

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

In the Matter of the Proposed Rules and Amendments to Existing Rules Pertaining to Several Units of the Department of Administration

STATEMENT OF NEED

These proposed rules, and amendments to existing rules, govern the implementation of the Commissioner of Administration's responsibilities pursuant to several different sections of Minnesota Statutes. The proposed rules have been placed in chapters, each of which refers to a different division of the Department of Administration. The statutory authority for the responsibilities to which these rules apply and the statutory authority for rules promulgation will be addressed in this statement separately for each chapter containing proposed rules. These proposed rules are a response to the responsibilities and requirements imposed by Minn. Stat. § 15.0412, subd. 3, and the Department of Administration's recognition of the need for public input to the manner of operation in several areas of the department in which the Commissioner of Administration has been granted the authority to promulgate rules.

Chapter 5: Intergovernmental Information Systems Advisory Council. Pursuant to Minn. Stat. §§ 16.90 and 16.911, 2 MCAR §§ 1.2501 - 1.2508 govern the processing of grant proposals received by the Intergovernmental Information Systems Advisory Council (IISAC) for possible funding of projects or programs related to data processing and systems analysis. The statutory authority for these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.96.

2 MCAR § 1.2501. This rule reasonably defines the purpose and scope relating to the processing of grant proposals and is needed to clarify for the public the matters to which the rules which follow apply.

2 MCAR § 1.2502. This rule defines the terms used in these rules. The rule is needed in order to add clarity to these rules and to minimize verbiage in the text of the rules.

2 MCAR § 1.2503. This eligibility rule is necessary to reasonably specify the types of agencies from which proposals and applications will be accepted in accordance with Minn. Stat. §§ 16.90, subd. 3. This rule is also needed in order to indicate to the public where additional information regarding possible funding of projects or programs by IISAC is available.

2 MCAR § 1.2504. This rule provides reasonable procedures for submission of proposals and is necessary to describe the content and format of data and information submitted for review and to make known the contact person and address to which proposals and applications are forwarded. These application procedures and the requirements therein are considered necessary for proper identification of the applicant and for processing of the application. It is believed that an applicant could reasonably be expected to provide the information required in the format required.

2 MCAR § 1.2505. This rule is necessary in order to provide applicants with reasonable notice of official receipt of a proposal by IISAC and notification of application completeness as well as date of review. This is information which an applicant can reasonably expect to be provided by IISAC.

2 MCAR § 1.2506. Oral presentations may reasonably be necessary to more fully explain applications and proposals to the reviewing committees and the Council in order to clarify questions raised in the evaluation process. This rule is needed to inform potential applicants of this possibility.

2 MCAR § 1.2507. Approval or Disapproval of Application. This rule is necessary to explain the decision making process on grant applications, to indicate the criteria used in these decisions, and to describe the method of notification of final disposition of requests. This rule is necessary in order that potential applicants be aware of the process to which their application will be subjected. The criteria are reasonable in that they assure that grants will be made within budgetary limits, and that the limited funding available is applied to projects with the greatest chance of success, the greatest benefits, and the widest future application.

2 MCAR § 1.2508. This disclaimer is necessary in order to inform potential applicants that the Council is not liable for costs relating to proposal or application development and that submission of an application or proposal does not in and of itself insure funding. This rule is reasonable in that IISAC and the Commissioner of Administration, who are held accountable for legislative appropriations expended for IISAC grants, are not committed to expenditures which they have not authorized and over which they have no control.

Chapter 9 A: Materials Management - Documents. Pursuant to Minn. Stat. §§ 16.02, subd. 17 and 24, 16.026, 16.80 and 16.811, 2 MCAR §§ 1.3001 - 1.3006 inform the general public of procedures and conditions relating to the availability of publications, maps, and other services from the Documents Section of the Department of Administration's Materials Management Division. The statutory authority for these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.3001. This rule is needed to reasonably clarify for the public the matters to which the rules which follow apply. This rule also reasonably defines terms used in these rules which are needed to add clarity and minimize verbiage in the text in the rules.

2 MCAR § 1.3002. This rule is needed to reasonably notify the public how to identify available items. This approach represents the most economical and most effective means by which the public may become informed as to what publications are available while insuring the public ready access to available materials.

2 MCAR § 1.3003. This rule provides needed information on how the public may purchase materials from the Documents Section. This procedure provides an efficient method of payment for public documents and related items; consequently, assuring a high degree of accuracy in order processing. The customer deposit section represents a common and reasonable business practice to satisfy customer requirements for items which are out-of-stock.

