city's equipment for a number of years.

also, owner of M.B.E., Inc., truck-related services to construction industry. in business for five years. without SED prgram, business would lose depth and scope of bidding and work opportunities. Business is 80 percent SED contracts. Two times in past 5 years has not been awarded job despite competitvie prices and quality. Seldom got contract without SED goals.

Firm was started in Jan. 1984 by Perry and three nonminority people in a mentor relationship for one year period. During first year, firm had good response from all contractors. After mentor relationshi ended, however, "the mood definitely changed form the inviting, trusting, respected relationship with various contractors to a relationship of the contractors attempting to discourage MBE from bidding on their projects."

On a large highway project in St. Paul, firm got contract to haul. When firm was called to perform its work on the poject, it found that work was already being done by a nonminority truck company that the prime contractor had used for years. When MBE began work, the nonminority trucker sent representatives to the job site to attempt to run MBE trucks from the job--harassment included threats and ethnic slurs. The preconstruction meeting of the prime and MBE consisted of the job foreman, the project superintendent, and a company official taking Perry for a ride in a car during which he was told by the project super that the prime contractors were not nice people and that on the first

failure committed by MBE, the nonminority trucking company would be allowed on the project to perform MBE's work. Nevertheless, MBE was able to finish the contract.

MBE hauls aggregate products in Minnesota. To haul farther than 50 miles in the state, a truck company needs authority. MBE has applied for this authority three times in past four years. Each time large majority-owned trucking companies file lawsuits against MBE to stop us from trucking over 50 miles. There is only one minority-owned trucking company with the authority to haul over 50 miles.

IKE NJAKA, African American, president of Shirlike Inc., carpet, bedding and textile company.

Discrimination is problem. Cites problems in obtaining financial support, marketing, location selection or development. Discrimination caused severe problems in: obtaining equity and debt financing, securing start-up financing, obtaining suitable real estate and bonding. Minor problem in obtaining liability insurance.

Discrimination caused average problems in coping with government regulations and minor problem in developing good relationship with union.

Discrimination also contributed to average problems in pricing products/services, identifying/selecting a suitable site, and access to suppliers.

Firm discriminated against by: private sector firms, government agencies or employees, subcontractors, prime contractors, lending associations and bonding agents.

Prime contractors discriminated by late notice of opportunities, not accepting bids, using other bids when his was lowest.

In 1987, his firm submitted bid to state agency and was lowest but was denied contract because agency wanted to use another vendor. His prices and quality were comparable to other contractors in the state, and with 12 years of experience he knows his prices are competitive and work is as high in quality as nonminority firms'.

Knows of other WMBEs denied contracting opportunities, including one denied access by Witcher construction, a white male-owned firm.

Has been discriminated against in financing or contracting at least three times in last three years.

Has not participated in set-aside programs and has not received contracts in these. However, firm would be less financially viable without them.

THO T. VU, Asian, president and owner of Top-Vu Technology, Inc., microsystems, microelectronics and computer services.

Discrimination is problem. Problems in obtaining financial support, marketing and management. Specific problems in applying for SBA 8(A) program--spent three years and 200 pages of application and still rejected, and with government contract opportunities--government officers are reluctant to work with him and require formal papers to discourage him.

Discrimination contributed to major problems with obtaining equity financing, establishing banking relationship, and securing start-up financing; average problems with developing accounting and control system, managing capital, and obtaining suitable real estate financing; minor problem with obtaining liability insurance.

There's no way that equality can be the same for all when we have to deal with human beings. Only laws and rules can ease the problems.

Discrimination caused major problems with coping with government regulations and developing good relationship with union, and average problems with finding qualified managers and executives, technical or professional staff, and qualified employees.

Discrimination cause major problems with analyzing competition and finding competitive advantage, average problems with pricing products/services, and minor problems with delivering on time within budget.

Discrimination caused major problems in access to customers and suppliers and average problems in access to employees. Discrimination has come from private sector firms, government agencies or employees, subcontractors, prime contractors, trade associations, and lending institutions. Specific discrimination by government in not accepting bids and discouraging his participation.

Knows from 12 years of experience that his prices are competitive and work is of equal quality as nonminority businesses.

Discrimination has occurred in the refusal to share information, no encouragement to participate, refusal to talk to him, imposition of government regulations and paperwork until it's too late.

Knows of other WMBEs who have been denied opportunities.

His firm has been discriminated against in contracting at least 3 dozen times in last three years. He was discouraged from owning the firm because of his race.

Firm has not participated in set-aside programs and has not been awarded contracts under such. Firm would be less viable without set-asides.

HARJINDER S. GILL, Asian, president of InfoSpan Corp, computer software products and services.

Discrimination is problem. Firm has had problems in obtaining financial support and marketing.

Discrimination has caused major problems in obtaining equity and debt financing, establishing a banking relations, and securing start-up financing.

We were unable to obtain even asset-based financing. Have been forced to purchase all computer equipment from cash flow, which is hampering growth and job creation.

Marketing problems have arisen despite prospects' enthusiasm about InfoSpan's products and services because of reluctance to buy high technology from minority firm.

Firm has been discriminated against by private sector firms, prime contractors and lending institutions.

Bull H.N., a nonminority firm, discriminated by not accepting bids and shopping his bid. In July and September 1989, his firm submitted "request for information" to Bull but no interest was shown.

His firm's prices are competitive with others in the Twin Cities area. He has 18 years of experience in the industry.

Examples of direct discrimination because it's a minority-owned firm are: 1) The three founders of the company were senior managers at Honeywell. When they submitted bids to do subcontract work, their qualifications were questioned for the same work they managed before starting their own company. 2) Customers are impressed with their capabilities but do not wish to do high-tech business with a minority firm.

Has been discriminated against at least two times in the past year.

Firm has participated in set-aside programs but has not been awarded contracts through such. However, firm would be less financially viable without set asides.

DEBRA L. YOUNG, owner of Debra Young Enterprises, Ltd., manufacturer's rep of lighting products. 12.5 years in industry. Has participated in preference program but has not received set-aside contract. Still, firm would be less financially viable without program.

Discrimination caused major problems in analysing competition and finding competitive advantage. Discrimination has come from government agencies or employees.

Government agency discriminated by not accepting bid. On 8/24/89, agency via subcontractor denied contract despite her low bid because "supposedly my contract couldn't meet the specifications but it was proven soon after that my competition couldn't either. My product would have saved the government agency \$8,900/year in energy."

K. DENNIS KIM, Asian, president of Enviroscience Inc., consulting environmental and civil engineers and land surveyors.

Discrimination is problem. Firm has had problems in obtaining financial support, marketing, and management.

