

CHAPTER 7870
MINNESOTA RACING COMMISSION
LICENSURE

7870 0439 STRIKES AND LOCKOUTS

7870 0500 CONTRACT APPROVAL

7870.0439 STRIKES AND LOCKOUTS.

A licensee constructing a horse racing facility must enter into a no-strike, no-lockout agreement with the statewide labor organization which represents the largest number of construction employees in Minnesota.

Statutory Authority: *MS s 240 23*

History: *9 SR 2527*

7870.0500 CONTRACT APPROVAL.

Subpart 1. Contracts and subcontracts subject to prior commission approval. Contracts entered into, renewed, or extended by Class A, B, and D licensees and their contractors for goods and services are subject to prior approval by the commission. Contracts must include affirmative action plans establishing goals and timetables consistent with Minnesota Statutes, chapter 363. All Class A, B, and D licensees must submit as soon as practicable to the commission the name and the address of the contractor or subcontractor, amount and duration of the contract or subcontract, and a description of the good or service provided. The commission shall determine whether the contract or subcontract may affect the integrity of pari-mutuel racing, and the commission shall notify the licensee whether the commission intends to review and approve or disapprove the contract or subcontract. In making a determination that a contract or subcontract may affect the integrity of racing, the commission shall consider the amount and duration; the extent to which the contractor or subcontractor will be on the premises of the licensee; the relationship of the contract or subcontract to security; opportunity for contact between the contractor or subcontractor and horses, horsepersons, or patrons; opportunity for the contractor or subcontractor to influence the management and conduct of pari-mutuel racing; contact with admission, pari-mutuel, concession, or purse money; and whether the commission has reason to believe that the contractor or subcontractor is incompetent, financially irresponsible, or not of good character. If notified of the commission's intention to review and approve or disapprove a contract or subcontract, the licensee shall promptly submit to the commission copies of any written contracts or subcontracts as well as any documentation, records, or information the commission may request with regard to the contract. If the commission notifies a licensee of the commission's intention to review and approve or disapprove a contract or subcontract, the contract or subcontract is not valid, nor is either of the parties bound by the contract until it has been approved by the commission. The commission shall approve or disapprove contracts and subcontracts within 30 days, as computed pursuant to Minnesota Statutes, section 645.15, after submission.

Subp. 2. Waiver of review. The commission, by application of the criteria in subpart 1 to contract information received, may determine that contracts and subcontracts of certain types, amounts, or durations will not affect the integrity of pari-mutuel racing and need not be reviewed. If the commission so concludes, it shall give written notice to affected licensees of the types, amounts, or durations of contracts and subcontracts which will not be reviewed and affected licensees need not thereafter submit the information required in subpart 1 for those contracts or subcontracts. The commission, at any time, may by written notice

to affected licensees, rescind its decision not to review contracts and subcontracts of certain types, amounts, or durations and require submission of the information required in subpart 1 if it determines that the integrity of pari-mutuel racing is affected.

Subp. 3 Information required. If the commission notifies a licensee of its intention to review and approve or disapprove a contract or subcontract, and the contract or subcontract is in an amount more than \$50,000 or of a duration longer than 30 days, a Class A, B, or D licensee also must submit to the commission:

A. The name, address, and telephone number of the contractor or subcontractor.

B. The name, address, date of birth, in the case of individuals, and social security number, if provided, of every director, officer, general partner, or other policymaker and holder of a direct or indirect record or beneficial ownership or other voting interest or control, whether absolute or contingent, of five percent or more in the contractor or subcontractor and the nature and extent of such interest or control. If a nonindividual holds more than a 25 percent interest or control of a contractor or subcontractor, the disclosure required by this item must be made of policymakers and holders of interests or control of ten percent or more in that entity.

C. A description of any contract, agreement, or understanding entered into by an individual or other entity identified in item B with regard to performance of the contract or subcontract or its benefits.

D. Descriptions of the most recent five contracts or subcontracts performed or being performed, date, and for whom.

E. Claims of delay or failure in meeting tax, financial, or other obligations, including bankruptcy proceedings, and any other litigation or administrative proceedings in which the contractor or subcontractor was a party during the past five years.

F. The signature, name, address, and title of an individual providing the information. The licensee must make its best effort to notify the commission promptly of any change in the information required by items A, B, C, E, and F before performance is completed.