2 MCAR § 1.3004. This rule is needed to reasonably inform the citizenry of the State of Minnesota of services other than those routinely offered by the Documents Section. The rule provides the most efficient means for informing the citizenry.

2 MCAR § 1.3005. This rule is needed to inform the public of the factors reasonably considered in the establishment of fees. In operating a revolving fund, it is essential that normal operational expenses be applied in the determination of a fee schedule for materials provided. Also, fee schedules must be subject to change without notice because it would be uneconomical to notify everyone of minor changes resulting from printing cost fluctuations.

2 MCAR § 1.3006. This rule is needed to inform the public of a disclaimer of liability of the Documents Section for materials sold. The rule appropriately and reasonably places liability, since the Documents Section is a mere conduit through which various agencies make materials available.

Chapter 9 B: Federal Surplus Property. Pursuant to Minn. Stat. § § 16.061 - 16.066, 2 MCAR§§ 1.3101 - 1.3109 set forth the procesures and requirements relating to the acquisition and use of federal surplus property by Minnesota governmental or non-profit organizations. The rulemaking authority for these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.3101. This rule reasonably identifies the statutory authority of the Department of Administration relating to federal surplus property and briefly defines the program. The rule is needed in order that the reader of the rules understands the outline of the program to which the rules apply.

2 MCAR § 1.3102. Definitions are provided and needed so that there is a common understanding of both the language used in these rules and certain terms commonly used by persons utilizing Federal Surplus Property. These definitions reasonably achieve this end.

2 MCAR § 1.3103. Eligibility criteria for federal surplus property use are set by federal regulations. By order of the Chief Hearing Examiner, Federal Property Management Regulation 101-44.207 has been incorporated by reference in this rule. The rule being proposed herein reasonably summarizes eligibility standards and is needed to provide potential participants with a preliminary indication as to whether they are qualified to participate. Furthermore, this rule is needed to inform prospective participants how and where to apply for determination of eligibility. The rule is reasonable because it establishes the most economical and convenient method for public access to eligibility information.

2 MCAR § 1.3104. This rule is needed to inform donees of the financial management and service charge factors utilized in the Federal Surplus Property Program. In operating a revolving fund, it is essential and reasonable that normal operational expenses be applied in the determination of service charges for property provided donees. It is consistent with federal regulations and is deemed reasonable and equitable that the special or extraordinary costs for particular items should be borne by the individuals purchasing those items.

2 MCAR § 1.3105. This rule is needed to inform the donees of terms and conditions applicable to donable property. These terms and conditions are reasonable and consistent with basic principles of personal property management and are in accordance with federal regulation.

2 MCAR § 1.3106. This rule is needed to inform the donees of the reasonable factors which we will consider in the distribution of federal surplus property. The criteria used are based on standards being adopted by virtually all states, with the endorsement of the federal agency administering the program nationwide.

2 MCAR § 1.3107. This rule is needed to inform the donees of appropriate procedures governing use and disposition of federal surplus property. Optimum utilization of federal surplus property is provided through these procedures, and the integrity of the statewide property utilization program is ensured by an audit program. For these reasons, the rule is reasonable.

2 MCAR § 1.3108. This rule is needed to inform the donees of required procedures for the sale of obsolete, surplus, and recyclable personal property purchased through the federal surplus property program, which no longer provides any utility value to the Federal Surplus Program. These procedures are necessary to reasonably ensure optimum return in the sale of property no longer needed by donees.

2 MCAR § 1.3109. This rule is needed to inform the donees of the method by which they may assist in determining relative needs and resources of donees. Virtually all states use this type of method for assistance in determining relative needs and resources of donees since it encourages participation by appropriate private and public groups.

Chapter 9 C: Office of the State Register. It is proposed that all existing rules presently promulgated, adopted, and published as "The Office of the State Register Rules of Operation" be repealed. Review of these rules indicated that they consist primarily of internal management procedures which do not directly impact on the rights and procedures available to the public. Considering them to be improperly promulgated as rules, we herein propose their repeal.

Pursuant to Minn. Stat. §§ 15.041 - 15.051, 2 MCAR §§ 1.3201 - 1.3205 govern the availability of publications from the Office of the State Register of the Department of Administration's Materials Management Division. The statutory authority for these rules is provided by Minn. Stat. § 15.0412, subd. 3.

2 MCAR § 1.3201. This rule reasonably identifies the service available to the public as authorized under appropriate sections of Minn. Stat. Chapter 15 and is needed to inform the public of the general scope of available services.