Discrimination has contributed to average problems in obtaining equity financing and minor problem in obtaining debt financing. Discrimination has caused average problems in coping with government regulations and minor problems in finding qualified managers and executives. Discrimination had caused major problems in finding competitive advantages. Firm has been discriminated against by private sector firms, government agencies or employees, subcontractors, prime contractors and lending institutions. Several contractors have discriminated against firm by late notice of opportunities.

Firm's prices and work are comparable to others in Minnesota. He has nine years of experience.

Specific examples of discrimination include: 1) We have to fight against an image of "bad" minority business even with new clients; 2) prime contractors and government agencies have tendency to question our technical capability and fees, even when we showed all the necessary information; 3) we don't get a second chance if we make a mistake. A lot of people expect MBE to make mistakes, and when we do, that confirms their conviction of "bad" MBEs.

He knows of other WMBEs that have been denied opportunities.

His firm has been discriminated against at least once in past five years. He was discouraged from owning the firm because of his race.

His firm has been in set-aside program and has received contracts through it. Firm would be less financially viable without set asides.

BOB PERRY, African-American owner of Bob's Golden Cleaning Service, Mpls, janitorial services. In business 3 years.

Without SED program, would have bonding problems and could go bankrupt. 50 percent of business is from SED contracts. Has never gotten contract when no SED goals were set.

I have had instances where I was turned down for jobs and I know it was because of my color and not my experience....I am a man who knows my business and does the best that I can and I feel that the government's SED program was giving me that chance. Without this program, I will not be judged as a man who knows his business but as a black man and I will be turned away as a black man and not as a business man.

RICHARD A. COPELAND, African-American CEO of Copeland Truc-King, Inc., office relocations, household moves and freight dispersement. In biz 27 years.

If SED programs not reinstated, firm would suffer "irreversable damage." There would be insufficient private-sector business to sustain firm's operations. Seldom won award where no SED goals were set.

In summer of 1979, firm did some office relocations for NW Bell. On February 1, 1980, five-year contract was going to be issued for all trucking services in metro area for NW Bell. Firm learned of this on 9/14/79 and requested opportunity to bid. On 1/21/80, was invited to bid. Bids were due 2/1/80; firm submitted bid on 1/27/80. When called 2/2 to learn who low bidder was, was told that all bids had been misplaced in Omaha. Local NW Bell employee told Copeland that "something fishy is going on in Omaha. On 2/5, he was told that "the bids mysteriously reappeared" and one of his competitors who had been doing Bell's hauling for ten previous years underbid Copeland by one half of one percent on all bid items. The contract was worth \$750,000. He objected to contact at Bell, who was told by her superior to let the issue lie, although contact said she thought it was clear case of racial discrimination.

In Feb. 1980, submitted apparently low bid to Sperry Univac to do hauling. Copeland sent confirmation letter to Sperry dated 3/26/80 and met with Sperry reps on 4/3. At that meeting, he was told to raise his prices to assure our company's success. After raising rates to a level that Sperry agent suggested, he was called a week later and told thank you for bidding but your price is too high. He called Sperry's EEO office, who said that a Sperry employee felt uneasy in hiring minoirity firm to handle such an intricate task and never showed upper management Copeland's first rate sheet and expressed to upper management that copeland truc-king was in no way capable of handling a contract of this size. It has handled several contracts of this size, has some now, and has nothing but success with them.

RUFUS F. BANKS, African American, owner of Action Services of St. Paul Inc., commercial cleaning service.

Discrimination is problem. Firm has had problems in obtaining financial support and marketing.

Discrimination contributed to major problems in these areas: establishing banking relationship, securing start-up financing, obtaining liability insurance and bonding, coping with government regulation, finding competitive advantages, pricing services, and access to customers.

Firm has been discriminated against by private sector firms, government agencies or employees, lending institutions, and bonding agents. Specific discrimination in late notice of opportunities and not accepting bids.

In 1980, when he ran a car towing and starting firm, he submitted lowest bid to U of M but did not get because he is black. He got a lawyer and then got the contract. His prices for car starting and towing were competitive. Had ten years of experience in the industry.

He knows of other WMBEs denied opportunities. He has been discriminated against at least five times in past two years.

Firm has participated in set-aside programs and has received contracts through them. Firm would be less viable without set asides.

Other comments: "Fair market value" needs updating to reflect costs of doing business in Minnesota. He can't win bids because his costs exceed this standard. Sees much discrimination against minorities--they can't get bonding, insurance and financial help. Even when he takes a contract or purchase order to the bank to ask for loan to obtain bonding and/or worker's comp insurance, bank says he has to put up house or car or take out life insurance. He doesn't believe this is demanded of

everyone else.

CAROL L. CLEMENS, president of Media Management Corp., advertising agency, Mpls. 27 years of experience in industry.

Discrimination caused major problem in obtaining equity financing and average problem in obtaining debt financing. also had major problem in obtaining start-up financing.

My husband had to cosign my note with the bank, although he is not involved in the firm. I had a good credit rating in my own name for 20 years. Men I knew in similar situations then and now do not have the same problems.

Has been discriminated against 3 times in past 6 years. Has participated in set-asides, but no contracts, and effect of not having set asides on her biz would be none.

DOROTHY LOVEJOY, manager of Customer and Vendor Services, Materials Management Division, Department of Administration.

Does not believe that discrimination is as blatant as the Supreme Court seems to think it is. Seldom does anyone come forward to say, I won't give you a contract or a loan or do business with you because of the color of your skin or your gender. Prime contractors, bank officers, purchasing agents, all are too sophisticated for that approach. More often, the discrimination that occurs is less obvious, such as imposing restrictions or standards that place unequal demands on people of color and women.

People of color and women tend to be hesitant to identify the source of discrimination. These people, attempting to establish or maintain a business, fear that identification of such discrimination may prompt reprisals, often throughout the entire "good-ole boy network" that exists within given industries.

Since the requirement for 10 percent subcontracting was initiated, there have been many instances when minority or female business owners have said that having the required subcontracting was useless. They have indicated that they were listed as a subcontractor on a prime contractor's proposal without ever having bid to the prime contractor and that they never heard a word from the prime contractor after the award of the bid. These subcontractors were, however, unwilling to provide any details because any other contract might come along with that prime when they would actually be used or because they feared they would be blackballed by other primes.

A prime contractor who would not identify himself called Lovejoy to complain because a project he was bidding required 10 percent subcontracting to SED small businesses. The project was in northern Minnesota and apparently involved a substantial amount of specialized work. The prime contractor indicated that there was only one minority-owned business in the area that could perform any of the work of the contract and concluded the conversation by saying, "I'll pay that (expletive deleted) Indian 10 percent of the contract just to stay off my job."

JUANITA G. FOURNIER, pending owner of Bud-Jet Courier service, Robbinsdale.