Subp. 4. Basis for commission approval. The commission shall approve the contract or subcontract if it determines that approval will not adversely affect racing or the public interest, is in accordance with applicable laws and rules, and will not adversely affect the public health, safety, and welfare. In making that determination, the commission must consider the contractor or subcontractor's competence, experience, reputation, record of law abidance, and financial responsibility.

Subp. 5. Rescission of approval. The commission, after notice and an opportunity to be heard, may rescind its approval of a contract or subcontract during its performance if the commission determines that the contractor or subcontractor no longer meets the criteria in subpart 4.

Subp. 6. Economic opportunities for racial minorities. Class A and B licensees are required, to the extent feasible, to establish the following goals to assist in providing economic opportunities for racial minorities.

A. establish a minimum goal of ten percent for construction subcontracts/material suppliers with minority business enterprises during construction of the facility, and establish a labor and employment goal of ten percent for racial minorities in on-site construction jobs;

B. establish a minimum goal of ten percent for hiring racial minorities in all job categories of the licensee's postconstruction workforce, including clerical, laborers, officials and managers, professionals, technicians, and salesworkers, and make a good faith effort to achieve this goal within two years of commencing racing operations,

C. establish a minimum goal of 15 percent of its total vendor, supplier, and other contracts with minority business enterprises for the postconstruction period, and achieve this goal within two years after completion of the initial construction; and

D. establish a minimum goal of making available up to ten percent of the available equity ownership to racial minorities.

Subp. 7. Economic opportunities for women. Class A and B licensees also are required, to the extent feasible, to establish the following goals to assist in providing economic opportunities for women:

A. establish a minimum goal of four percent for construction subcontracts/material suppliers with women business enterprises during construction of the facility, and establish a labor and employment goal of four percent for women in on-site construction jobs;

B. establish a minimum goal of 51.4 percent for hiring women in all job categories of all the licensee's postconstruction workforce, including clerical, laborers, officials and managers, professionals, technicians, and salesworkers, and make a good faith effort to achieve this goal within two years of commencing racing operations;

C. establish a minimum goal of 15 percent of its total vendor, supplier, or other contracts with women business enterprises for the postconstruction period, and make a good faith effort to achieve this goal within two years after completion of the initial construction; and

D. establish a minimum goal of making available up to ten percent of the available equity ownership to women.

Subp. 8. Economic opportunities for disabled. Class A and B licensees are required, to the extent feasible, to establish reasonable goals to assist in providing economic opportunities for disabled individuals. These affirmative action goals must be set with respect to the Class A and B licensees' construction subcontracts/material suppliers during facility construction, on-site construction jobs, postconstruction labor force, postconstruction vendor, supplier and other contracts, and available equity ownership opportunities.

Subp. 9. Compliance reports. Class A and B licensees are required to file quarterly reports with the commission demonstrating compliance with the requirements of this part on forms provided by the commission.

Subp. 10. Definitions. For the purpose of this part, the following words have the following meaning:

A. "Disabled individual" means a person who has a physical or mental impairment which substantially limits one or more major life activity; it does not include an alcohol or drug abuser whose current use of alcohol or drugs renders that individual a hazard to the individual or others.

B. "Good faith effort" means a reasonable effort to accomplish goals and timetables.

C. "Minority business enterprise" is a business owned and controlled by minority individuals (1) which is at least 51 percent owned by one or more minority individuals or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority individuals, and (2) whose management and daily business operations are controlled by one or more of such individuals.

D. "Owned and controlled" means a business with at least 51 percent of the economic beneficial interest, at least 51 percent of the voting interest, and whose management and daily business operation are legitimately held by a person (or persons in any combination) who is a racial minority or woman.

E. "Racial minority" means:

(1) Blacks, persons having origins in any of the Black African racial groups not of Hispanic origin;

(2) Hispanic, persons of Mexican, Puerto Rican, Cuban, Central American, South American, or other Spanish culture or origin, regardless of race;

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

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

F. "Women owned business enterprise" is a business owned and controlled by women (1) which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women, and (2) whose management and daily business operations are controlled by one or more of such individuals.

Statutory Authority: *MS s 240.19; 240.23*

History: *9 SR 2527*