2 MCAR § 1.3202. This rule establishes the most efficient, economical, and reasonable procedure for instructing the public how to purchase publications from the State Register Section. The rule is needed to inform the public of this procedure. The Finality of Sales Section is is needed to reasonably provide for economical subscription services similar to those used in common business practices.

2 MCAR § 1.3203. This rule is needed to provide information on the factors reasonably considered in the establishment of fees. In operating a revolving fund, it is essestion that normal operational expenses be applied in the determination of a fee schedule for materials provided.

2 MCAR § 1.3204. This rule is needed to inform the public of the reasonable disclaimer of liability of the State Register Section for materials published. All material published is prepared by other agencies and these agencies reasonably bear the responsibility for the content of materials provided for publication.

2 MCAR § 1.3205. This rule is needed to provide information to the public on the use of errata listings in the correction of publication,omission in copy,or other errors. This method is a reasonable, economic, and systematic way of informing clientele of errors occurruing in previous publications.

Chapter 9 D: State Surplus Property Sales. Pursuant to Minn. Stat. §§ 16.02, 16.07, 16.08, 16.24, and 16.28, 2 MCAR §§ 1.3301 - 1.3306 govern the disposition of all obsolete, surplus and recyclable state property. Statutory authority for promulgation of these rules is provided by Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.3301. This rule cites the statutory references to the State Surplus Property Sales Program and is needed so that the public may easily refer to these citations. The rule defines the scope of 2 MCAR §§ 1.3301 - 1.3306 in order that the reader understands what is to follow.

2 MCAR § 1.3302. Paragraph A of this rule is needed to put potential purchasers on notice that the state shall make no warranty on property sold. Considering the type and volume of property sold, it would be unreasonable, if not virtually impossible, for the state to extend and monitor the control of warranties for property sold. Moreover, the estimated remaining life expectancy of operable personal property would be impossible to reasonably estimate. For these reasons, the state shall make no warranty on property sold. In order that purchasers are fully aware of this policy and to protect the state in claims against it, the purchaser is required to sign a waiver accepting this condition.

Paragraph B of this rule reasonably summarizes statutory implications for property transfers and is needed to ensure compliance with Minnesota law, and to inform potential property purchasers of the transfer requirements.

2 MCAR § 1.3303. Paragraph A of this rule is needed in order to inform the public of how they may be notified of state auction sales. The process described is reasonable and is consistent with good business practice. Paragraph B establishes the manner in which payments for purchased merchandise may be made. This section is needed to ensure consistent application of terms and requirements and to put the purchasing public on notice that these terms and requirements must be complied with. The terms and requirements are considered reasonable and are consistent with good business practice in protecting the state's interests. Paragraph C provides every licensed auctioneer in the state with the opportunity to provide their auctioning services at state public

auction sales. This section is needed both to inform potential auctioneers of this opportunity and to reasonably ensure a fair choice of auctioneers at the least possible price.

2 MCAR § 1.3304. Paragraph A is necessary to afford the public the opportunity to purchase state surplus property via the sealed-bid process. Paragraph B is needed to inform the potential purchaser of the reasonable conditions of sealed-bid sales. It is reasonable that the state not assume responsibility for variance from estimates of numbers or weight of merchandise since with many commodities it is not feasible to count or weigh the exact amount being sold. Liquidated damages for failure of bidder to enter into contract reasonably prevents speculative bidding and provides necessary assurance to the state the sale will be consumated. By awarding to the highest responsible bidder, the state complies with Minn. Stat. §§ 16.07 and 16.08, and ensures that it receives the highest compensation possible for its surplus property. Paragraph C is needed to inform applicants on sealed-bid mailing lists of the circumstances under which they may reasonably be removed from such lists. This section is a preventative measure to avoid unnecessary administrative costs to the state in conjunction with sealed-bid sales.

2 MCAR § 1.3305. Pursuant to Minn. Stat. § 16.07, subd. 4, sales of surplus property may be conducted through negotiated sales. Paragraph A of this rule is needed to inform the general public of the opportunity to purchase state surplus personal property via the negotiated sales process, and the means by which the public may do so. Paragraph B defines the reasonable conditions for such negotiated sales. It is reasonable to implement such a policy since situations arise where the state is unable to obtain three competitive bids for certain commodities. There are other situations where a negotiated sale is deemed to be in the best interest of the state, including purchase of particular pieces of equipment by political subdivisions of the state. Negotiated sales are conducted generally in situations where there is "one lot - one buyer".

2 MCAR § 1.3306. This rule is necessary to clarify for public employees their eligibility to purchase state surplus property while ensuring integrity in the sales process. This rule is consistent with the requirements of Minn. Stat. § 15.054 (1977). It is considered crucial that this rule be included in this set of rules in order that eligibility for purchase under these rules is clearly explained to a potential purchaser.