She bought the business in June 1989; included in the purchase was the license to do business in the whole state of Minnesota. The transfer of the license to her was opposed, however, by the owners of another big company. One of these owners told her in the presence of two other witnesses: "We normally do not oppose a license transfer but we will oppose this one and we won't drop it because you're a minority." He also told her that if she were black or American Indian he might not oppose it and if she would transfer it to her husband, he would drop his opposition immediately. A few weeks later this same competitor told her husband that the only thing he opposed was the minority ownership of the license. He told her husband that if he would write a letter saying it wasn't a minority-owned business, he would withdraw his protest. He also said, "You know I have deeper pockets than you do so

I can stand to fight this thing a lot harder and longer than you can."

Summary of Testimony at St. Cloud Hearing, November 18

(Summarized by Mark Shepard)

ART GAHBOW (note that this witness distributed written testimony): Has been the chief executive of the Mille Lacs band for 17 years.

Testified that many businesses operated by the band have encountered discrimination. These businesses have failed. He will provide the Commission with affidavits identifying instances of discrimination.

Among the businesses that failed were an electronic assembly plant and a construction company. The band does not have any current functioning businesses.

Believes that set-aside programs are important for Indian programs and businesses to succeed.

Says there is some direct bigotry discrimination, but discrimination is usually more sophisticated and more subtle. Cites a general tendency to select employees and subcontractors from the old boy network.

Suggestions for policies, within the confines of Croson:

1. Document specific discrimination.
2. Continue the current "economically disadvantaged" program, perhaps using race as one factor.
3. Require contractors to make a good faith effort to hire economically disadvantaged subcontractors. Perhaps require them to give feedback to unsuccessful economically disadvantaged subcontractors, so these subcontractors can improve.
4. State should hire subcontractors directly, instead of allowing general contractors to have this discretion.
5. Make capital available, relax bonding requirements or provide assistance in obtaining bonding, give technical assistance to new firms, highlight success stories.

In response to questions, stated:

--Electronic assembly plant was assisted for IBM, and operated for 10 years.

--Construction business basically did not get jobs. Received some complaints about their work. Feels these complaints were a result of discrimination against Indians. Gave an example of an 8(a) job for the federal government in which one inspector approved the work on a tank project, but the Chicago inspector rejected it on the ground that the wrong brand component was used (even though the brand used was of similar quality). Felt feds mistreated them due to race. Also stated that HUD and other federal agencies said they didn't meet quality and time standards, although the band felt they did meet the standards. In one case, sued HUD for underpayment and won, but in meantime had trouble paying subcontractors.

Construction business operated as a general contractor for 3-5 years.

--The band's businesses did not participate in state set-aside programs.

A problem on their reservation is that they don't have Indian businesses, even to bid on jobs on the reservation. OIC is going to start a training program on the reservation, which eventually may lead to formation of more businesses. Believes that existence of a set-aside program would encourage formation of businesses.

JACKIE PRIGGE

Is an officer of the National Association of Women in Construction (NAWIC). This organization has 8,000 members nationally (about 50 in Minnesota?). In September, 1990 they will have a convention in Minnesota. NAWIC in Minnesota started in 1969.

She has had a material supply business for three years. Supplies, fiberglass, metals, toilet partitions. Her business is certified in the state SED program and with MAC. The business is based in St. Paul.

Feels women need training on construction and trades.

States that she has been harassed. For example, one contractor said that he didn't want to talk to or deal with women. Feels there is a general attitude of discrimination towards women. Feels bossed around, not respected, and talked down to.

She doesn't need bonding or insurance, so has not had a problem in these areas.

When she makes a bid, she doesn't get a response unless she asks. People are sometimes non-responsive, but she doesn't feel too harassed; has "broad shoulders".

Estimates that her business has been cut in half since SED program was suspended.

Says she has not been getting as much bid information, but it sounds like this may be due to contractors' decision not to print certain types of material.

She is also a member of AGC. Says they have hurt minority and female-owned businesses by publishing negative articles. Says Croson has not been discussed at the general quarterly meetings of AGC she has attended. She became an AGC member through a scholarship that they were giving out to businesses owned by women and minorities. Doesn't know if the program still exists. Says AGC membership is important to her because it gets her name out and keeps her informed about business.

Says that there is some type of liaison between NAWIC and AGC. Implies that NAWIC members may feel inhibited about filing affidavits with the commission because of relationship with AGC. AGC has apparently committed \$50,000 over 3 years to the group, as part of an effort to have more skilled women workers by the year 2000. Feels AGC might withdraw support if women filed affidavits with the Commission.

Says she has had some difficulties being paid. In one case this might have been due to being a woman, but the contractor was alleging inferior materials. Says payments take 60 days as a general practice.

Has not had problems with suppliers. Has had some problems with financing (e.g. C.O.D. terms), but says she has not had any more problems than anyone else in the industry.

Says no direct difference in the way she has been treated by contractors since Croson. Problem is that her bids have been too high. Businesses has dropped off, but she can't say why.

Feels best possible program would involve education and low-cost financing. Also says set-aside would help.

She worked for construction firms for 20 years doing estimating, etc. before starting her own business.

RITA GOODMUNSON (note that this witness distributed written testimony): Testified generally to an experience that she had when she was decertified from eligibility for the Department of Administration SED program. This was before the program was suspended.

She was certified with the state program in 1986, and supplied audio-visual equipment, and later insulation.

In incident in question, she had received state purchase order for TV's for St. Cloud state. Later received called from DOA buyer. Another minority bidder brought a charge against her, claiming that she did not qualify for the program. She also got a call from U. of M. saying same person had complained there about her. Also, got a call from her supplier, with a threat.

Her bids completely stopped, and she didn't get bid notices. Later got letter from Dorothy Lovejoy, saying that small business procurement advisory council had made a motion to suspend her. (She presented more testimony about the lack of notice of SBPAC meetings and action). She was dumped from state and U. programs and her supplier refused to supply her any more. Feels this was all primarily due to the action of her competitor.

Dorothy Lovejoy explained that she was decertified from the program upon advice of the Attorney General, based on a DOA rule. The rule said that to be in the program a person either had to carry an inventory of goods, or had to have an agreement with a manufacturer, not a distributor.

Purpose of the rule was to avoid dealing with brokers in SED program. Dorothy says it was not a good rule--small businesses could not reasonably have been expected to deal directly with manufacturers, since manufacturers do not do this. She said DOA was taking steps to repeal the rule when the entire program was suspended.

More generally, testified of some discrimination against women. Gave example of an OPUS project for materials and installation that she won at the U of M. She was the first woman that OPUS had. Said the person had a fit when he found out that the person he contracted with was a woman.

