

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4324

02/26/2024 Authored by Vang and Hussein The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to state government; establishing Race Based Equity and Inclusivity in
1.3 Procurement and Contracting Act; proposing coding for new law in Minnesota
1.4 Statutes, chapter 16C.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [16C.061] RACE EQUITY AND INCLUSIVITY IN PROCUREMENT
1.7 AND CONTRACTING ACT.

1.8 Subdivision 1. Purpose and finding. (a) The legislature finds that requiring racial equity
1.9 and inclusion in government procurement and contracting is necessary to address unfairness
1.10 and hardship in underrepresented communities of color that lack the capacity, access, and
1.11 wealth-building mechanisms to be successful. Having a diverse vendor base enhances
1.12 economic opportunities and increases the overall well-being of the state.

1.13 (b) The legislature declares that barriers must be removed for intentional wealth-building
1.14 to occur in underrepresented communities.

1.15 (c) The legislature declares that past racial discrimination must be given significant
1.16 consideration to make a difference in improving the social and economic conditions in
1.17 underrepresented communities of color.

1.18 (d) The legislature finds that requiring the creation of a BIPOC small business collective
1.19 will assist government agencies in creating documented pathways for each BIPOC who has
1.20 experienced racial inequity based on social and economic conditions.

1.21 Subd. 2. Minimum race-based goals in procurement and contracting. (a) For the
1.22 purposes of this section, race, minority, and BIPOC (Black, Indigenous, and People of

2.1 Color) are interchangeable and includes the underrepresented communities of Black
2.2 Americans, Indigenous/Native/Hawaiian Americans, Latin Americans, Asian Americans,
2.3 and Arab Americans.

2.4 (b) Government agencies must achieve a 25 percent compliance of contracting for goods
2.5 and services with businesses owned by individuals who are BIPOCs. Government agencies
2.6 shall strive to increase the minimum goal of 25 percent for every industry where the purchase
2.7 and contracting of services and the procurement of goods is required in order to enhance
2.8 diversity and inclusion.

2.9 Subd. 3. **Agency discretion and set-aside programs.** Each governmental agency shall
2.10 establish a race-based set-aside program to achieve and exceed the minimum goal for
2.11 race-based procurement and contracting. Government agencies must work with
2.12 representatives from underrepresented communities in determining specific criteria,
2.13 procedures, implementation, and management of set-aside programs.

2.14 Subd. 4. **Reporting and evaluation.** (a) Government agencies must provide annual
2.15 reports to the Department of Administration and the Department of Management and Budget
2.16 detailing efforts to meet the race-based procurement goals specified in this section. Specific
2.17 reports on the BIPOC vetting process, business development support provided, and the
2.18 values of contracts awarded must be disclosed by each agency. Agencies must demonstrate
2.19 beyond good faith efforts the market research conducted, effective and intentional outreach
2.20 efforts, and documentation that reflects equity in procurement and contracting across the
2.21 various industries and categories was devoid of the appearance of favored or preferred goods
2.22 and service providers. The Department of Administration shall combine these reports and
2.23 make a report to the legislative committees governing state government.

2.24 (b) The Department of Commerce, in collaboration with the United States Department
2.25 of Commerce, Minority Business Development Agency shall evaluate the effectiveness of
2.26 the requirement to promote diversity and inclusion.

2.27 Subd. 5. **Compliance requirements; fund recipients; penalty.** Any private company
2.28 receiving funds from a government agency in Minnesota must adhere to the race-based
2.29 procurement and contracting goals and standards in this section. Noncompliance with the
2.30 provisions in this section by a private company may result in suspension or disbarment from
2.31 government contracts as determined by the Department of Administration.

2.32 Subd. 6. **Agency procurement and contracting responsibilities.** Delegated procurement
2.33 and contracting individuals employed by government agencies shall manage and oversee

3.1 procurement and contracting processes to ensure compliance with the race-based procurement
3.2 goals and standards in this section.

3.3 Subd. 7. **Self-certification.** Business or individuals may self-certify their eligibility for
3.4 race-based procurement and contracting opportunities. Self-certification automatically
3.5 qualifies the entity for consideration under the provisions of this section. The criteria for
3.6 self-certification is a priority of the agency and the BIPOC small business collective.

3.7 Subd. 8. **Exemption from surety bonds.** Notwithstanding chapter 574, construction
3.8 projects above \$100,000 and awarded to BIPOC-owned businesses are exempt from the
3.9 surety bond requirement. This exemption is intended to facilitate generational wealth-building
3.10 within the BIPOC community.

3.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.