Chapter 10: Central Motor Pool. Pursuant to Minn. Stat. § 16.75, 2 MCAR §§ 1.3501 - 1.3502 govern the operation of the Central Motor Pool in the handling of reports and damage claims resulting from vehicle accidents involving Central Motor Pool vehicles. These rules are promulgated pursuant to Minn. Stat. § 15.0412, subd. 3.

2 MCAR § 1.3501. This rule is needed to inform the reader of the purpose and scope of the rules, together with easy reference to the statutory provisions. It also reasonably clarifies the meaning of the "Central Motor Pool" as used in 2 MCAR § 1.3502.

2 MCAR § 1.3502. Few individuals in state employment or other citizens involved in accidents with Central Motor Pool vehicles are familiar with processing of insurance claims. This rule is both needed and reasonable to offer effective mechanisms for assisting each party in making the reports required by law and in receiving prompt settlement. This rule also standardizes the procedure of state government for processing of insurance claims.

Chapter 11: Plant Management. All existing rules published as "Chapter 9: Plant Management Admin. 80: Parking or (sic) Motor Vehicles on Parking Lots" are proposed to be repealed and replaced by a new parking rule. Numerous and major substantive changes in the proposed rules from the existing rules necessitated the repeal of existing rules as opposed to making wholesale amendments to the existing rules. To do otherwise would be unreasonable as it would be confusing to the public.

2 MCAR § 1.4001. Pursuant to Minn. Stat. § 16.72, this rule governs the parking of motor vehicles in parking facilities owned and operated by the State of Minnesota and under the control of the Commissioner of Administration. The rule is promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3, 16.05, and 16.72, subd. 2. While the vast majority of individuals parking in state facilities are state employees, there are numerous instances in which members of the public lease parking stalls from the Department of Administration. It is for this reason that the rule is being proposed.

A. This paragraph is needed to reasonably inform the reader which lots and facilities are under the jurisdiction of this rule.

B. This paragraph is needed to inform the person parking in state parking facilities of practices which are reasonably prohibited. The items listed are all in accordance with Minnesota Statutes and city ordinances. It is regarded as crucial that individuals parking on state facilities be informed of these prohibitions.

C. This paragraph is needed to inform individuals desiring contract parking of the procedures for applying for that parking. All requested information in an application is necessary and reasonable for proper and appropriate processing of the application.

D. This paragraph sets out the reasonable priority order for the granting of permits. It is important that those applying for contract parking understand the order in which their application will be processed. This rule also ensures consistency and equity in the awarding of parking contracts. The initial priority for handicapped persons is provided as a convenience to such persons, it being reasonable to expect that a person without a handicap can more readily walk to futher lots and/or facilities. Provision is also made for applicants with special needs or circumstances such as potentially frequent family emergencies or the necessity for frequent business use of a vehicle during the working day. The second priority category is included to encourage carpooling and thereby further the State of Minnesota's energy conservation program. This is reasonable given the expression of legislative direction in this area, particularly Minn. Stat. § 16.72, subd. 7 (1977). All applicants not qualifying under either of the first two priority groups are served on a first-come-first-served basis, in that this is the most equitable and reasonable distribution of parking contract privileges.

E. This paragraph is needed to inform parking contract holders of the reasonable necessity for displaying parking stickers. The stickers enable security personnel to better and more efficiently control parking lots.

F. This paragraph indicates the procedure and content applied to the setting of fees for parking. The paragraph is necessary in order to inform potential contract parkers of the factors involved in the setting of fees. In operating a revolving fund, it is reasonable and essential that administrative overhead and operating expenses be applied in the determination of a fee schedule. Consideration of the number of carpool passengers is reasonable and consistent with legislative direction as expressed in Minn. Stat. § 16.72, subd. 7 (1977).

G. This paragraph is needed in order that individuals to whom the parking surcharge is applied are aware that they may be exempted from said surcharge. The criteria included to judge exemptions from the surcharge are designed to avoid unfair and unreasonable penalties for those individuals who cannot reasonably and feasibly carpool. The exemption also applies to those individuals unlikely to have access to other people as potential carpool participants. The paragraph provides that an application is necessary on a particular form so that potential applicants know how to go about applying for an exemption. The rule standardizes the procedure and ensures that the division receives the information necessary to process the application. Item 3 is included in order that applicants know the means by which they will be notified of acceptance or denial of their application.