In response to the question of whether women had equal opportunity, answered not necessarily, unless they are strong. There are more requirements placed on them than on men.

KAREN RETKA: Generally related problems that she had obtaining necessary bonding after being the low-bid on a school remodelling project this year. She felt that the school board imposed especially restrictive timing on her in her efforts to get bonding.

Has been in business 1 year. Worked for another electric company for six years. Has master electrician and contractor licenses.

Had bid on a school remodelling project, but her bid had been thrown out because she did not have bid security.

Then on school project, was the low bidder, but had problems getting bonding because she was new. The board repeatedly asked her if she "felt comfortable" with her bid. Architect called and asked if she would be able to work with a general contractor, etc. due to her lack of experience. She was called daily to ask if she could handle the job.

The board gave her only **three** days to get bonding, even though the specifications book had said the winning bidder would have **ten** days.

She continued to have no success in finding bonding. Board then said they would give her the bid security check back if she would withdraw her bid. She did this, and withdrew the bid.

She felt that if she followed up on the 3-day/10-day discrepancy, she would never get another job in town--would be excluded from the network.

She feels that being female hurts her. Suppliers get pressure not to give her good prices. She is having trouble with suppliers, bonding and financing. Has kept her from bidding or winning big jobs. She also has trouble getting employees, since they don't want a woman for a boss.

She was certified to participate in the state set-aside program, but the program was suspended before she could use it.

Needed her father's signature to get bank loans. Was told she would need millions in cash to get the bonding she wanted.

In the particular case, the thing that upsets her was not so much the inability to find bonding, but the 3 days rather than 10 that she was given to obtain it. She had the general feeling that they were trying to exclude her.

In response to questions, she indicated that she thought she was given higher prices from suppliers than others, but this may be due to their perception that she was not a good credit risk. Also gave testimony of threats to cut supplies to her based on her union affiliation.

She feels generally that people tolerate her getting small jobs, but don't want her in the big ones, possibly because she is a woman.

She is trying to become part of the network, but it is difficult because it is really cliquy.

As an apprentice, she had to work twice as hard as a man. Always had to prove she could do the work...more so than a man had to prove.

Was badly treated by co-workers when she passed her journey and master licenses before them. Heard general discriminatory comments (i.e. she must be getting help with the tests, help with bidding).

Says general contractors did not take her seriously at first, although they did take her bids.

ANNETTE: Owns shredding company in St. Cloud. Her testimony revolved around the fact that the county board had hired another firm to do shredding. This firm hires handicapped people to do much of their work. They are partially funded by United Way, and she feels it is somewhat unfair that her competition is funded in this manner.

She felt that the other firm was given the job through the network. She does not believe that she was given an opportunity to get the job.

She is bonded and insured, although she had some trouble with this initially due to the sensitive nature of her work.

She was certified through the SED program.

Did not feel that she had faced any particular problems because her business was woman-owned.

Summary of Testimony in Bemidji: December 1, 1989

(Summarized by Mark Shepard)

DARREL WADENA: Chair of White Earth Indians. White Earth Indian reservation operated the WIC program for 14 years for several counties. Recently Polk County formed a community health organization. He believes that 1989 state law changes forced their organization out of the contract because of new requirements. The reservation was offered a contract to serve the Indian population only, but it is not able to continue to serve others.

He believes the law is unconstitutional. There is currently a challenge in front of an administrative law judge. He also feels a state employee advised them to fill out a form in a way that would eliminate them from consideration for the contract.

Believes that financing is a general problem for Indian business start-ups on the reservation.

MIKE KINGBIRD: The local Indian Employment Council received a grant to help Indian entrepreneurs start businesses. Only one of their 25 clients could put together start-up funding, even with the help of the tribe.

There is a major problem getting start-up funding, even with good business plans. A major need for help with start-up funding, even in small amounts. He believes bank won't provide financing, because Indians often don't have the minimum required amount of personal financing to match the bank's. Financing problems are not unique to Indians, but hit them particularly hard because they don't have jobs and can't save money to start businesses. In general, economic conditions on the reservations forestall potential entrepreneurs from accumulating capital necessary to start businesses.

Difficulty in finding work may be due to discrimination in employment, but is also partly due to lack of skills in things such as reading and writing.

Feels Indians are generally being excluded from high paying unskilled jobs. Cites example of UPS facility in town that until recently had no Indian employees (although they generally are a good company). It used to be they wouldn't even publicize jobs--wanted to hire people from their own families, and wouldn't even notify the Indian job service. Now this problem has been corrected. The jobs involved here are union jobs, and he believes the union participated in the discrimination.

He believes preferences, such as those under the set-aside program, would help convince banks to loan start up funds to Indians.

Feels that businesses were hesitant to participate in state programs because of the paperwork involved.

AL GOODWIN: Owns Al Goodwin construction. Has done subcontracting with MnDot; about 90% of his work was for MnDot.

IN 1987, when MnDot combined women and minority goals he got shut out (he is Indian). He generally felt the previous state SED program was a good one, but needed some improvement on the distribution of work to women v. minorities. He feels he would still be in business today if the program had not been changed to lump women and minorities together.

Felt "good faith" effort requirement imposed on general contractors to find DBE subcontractors was not strong enough. Generals would send him notice only 3-4 days before bids were due. Also cites cases where general contractors would tell him his bid was too high, and then would argue that their good faith effort to find a minority subcontractor had failed.

He believes suppliers charged him higher prices because he was small. Felt that this price discrimination was probably not due to his being an Indian.

He is now out of the construction business, and in retail. Finds some people won't buy from him because he is Indian. Refuses to be specific because he needs to do business in town.

Cites a case in which he was interested in bidding on state roofing project, but was not allowed to bid because he was classified as a general contractor.

Was asked if state should keep a list of subcontractors and somehow try to do some bids directly with them, rather than going through generals. In response, he felt that a problem would be that small subcontractors could not get bonding. But may not be a major additional problem, because now some generals ask the subs to get their own bonding anyway.

He never had bonding, and didn't need it. However, was turned down for several bids when he couldn't get bonds. Believes that when he was asked for a bond, it was because he was a new business without a track record. Older businesses were not asked for bonds.

Indian contractors did not have a good track record. It is "possible" that stereotypes associated with Indian contractors may have been ascribed to him.

He had some problems with start up capital, but never attempted to borrow money.

Re. bid shopping, says this happens, but it was a general business practice in construction. Doesn't know if it happens more to minorities.

He believes that but for the SED program, general contractors would never have sent him notices of jobs. Was useless to bid to some generals, because they already had their own SED proteges.

Abolishing the SED program would take away incentive for Indians to start companies and would kill existing ones.

Major things that need strengthening are bonding and operating capital. State could also set standards that would pay generals an extra amount to allow them to use minority firms that would otherwise be too costly.

GARY FRASER: Executive director of Minnesota Chippewa tribe. Would like to see program reinstated.

Tribe was formerly funded through the United States Department of Commerce to run a program to assist small businesses. Among the requirements of the program was that small businesses helped attain a certain volume of procurement contracts. Suspension of the set-aside program caused them to fall below the procurement goals and lose contract.

Believes that without a set-aside program, small business cannot overcome the advantage that big firms have in volume purchasing.

Does not favor a strict time criteria for cut-off from the program. Instead would tie this to business size.

Stresses value of program to economy of reservation.

Not sure if 5% bid preference is enough to make a difference.

DOUG LEMON: Represents American Indian Chamber of Commerce. Also president of express business services.

Six months ago, sought a loan from a bank that he had a previous good relationship with. The contact that he had dealt with before was no longer employed by the bank. Bank president put him off, but eventually said that if the MCDA would guarantee the loan, they would help. MCDA agreed to guarantee 75% of the loan (to set up an AT&T dealership). Even after restructuring the loan, as requested by the bank, he was stonewalled.

His white wife went in and was given a warm reception, until the bank learned of the connection.

AT&T felt there was a racial motivation.

Eventually, through other contacts in the Indian chamber of commerce, he went to Norwest bank, and got everything he asked for in a week. He never received an answer from the original bank as to why the loan was turned down. He believes he was discriminated against based on race.

TERRY HODDEN: Bid on a MnDot set-aside project for a culvert south of St. Cloud. He was the low bidder, but his bid was thrown out due to faults in the bid (he does not contest that the bid should have been thrown out).

Project was then bid on the open market. The winning bid, for both labor and supplies, was cheaper than the price he had been quoted for supplies alone. Believes that because the bid was set-aside for minorities, supplier gave a very high price, knowing state would pay it anyway? (Could supplier be giving minorities high prices so that projects would not be within budget and would be bid openly?)

He says there were two other SED bidders when the project was going through the set-aside process. Does not know why the contract was not awarded to one of these.

Majority of his business was through set-aside. When women and minority categories were merged, business slacked off greatly. Now MnDot is about 15% of his work.

SED program gave him some incentive to start his business. Believes his business may have started without SED, but may not have survived first three years. Wants some sort of program to continue. The program helped him make contacts. People were forced to knock on his door, and this gave him opportunity.

Says that Set-aside program is "almost necessary" for minority contractors to get going. Without discrimination there would be more minority companies. The set-aside program helps to alleviate past discrimination.

His payroll is 35% minority.

Feels more enforcement is needed: 1) enforcement of prevailing wage laws, so all contractors will be competing fairly; and 2) looking at who owns the business. He believes that some women owned businesses were fronts.

BUTCH GORDON: Gordon Construction. Owns a small construction company on the reservation. He tries to general contract instead of subbing, because the 10% set-aside requirement didn't work for him.

Does not feel discriminated against in business.

Regarding pipe pricing: certain contractors are given prices lower than others in an attempt to keep new business out. He thinks minority contractors are not included in the select few that get the good prices. He believes this is based on racial discrimination, but can't prove it.

Feels 5-10% bid preference is not sufficient to make a difference. Minorities need a system where they can have stuff set-aside so they compete only against other minorities.

He has problems with financing and bonding, the same as any business. However, he went on to state that he has never failed on any job, but the minute they find out you are from the reservation "it's pretty tough" (to get bonding and financing).

Once bought a backhoe. Once the seller found out he was taking it to the reservation, they gave him lots of grief (because they thought they might have a hard time repossessing?)

Has problems with bonding and with cost of insurance.

He does lots of work for federal government, and has problems with the 3-month delay in getting paid. Believes state government is better. This is not a problem just for minorities.

Discussion of fact that small contractors need to make a cash payment under prevailing wage laws to represent the value of fringe benefits that are paid to employees of large firms. Small businesses are at a competitive disadvantage because they have to pay workers comp, unemployment comp, and social security on these cash payments, while big firms do not have to make these payments if they provide fringe benefits instead of cash.

He says he wouldn't need the set-aside if there were adequate enforcement of the prevailing wage laws.

Summary of Testimony in Duluth: December 2, 1989

(Summarized by Mark Shepard)

LIL STOCKE: Cites subtle discrimination against women in the workplace.

--1962: she started teaching; male head of household got \$50 extra, and got employer-paid insurance for family that female head of household did not get

--1974: was denied credit for her real estate business because she was a woman. Although she was top agent in her company, was denied promotion to managerial job because she was a woman.

--1980: started own company. Told reason for success was husband. Applied for loan to buy property, and was forced to give husband's personal guarantee. Felt co. would have given loan to a man w/o wife's guarantee. Eventually got 80% loan with good interest rate, but still felt her loan was judged in a different category from men.

On the business environment for women in Duluth generally: Don't know.

When she bought a business downtown, she was asked for her husband's personal guarantee, but her two male partners were not asked for their wives' guarantees.

Says women are 30% of chamber of commerce now.

Until last year, women were excluded from realty board.

ODIE POWELL: Duluth EEO officer. In last three years, city has made significant progress in hiring; Three females in fire department, and other females in non-traditional jobs such as water and gas depts.

MARY BODINE: Has an accounting systems firm.

Was not allowed by company to be an independent agent, so left. Eventually came back and got Duluth/Superior distributorship. Did well selling to small businesses. Eventually was terminated. Felt rumors were being spread about her. She went out on her own, and the company sued her for violating the non-compete agreement she had signed. Says she won the case.

Has been on her own since February, but feels banks unfairly deny her credit for her past experience. Was given a big hassle regarding a \$2,000 loan application, and eventually borrowed from her father.

Cites further hassles regarding a \$10,000 loan. Was put through lots of hoops until here father co-signed. Felt that the hostile treatment was due to gender.

Cites hostile reception for Duluth city purchasing agent that she called on.

Generally feels mistreated because she is young and female.

Commenting on conditions generally for women business owners in Duluth, feels they are OK once the business is established, but that women are not taken seriously at the beginning.

Feels programs that assist women are valuable; especially those that provide education.

CLAUDE WASHINGTON: Duluth purchasing agent and MBE liaison.

City implemented WMBE in August 1986 through administrative action, not legislation. Before this program, the city did very little business with women and minorities (and didn't keep track). In 1987 this went to about \$350,000, and up to \$1.367 million in 1988. The big increase from 87 to 88 was due partially to the overall increase in contracting dollars in 1988, and partially to the program being fully implemented.

The city had gotten some pressure from the federal government, because of federal construction dollars. The guidelines of the Duluth program were set up to match federal definitions.