H. This paragraph is needed in order to inform handicapped individuals of the opportunity to receive the handicapped parking permit and priority for parking applications for such individuals. The paragraph provides a reasonable approach which insures that individuals are not discriminated against and that only those that are truely handicapped qualify for special treatment in these rules.

I. This paragraph informs potential users that there is parking available for individuals coming into the Capitol Complex for short periods of time and informs them of the means of obtaining such parking. It reasonably provides for short-term parking in the Capitol Complex.

Paragraph J, K, and L substantially repeat statutory language. Such repetition is regarded as crucial in order that this rule reflect the entire parking procedure, avoiding the necessity of a reader referring back and forth between rule and statute. They are also needed to make a comprehensive understanding of the parking procedure possible.

2 MCAR § 1.4101. Pursuant to Minn. Stat. § 16.022, this rule articulates the manner in which personal property lost on state property will be treated. The rule is needed to inform both employees and the public of where to send personal property which they have discovered on state property and/or where to find personal property which they may have lost on state property. This rule is promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.4201. Pursuant to Minn. Stat. § 16.02, subds. 6 and 6a, this rule governs the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. Statutory authority for promulgation of this rule is contained in Minn. Stat. §§ 15.0412, subd 3, and 16.05. Paragraph A is necessary to explain what is to follow within the rule and to explain to a potential user of the Capitol Complex the procedures by which issuance of permits is governed. The rule has been patterned after the City of Minneapolis parade ordinance. The rule also is needed to insure an orderly and reasonable procedure for use of the Capitol Complex and to insure equal treatment and fairness to all organizations who wish to use the Complex. Section 1 is necessary in order that potential users of the complex know where they may secure a permit. Section 2 indicates that a period of time is necessary for processing of the application for a permit in order that applicants provide the state ample time to prepare for a rally. All application information requested is necessary and reasonable for the processing of the application. Section 3 is necessary to insure that the state is not liable for damages and to provide notice to the potential user of the Complex that potentially severe consequences of their rally must be planned for through the purchase of insurance. Section 4 is necessary to inform potential users that certain uses are not allowed in order that the interests of the state are furthered and to comply with city ordinances and requirements. To allow rallies not conforming to this rule is considered to be unreasonable use of the Capitol Complex.

Paragraph B is needed in order that the state has one responsible contact person to deal with for any one activity. The rule is reasonable in that it avoids the confusion of several different people dealing with the Plant Management Division and security personnel of the state. Possession of the permit during the rally is properly and reasonably required for identification purposes.

Paragraph C is included in order that potential users of the Capitol Complex are aware that they must comply with the criteria and requirements included in this rule.

Paragraph D is necessary to inform the potential user of the Capitol Complex of the consequences should any violation of this rule or applicable state or local law occur.

Chapter 12: Publications and General Services Division. Pursuant to Minn. Stat. §§ 16.02, subd. 16, 16.61, 331.07, 331.08, and 331.09, 2 MCAR § § 1.4501 - 1.4601 provide in part for the certification of and computation of standard and adjusted line rates and relate to the Central Mail Room of the Department of Administration. The statutory authority for the promulgation of these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.4501. This rule refers to the content of the rules as a whole in order that the reader understand what follows, and cites statutory references so that the public can more easily refer to them. Recitation of statutory language is crucial to the ability of people affected by the rules to comprehend their meaning and effect.

2 MCAR § 1.4502. This rule repeats the statutory language defining the term "standard line". It is crucial to repeat such language to assure clarity and continuity to these rules. This will prevent the unwary reader from failing to see the relationship between a rule and statute and will avoid the necessity for frequent cross-referencing of rule and statute.

2 MCAR § 1.4503. This rule describes the procedures necessary for a newspaper, public official or other interested party to request an evaluation and certification of line rates for legal notices. All information to be included in the request is necessary for computing adjustment evaluations and issuing certifications of standard or adjusted line rates. The evaluation formula reasonably implements standards imposed by statute which allow publishers to use a larger body of type with a variety of line length while receiving the same net average compensation for the matter published.

2 MCAR § 1.4504. Fees for publication of legal notices are established by Minn. Stat. § 331.08. This law sets the maximum amount chargeable for a standard line for the first and subsequent insertions and for what is termed "price and one half" or "double price" composition. Since this section of the law does not define price and one half or double price composition, we therefore refer to Minn. Stat. § 16.61 which requires the State Printer to issue a pamphlet containing description and facsimile copy, and style of composition which shall be a guide for public officials in the publication of legal notices. This pamphlet defines the terms "price and one half" and "double price".