They suspended their program on July 15, 1989, although they have a continuing program for federal dollars.

When state MnDot combined women and minorities, contractors stopped using minorities and went to women. The city later separated women and minorities to allow minorities some business. He suggests keeping the goals separate.

The goals of their program fluctuated; no set % for the year, but varied based on type and amount of contracts and availability of vendors. Program only applied to construction subcontracts, not to contracts for services and supplies.

In response to the question of why general contractors stopped doing business with minorities when the women and minority programs were combined, stated that they had no experience doing business with those types of vendors due to historical discrimination. Women sometimes had spun off of a spouse's business. Also, they mixed better than minorities did with the white male firms. So minorities were not known in the contracting community and didn't get contracts.

In response to the question of whether discrimination exists in Duluth, says "yes". Figures show that unless legislation makes the general contractors treat women and minorities equally, the amount of dollars spent on women and minorities will be substantially less.

Feels state should require all units of local government to follow same set-aside rules that it follows. State does a good job for its own departments.

Says enforcement is a problem; there are not enough resources to monitor the program.

On bonding, cites an example of a Duluth firm that won a contract, but had to default because it couldn't get a special demolition bond. State law requires that projects over \$10,000 have a performance bond. Duluth requires bonding on all construction projects. Contractors with little experience have difficulty getting a bond. Thinks state should try to make this easier somehow. These businesses also have cash flow problems.

In response to whether they had documented discrimination against specific minorities, stated that the resources necessary to define this discrimination are not available. They need to look at hiring and business to get the total picture.

Unions say there is no space for new people, but contractors say minorities have to join the union to get jobs.

Contractors claim minorities and women have no experience.

When the program requiring use of women or minority subcontractors ended, the use of women and minorities declined dramatically. They can infer discrimination from this, but can't prove. He will submit #'s to the commission showing this sharp decline.

MIKE WIDMARK: From Bois Forte Indian Reservation.

Expresses general support for set aside.

Says there is a special need for help in bonding.

Says it is hard to document specific discrimination at Bois Forte; need to extract from statistics.

Feels his band businesses would not be in subcontracting without the program. Allows relationships to develop.

DAVE DANIELSON: Fond du lac band.

One problem with economic development programs for Indians is that money is given to the Indian tribal government, not to individuals. At Fond du Lac there are no individually-owned businesses on the reservation.

Believes there is a strong need for set-asides to give individually-owned businesses a competitive edge. Need to re-direct set-aside dollars to people who want to start own businesses, as opposed to reservations.

Cites a case where a wealthy non-Indian person was not allowed as a co-signer on his loan.

FRED DOOLITTLE: Alliance steel

When state programs were suspended, his company almost ceased to get solicitations for state work. Without program, will never get a contract. Pre-suspensions, got solicitations on almost all lettings--once or twice a month. (He does bridge work).

MnDot officials says overall amount of bridge work has not declined this season. Also says they have some info. on number of \$'s currently going to minority contractors.

He doesn't know if other minority contractors are in the same situation as he is.

Says financing and bonding are not a problem for him, because he has been in business 13 years and has a good track record. Believes bonding and insurance can be hard for all, minority or not.

MARGARET FRY: Margaret's construction co.

Supports the SED program. Most of her work is as a government subcontractor. Program has allowed her to quote general contractors. Without the program, she would not have had the opportunity to bid. The program allowed her to get her foot in the door with generals when she started the company in 1982. She had previously been involved in the industry since 1969.

Feels there is lots of discrimination against women.

She doesn't have problems with insurance or bonding, but lots of women and minorities do.

She says she has not experienced a drop in business since the state program was suspended. She is not doing as much business with state and local government, but is still doing a lot with federal.

Says people don't like to work with women. She has lost some jobs, even when she has had the low bid. The contractor tells her she isn't the low bid, but she thinks she is.

Says she has not had a problem being quoted different prices from suppliers than others get, or at least she doesn't know about it. She gets higher price quotes than big companies, but this is because she is buying in smaller quantities. Feels she gets same prices as people who order similar quantities.

Lack of a program would deter minority/women businesses. Without a program, contractors can ignore her quotes.

LES NORTHRUP: Fond du lac. Has considered starting several businesses on the reservation. Would like state funds to be made available to him. Under current political structure of reservation, the tribe gets the money and he doesn't.

Discussion of tax agreement that band has with the state, under which the band gets dollars in exchange for agreement not to sell cigarettes and gas without the tax. Apparently there is a problem if an individual wanted to sell these items tax-free, because the individual might be bound by the agreement between the state and the band that forbids this.

Anticipates he might have a little problem with lending institutions, due possibly to no previous business experience.

MIKE FRIEND: Minority contractor.

Set-aside programs very important. He had lots of solicitations until fall when the program was suspended. Now has none. Says there is evidence that general contractors are now doing work themselves, instead of using SED businesses.

All his prior business was through set-asides. He hires other minorities.

KARLA MAHLMSTROM: Owns small construction company.

Says program needs to educate; promote college scholarships, etc.

Receives set-asides among other work. About 10-40% of her work is through set-asides.

Her heavy equipment business started in 1979.

Has had problem with bonding.

Believes society is getting more receptive to women and minority businesses. The set-aside makes contractors listen to them.

FRAN KARKONNEN: Electrical contractor.

Program needed: a foot in the door; general contractors get to know work and ask you back.

Duluth is mostly union and her firm is union. Need to get more women and minorities in apprenticeship programs. Her company tries to hire minorities, but can't get them, as they are immediately employed.

Not too much bonding problem.

Has been in business since 1975 and has been in the MnDot program since 1983.

(Claude Washington interjects that two blacks completed a training program at the vo-tech and could not get into the apprenticeship program. He feels it is hard to get in. Minorities need a guide through the apprenticeship process. There are no minorities or women on the apprenticeship committee, so people don't get into the program.)

Summary of Testimony in St. Paul: December 9

(Summarized by Mark Shepard)

NOAH HURLEY: Rents traffic control devices. Certified with MnDot since 1981. Also certified with MAC, MWCC, Hennepin County.

If programs, not reinstated, he would go bankrupt after 11 years in business.

Can provide services anywhere in the state. Can do 80-100 contracts simultaneously.

Until 3 weeks ago, there was another MBE in his business. This was bought out by a larger non-minority competitor.

He has done lots of business with NSP and with NW Bell, who have been happy with his services. Believes some previous business has been hurt by slanderous remarks made about him. He lost 15-20% of his business.

In last 12 months has bid on 185 jobs, but has received only one MnDot contract. Has gotten other work with MAC, MWCC by being the low bid--22 projects.

Believes he has faced some direct discrimination through major contractors and from people who operate SED programs:

a) Feb. 10, 1989: Kramer and sons requested bid on 494 project. He submitted written quotation. Ames construction, who was part of the venture, said that they never looked at his prices, because they were going to do business with his competition (non-minority firm). He believes he was discriminated against by not being given an opportunity to compete.

b) April, 1986, Lundeen construction project in Waseca. He was told his bid would be used if low, but he was rejected. He feels contractor just wanted to demonstrate that they had made a good faith effort to use a SED firm, but that he never had an opportunity to get the bid.

c) 1982: Hennepin County engineer wrote letter to general contractor Lunda saying many project lights were out on several occasions. Hurley feels letter was based on malicious complaints from his non-minority competitor. He says the only reason the lights were out was because it was daytime, and they were supposed to shut off automatically. Eventually got an apology, but still feels discriminated against based on race.

d) 1985 subcontract with Lunda on project near Kellogg, Minnesota. Contractor felt they had overpaid him on prior project and refused to pay him in full on this one. He believes the failure to pay was motivated by his race.

Believes that a useful SED tool would be to give prime contractors a financial incentive to use SED firms, or to help them with bonding, financing and other needs. For example, half of the \$300 million the state gets from the feds could be earmarked for primes who agree to help SED's. Could also give tax incentives or bonus payments. He says there is no doubt there is racism, but that much of it stems from not getting to know the minority contractors. In general, financial incentives would encourage firms to use SED's, (as opposed to old program, where they were looking for excuses to avoid them). Could encourage majority firms to be mentors to SED firms. Feels generally, that contractors won't work with SED firms unless they have a financial incentive.

Contractors have been satisfied with the job he does, but he still doesn't get his fair share of the work.

Since suspension of programs, he doesn't even get return calls from the contractors that he used to work with. They just go back to the good ol' boys they did business with before.

He believes there were discriminatory reprisals against him after he reported a contractor for trying to set up a front.

Says last year he got 3 bids out of 185, whereas previously he was successful on 20-25% of his bids (ME: not clear extent to which previous success was because he was low bidder or because of SED program)

FRED SHAW: General contractor. Believes there is discrimination against minority contractors:

- a) had low bid on Minneapolis garage project, but didn't get job. He believes racial discrimination.
- b) Was low bid on city of St. Paul project, but his bid packet was "misplaced" and he lost the bid.

MEADOW MUSKA: From Women in the Trades, an organization with 200 women on newsletter list.

Cites early evidence of discrimination: 1974 job office sent her to restaurant jobs, not construction.

1978 graduate of Dunwoody Electric Inst.: cites frequent discrimination in the form of conversation, sexual harassment, while in training. Although slowly improving, still a problem.

Cites Cunningham study where people were afraid of reprisals if they complained. She is withholding evidence today for fear of reprisal. Fears more harassment in daily work and future employment.

Feels unions don't give equal opportunity in hiring to women. Encountered more discrimination in her apprenticeship in St. Paul. Feels women were assigned to menial non-electrical jobs. Apprenticeship board told her she was too sensitive. Men were generally hostile to her. People wouldn't speak to her. Feels women and minorities were generally harassed in the trades. Their mistakes were exaggerated.

Recent example where 3 of 5 layoffs were women. Union told her that no government jobs were available, but government agencies said they were having trouble finding women to assist in fulfilling affirmative action requirements. Contractors have an agreement with the city to provide women, but they don't.

Says there are current lawsuits against unions for failing to refer women out, and arguing that contractors are violating agreements by not asking for women.

Says contractors and union officials on apprenticeship committee are turning away qualified women who want to apply.

Affirmative action programs are only superficially enforced, especially the apprenticeship programs (cite to page 88 of "Barriers" where Meagher admits fault).

General testimony of problems in apprenticeship programs.

Affirmative action in the trades is a myth. Weak sanctions and no enforcement in unions. Leaders bow to wishes of sexists and racists among the members.

Low seniority for women and minorities a result of past discrimination.

Cites story re. Dan Ryan construction in Chicago, and says same situation exists here.

MICHAEL GLAPION: Insurance and surety specialist. Started own firm in April, 1987. Only minority agency in country in commercial insurance and risk management. Has been sought after as WMBE nationwide. 18 years of insurance experience.

In Minnesota: abominable that he can't get business here, with his nationwide reputation. He shows his proposals to MWCC, Mpls. Park and Rec. Board, Ramsey County, MTC, Timberwolves, Nieman Marcus, Mall of American. Feels that he only gets responses if he carbons his proposal to Boschwitz.

On US West project, was supposed to be a broker. He did a lot of work, but contractor stonewalled the project and said they would provide insurance themselves. He felt they did not recognize true insurance costs, and that he was cut out unfairly when US West allowed contractor to provide the unsatisfactory insurance..

Feels that on other construction projects owners could provide overall insurance, so that small contractors wouldn't have to--more could be done this way. He particularly feels Mortenson is playing game with the insurance. Examples include U.S. West, and Timberwolves, where he was given later notice, and not really given a fair shot to bid.

Says of Mortenson projects, only convention center has achieve WMBE goals. They generally want to avoid WMBE's; won't deal with them unless they have to.

Feels public entities also unwilling to change. Institutional racism in spending \$\$ for professional services from minority firms.

Private and public sector won't go out of their way to give him even a small piece of the action. He has been finalist on several projects, but firms tend to stay with the incumbent.

He has no clients through the set-aside.

SED certification process demeaning. If his white employee goes in to bid, they are not asked if the business is an SED, but he is. (Feels SED's looked down on just for being SED's).

State refused to certify him for the SED program because he is an insurance broker.

Majority insurance firms don't recruit minorities. Very subtle discrimination--is covered by the RFP process.

REBECCA MONTEZ: A massage therapist; city represented to her that she could go ahead and remodel her home for massage therapy, but after she did, they refused to grant her license due to zoning restrictions. She feels racial discrimination was a factor in the decision not grant her the license.

GEORGE HAWKINS: Associated Builders and Contractors. They have 250 members in Minnesota, with 4 WMBE firms.

Their group is opposed to goals and set-asides.

Concerns over definition of WMBE: is it reasonable to give a general contractor credit when they award a contract to a woman-owned firm that employs only white males; should they be denied credit for doing business with a white male firm that employs minorities.

There are WMBE firms that can compete openly; what policy justification for including them in the program?

Avoid legislation that encourages men to sign over businesses to wives.

Need to make program time-limited and finance-limited.

Encourage ABC, other associations and the bonding community to be part of the program, to eliminate the excuses that they couldn't find DBE's. Make public agencies have more of an affirmative duty to tell prime contractors who the qualified DBE's are.

Says association would be happy to help. They currently give a 2-year dues discount to WMBE members.