2 MCAR § 1.4505. Public officials are required by law to submit a copy of the printed notice to the Commissioner of Administration for all controversies between publisher and public official as to the measurement of any legal notice published or required by law to be published in newspapers. The Commissioner shall measure such notice and submit certification of the measurement and the amount of fees allowed for the publication of such a notice. In order to comply with statutory requirements, needed procedures are listed in the rule indicating the various types of information needed to satisfy the request of the public official. This rule reasonably implements the Commissioner's statutory authority.

2 MCAR § 1.4601. Handling of federal mail is not generally regulated by state law other than in Minn. Stat. § 16.02, subd. 16, which states that the Commissioner of Administration shall operate a central mailing service. This rule is necessary to define the policy of this department that all handling of federal mail is to be accomplished in accordance with policy and procedures established by the federal government.

Chapter 13: Real Estate Management. The need to adopt 2 MCAR §§ 1.5001 - 1.5301 arises from the need to implement the Commissioner of Administration's responsibilities relating to the acquisition of real property, leasing out of state-owned lands, granting of easements across state lands, and granting of permits to search for lost or abandoned properties on state lands. These rules are promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3 and 16.05.

2 MCAR § 1.5001. This rule is promulgated pursuant to statute to guarantee protection of the rights of all parties involved when the Department of Administration acquires land for this or other state agencies. The language in the rule insures compliance with the statutory requirements, uniformity and efficiency in the acquisition process, fairness and equality for all citizens affected by Department of Administration acquisition of private property, and protection of the State's interest throughout the acquisition process. The rule spells out the procedures undertaken by the State to guarantee that each property owner affected by state acquisition is treated equally and fairly. Moreover, the rule provides that the state will compensate each property owner in the amount of the market value of his property, no more and no less.

Section A of the rule is promulgated to make known the agency within state government to whom requests for the acquisition of property shall be made. It further identifies what information is required in order for the acquisition to be commenced.

Section B(1) of the rule outlines the reasonable steps and procedures to be used by the Real Estate Management Division in having the title to the property properly examined, in this way insuring that the state will indeed be dealing with the party who owns the property. It insures, too, that the land owner will be fully informed of the state's intentions very early in the acquisition process. This section of the rule also requires that a relocation study shall be made to insure obviation of severe difficulties which may be encountered by those persons who must be displaced by the state's acquisition.

Section B(2) requires that a legal description of the property shall be written. The description will be written in a manner which complies with standards of the surveying and engineering profession.

Section B(3) of the rule deals with a necessary appraisal of the property. This section of the rule is necessary to insure that appraisers selected to make such appraisals shall be qualified to make the type of appraisal needed to ascertain the market value of the property to be acquired, and that the appraisal fee shall be commensurate with the degree of difficulty represented by the appraisal task. The rule is reasonable in that selection of appraisers shall be dependent upon the experience and other qualifications of the appraiser(s) for each particular task and that the fees to be paid shall be dependent upon the amount and complexity of the particular appraisal(s).

Section B(4) of the rule requires review of the appraisal or appraisals by the division review staff. Further, it requires certification of that appraisal which is deemed to represent the market value of the property to be acquired.

Section B(5) of the rule requires that instruments of conveyance to be used in the acquisition shall be prepared by the Office of the Attorney General. The rule is deemed necessary and reasonable in that it insures that legal instruments will be prepared by parties who are qualified to prepare such instruments.

Section B(6) of the rule deals with the very important phase of the acquisition, that of submission of an offer to the property owner. The rule requires that a direct purchase offer shall be made to the owner. This is in contrast to a procedure once widely used in which property was acquired in eminent domain proceedings without allowing the owner an opportunity to sell directly to the state. It is deemed mutually advantageous to all concerned to acquire property by purchase where that is possible. This section of the rule requires also that an offer be submitted in person where that is possible. Submission of offers by mail is thus limited to those unusual cases where the owner lives out of state, or, in more unusual cases, where the owner prefers an offer by mail. In all cases, the personal call to the owner shall be accompanied by an offer in writing. This section of the rule further requires that a full explanation be made to the owner, particularly outlining all of the owners options and his eligibility for relocation benefits.

Sections B(7) - (8) of the rule outlines the state's actions where an owner accepts the offer and where he does not accept the offer. Both sections of the rule outline procedures which have long been in use in the acquisition of property, and are deemed necessary and reasonable.

2 MCAR § 1.5101. This rule carries out the Commissioner of Administration's responsibilities pursuant to Minn. Stat. § 16.88. It deals with the procedure to be used in granting of permits to cross state owned land, except those lands expressly exempted. This rule deals primarily with public utility companies, but is not limited to such companies. Information contained in this rule is necessary for individuals or companies interested in securing a permit or easement to be informed of proper procedures.

Section A of the rule identifies the state office to which application shall be submitted.

Section B of the rule establishes the department's responsibilities in granting or denying the application for permit. Denial of permits shall be for cause only, and granting or denying of the application shall be based on the effect of the utility easement on the public's use of the property. The rule requires that an applicant shall be informed in writing whether or not his permit shall be granted, and where it is not granted, the reasons for such denial. The rule is reasonable in that it permits the Commissioner of Administration to deny permits for easements to cross state lands when such easements will clearly be detrimental to the state's interests.

Section C of the rule permits the granting of the permit only after payment by the applicant to the state of the amount deemed necessary based on an appraisal by the Real Estate Management Division. Further, the applicant will be required to sign an instrument indicating willingness to comply with all the terms and conditions of the permit.

Section D deals with those cases in which the easement is clearly a benefit to the state. For example, in those cases where the state has requested the easement, the easement shall be granted without benefit of consideration. Where damage is deemed nominal, but where the easement is clearly not a benefit to the state, the permit shall be granted for One Hundred Dollars ($100.00).

2 MCAR § 1.5201. Pursuant to Minn. Stat. §§ 16.021, 16.022, and 16.023, 2 MCAR § 1.5201 - 1.5205 govern the granting of permits to search upon lands owned by the state for abandoned or lost property and disposition of abandoned or lost property found thereunder. The statutory authority for promulgation of these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.05. This rule is necessary to inform the public of the scope and purpose of the rules which follow.

2 MCAR § 1.5202. This rule is needed to properly outline those terms and conditions upon which an application for a permit shall be accepted by the department.

Section A of the rule requires that a permittee shall hold the State of Minnesota harmless from all claims arising out of the permittee's activities. It is the purpose of this section of the rule to make clear that the permittee shall be liable for any and all damages arising from his activities, and that the State of Minnesota shall in no way be liable for these activities. At the descretion of the Department of Administration, the permittee may be required to purchase a surety bond to further insure the state's interest.

Section B of the rule requires that, where deemed necessary, the permittee must purchase liability insurance in the amounts as shown in this section of the rule. The amounts are deemed reasonable in that these same amounts are required by statute where a person leases property from the State of Minnesota.

Section C of the rule is necessary and reasonable in that each permittee is entitled to have proper notice that all local, state, and federal rules, and ordinances must be obeyed.

Section D of the rule reiterates in part what Section A and B protect against. However, it is necessary and reasonable at this point in that this section of the rule makes clear that where damages have occurred by the action of the permittee, he shall immediately repair or be responsible for the repair of the damage. Failure by the permittee to immediately make such repairs shall result in cancellation of the permit.

Section E of the rule governs the manner in which the permittee will be allowed to carry on his activities. The rule forbids, for example, such activities as outdoor burning without a permit, etc. Further, this section requires that the permittee shall not use state lands for storage of materials and/or equipment.

Section F of this rule gives the department reasonable control over those areas in which the permittee shall be allowed to conduct his activities. Such control is clearly needed to obviate the possibility that a permittee will carry on search and reclamation activities on land other than that for which the permit is granted.

Section G of the rule limits the amount of time for which a permit shall be granted. This is reasonable in that it allows timely opportunity for both parties (the permittee and the state) to reassess the search and reclamation activities.

Section H makes clear that a permit shall be non-transferable without consent of the Commissioner of Administration. This is deemed reasonable in order to insure that the department will maintain sufficient control of the activities of the permittee.

Section I insures that a permit may not be varied in any way without express consent of the Commissioner of Administration or his authorized designee. This section of the rule is necessary and reasonable to fully protect the state's interest.

Section J of the rule is necessary so that all potential permittees may be on notice that the state may issue a similar or identical permit for the same or overlapping areas of land and water. The rule is reasonable in that it allows the state to grant equal opportunity to potential searchers for lost or abandoned properties. The rule as written also grants sufficient authority to the state to control overcrowding in search and reclamation activities. Each potential permittee, by this rule, is on notice that he or she will probably not be alone in the search for lost or abandoned properties.

Section K of the rule permits the cancellation by either party within thirty days. This section of the rule is reasonable in that it grants equal power of cancellation to both parties where such cancellation is deemed in the best interest of that party.

Section L of the rule deals with ultimate disposition of the lost or abandoned property which is recovered from state lands. The rule requires that lost or abandoned property which has value shall be turned over to the Department of Administration for disposition as provided by statutes. The permittee's share of the proceeds shall be paid by the state to the permittee on the basis of an agreement which shall be made prior to issuance of the permit. The state's share shall be deposited in the general revenue fund.