DEE HARRIS: August, 1989, MTC bid for 100-120 drums of detergent. Upon opening, she was told she low bidder, but was told her product was not an approved brand, and had to be tested. Is still being tested, while

bid was awarded to prior incumbent. She was told of past problem with manufacturer of her product.
CHIMA OKORIE: Manufacturer of product involved in above MTC bid, and other janitorial products. In state program since 1984.

Feels purchasing agents are generally non-responsive in returning his calls.

Cites case where his low bid for degreaser product was rejected because he didn't include the material safety data sheet. He believes winning company's bid was also incomplete. Believes upon re-bid, calls were made to the non-low bidder telling them to lower their bid to beat his. He believes these activities were a result of racial discrimination. Believes public officials are involved in this racial discrimination.

Cites subjective rejections because purchasing agents don't think he can handle the work.

Feels he has not been well served by being certified by an agency such as MnDot, and then finding out they don't buy his products.

Never got a set-aside award.

"Give me a fair chance". He feels that but for discrimination he could compete fairly.

Complaints about govt. agencies that specify brands that are only made by white companies, instead of bidding for products that have certain qualities.

DONNA MUELLER: Distributes Okorie's chemicals. Cites MPLs. brand-specific specs--feels they discriminate against small businesses. She can't even tell what the product is from the bid specs. Also, Mpls. requires non-refundable bid bond with the bids. Puts small business at a competitive disadvantage v. the large ones. Also believes that Mpls lumps too many products together on one bid sheet; if any one of the products is a brand name that a small business can't supply they are excluded from bidding on the entire package. Says same applies to the state.

JOE LEWIS: In various businesses 20 years; in construction since 1969.

Discrimination doesn't stop because of set-aside; long history, beginning with slavery.

Has been a hauler, wrecker.

Proliferation of different application processes in various SED programs has discouraged minorities.

Attitude problem: business try to keep work for themselves and their friends by disqualifying SED's.

Arbitrators are biased when complaints arise.

Problems with collections; perhaps as a way of trying to eliminate them as competitors. Although state guarantees prompt payments to primes, this doesn't mean primes will pay the subs promptly. Any program should help them with collections.

Feels more discrimination with Reagan era; no effort to enforce fairness.

Not saying state of Minnesota has discriminated, but state has not assured equal access to economic opportunity for its citizens.

Need to assure no bank discrimination.

Establishing the working capital fund was a good idea; people get up-front money. Need continued state economic development efforts for minorities; need bonding assistance too.

BHATT: SPS mechanical: heating, ventilation, air conditioning. Started business in 1979. Certified as MBE in various agencies. Has worked with MWCC, state, U., major corporations. Got contracts generally because he was an MBE and they needed him to meet goals.

If he were not certified, feels he would not be solicited for bids. Program helped him to grow, and he is still being helped by being in federal programs.

Sees discrimination every day. Two weeks ago, was the low bidder, but didn't get the job; feels based on racial discrimination.

Likes SED program; need better enforcement.

Last year: an irregularity with someone submitting a late bid; also confusion over goals v. requirements in selection of subcontractor.

Thinks \$1 million definitional limit is too small in some industries.

EDITOR OF ASIAN NEWS: Lots of people come to him seeking publicity for bids where they want minority vendors, but they don't pay him.

DOROTHY LANTIER: Gladstone Construction.

In business since 1985; \$2.4 million in last three years, of which about 60-70% was with public agencies.

She is noncompetitive at times. Inhibited by:

--post office problem (?): did not get addenda to bid

--bonding: although SBA rated her for a certain amount, surety company would not give her that much of a bond. She has to bond herself, and her competition does not have to bond themselves(?).

(?) Sometimes construction managers won't give her plans.

She called engineer and architect to get plans, and can't get them, even though they are required to show them. She suffered delays in getting plans until it was too close to bidding time for her to do anything.

She cites an example of once when she was low bid, but they had a meeting to discuss some problems. Another bid was requested and held until a competitor bid \$100 lower.

Has had experience where sometimes a project was re-bid with new documents, or a project has been cancelled when she has been low bidder.

Cites example where she was low bidder on \$21,000 project, but it was given to a \$33,000 bidder. The bid specs called for performance in 19 days. The \$33,000 bid said they could do it in 12 days, but nothing in the specs said that extra credit was to be given for performance in less than 19 days.

Example of Minneapolis projects with minority goals in the specs. She met the minority goals, and knew the competition didn't. She was \$200 higher, but lost, even though others didn't meet minority goals.

Feels harassment; extra scrutiny given to her work.

When she is bidding against big firms, they can lowball the price, and she can't match it because of bonding. The bonding industry puts a squeeze on small businesses. Bonding companies favor big companies (by giving them better rates?)

Senses a feeling that she can't complete projects, even when she provides good references. Believes this feeling is because she is a woman-owned business.

Feels at times, not always, she is treated differently because she is a woman.

Has been asked to have husband co-sign loan.

STAN GARDNER: Gardner/Stone Construction.

He does \$1.3 million in business, but because he has a low profit margin, he is really still a fledgling business. Doesn't think the \$1 million limit is good. Also feels the five-year limit is not good, because it takes longer than that to get a good enough record to get good bonding.

Has never gotten an SED award unless he was low bidder.

Still need a program, because it makes majority contractors recognize him as a bidder.

Would not want SED program but for the fact that all private work is negotiated. He is not part of the network to be in the negotiations necessary to get private business.

Also needs the SED program because he doesn't have high bonding capacity. His bonding rates make his company non-competitive with bigger companies that have a low bonding rate.

Example of Selby project, with Borson as general contractor. He bid \$214,000 as a sub. Was told that he wouldn't get the bid because it was set for someone else. Five months later found out they mistakenly thought he hadn't included utilities and fire protection in his bid. Low bid was \$232,000. He re-bid \$229,000, but didn't get the project because he was told he was too close to the other bid (that the project was originally set for).

Believes this kind of thing happens more to minorities than to other contractors.

Says SED certifying agencies don't like to see cozy mentor relationships between majority and SED firms.

Continued problems with discriminatory attitudes toward minority firms.

When govt. project don't require minority participants, the minorities are not sought out.

Problems with union discrimination

Example of Mortenson using a woman contractor for a job she doesn't even do.

Re. Bidding process: subs now bid 48 hours before the general; used to be the same day. Used to make the generals name the minority or women. Feels 48 hour process does not stop bid shopping. What it does is encourage the general contractor to try to screw down the price of subs, while still permitting shopping. Need a system where primes can't just go to who they like.

He has to do bid bond now to guarantee his price. Under current process he has to bid to any general contractor who might win the general bid. However, there are some he doesn't want to work for. (Could lose bid bond if he turns down work??). Feels he now indemnifies general contractor as well as the state.