In those cases where the recovered property has nominal value, and the administration of the disposition will clearly cost the state more than would ultimately be recovered, the Commissioner of Administration or his authorized designee, in his discretion, may decide to allow the permittee to dispose of such properties without turning them over to the Department of Administration for disposition.

2 MCAR § 1.5203. This rule explains to whom applications for permits shall be made. Further, it outlines what information shall be required within the application. The requirements are necessary for property identification of the applicant and for processing of the application. It is believed that an applicant can reasonably be expected to provide the information required.

2 MCAR § 1.5204. This rule establishes the department's actions when and if application for a permit is received. The rule establishes point by point the actions to be taken in the Division of Real Estate Management towards granting of a permit. The rule is necessary and reasonable not only to insure reasonable procedure, but also to inform a potential applicant that such a procedures does exist, and that granting of permits will require a reasonable time after the application is received by the state.

2 MCAR § 1.5205. This rule reasonably requires that all property which is recovered from state lands or waters shall, within thirty days of discovery, be turned over to the Commissioner of Administration. The Department of Administration shall, at its discretion, store the property, whereupon it shall be disposed of as provided in Minn. Stat. § 16.022. The proceeds shall be divided as provided for in the permit. In those cases where the Commissioner, in his discretion, granted the permit on the basis that the recovered property did not need to be turned over to the Department of Administration because of nominal value thereof, this rule is, of course, superfluous and shall not apply.

2 MCAR § 1.5301. Pursuant to Minn. Stat. § 16.02, subd. 14, this rule governs the leasing out of state-owned real property which is temporarily not needed by the state. The statutory authority for promulgation of this rule is located in Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

Section A of the rule informs the public of procedures and other information concerning leasing of surplus lands. It requires that the Division of Real Estate Management establish and maintain a list of names of those parties interested in leasing surplus state-owned land. The list shall reflect what type of property and what area a particular party has expressed interest in. This rule is necessary and reasonable in that it provides necessary information while also providing for equitable treatment for all potential lessees of state-owned surplus property.

Section B of the rule outlines the manner in which bids shall be solicited. The rule is necessary to insure that all interested members of the public will have an equal opportunity to be informed of the availability of surplus lands for lease by the state. This section of the rule is reasonable in that it provides for sufficient notice to the public, and allows discretion to the department in deciding those rare instances where newspaper advertising may be in the best interest of the state.

Chapter 14: Records Management. Following the publication of the Notice of Hearing and the proposed rules in the State Register on June 12, 1978, the Department of Administration has deemed it desirable and necessary to withdraw the proposed rules pertaining to Records Management numbered as 2 MCAR §§ 1.5501 - 1.5901. The proposed Records Management rules are withdrawn and will not be presented or discussed at the rules hearing to be held on July 25-26, 1978. Examination of these rules has revealed that they may be implemented as internal procedures which do not directly impact on the rights of and procedures available to the public, since the only clientele groups to which they apply are state departments and agencies.

Chapter 15: Telecommunications. Pursuant to Minn. Stat. § 16.02, subd. 2a, 2 MCAR §§ 1.6001 - 1.6005 govern the procedures relating to the applications by governmental bodies for sublease of TELPAK services. These rules are promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

The Telecommunications Division procures intrastate intercity telephone circuits from the Northwestern Bell Telephone Company in bulk groups. The division also sub-leases individual TELPAK circuits from the federal government through GSA (General Services Administration). In the future, the Telecommunications Division may utilize circuits from other sources.

Intercity circuits are leased in bulk groups because of the great economies of scale possible with such procurements. With the division's current TELPAK network, the average cost is about $0.86 per circuit per mile per month. This is less than one-sixth of the cost of procuring individual circuits as cited above. Since the TELPAK tariff allows doing so, it has been the practice of the Telecommunications Division to sub-lease TELPAK circuits to other governmental bodies, to allow them to also participate in the cost savings gained by using TELPAK. Sub-leasing from the Telecommunications Division is very advantageous to the public interest. It is also advantageous to the Telecommunications Division to sub-lease unused circuits and thus help reduce the net TELPAK cost to the state. These rules reasonably further this sub-leasing process where temporary excess telephone line capacity may exist.

It is thus necessary to adopt rules to certify the procedures whereby governmental bodies may apply for and sub-lease TELPAK from the Telecommunications Division.

2 MCAR § 1.6001. This rule simply describes the scope and purpose of these procedural rules.

2 MCAR § 1.6002. This rule defines terms necessary for the understanding of these rules.

2 MCAR § 1.6003. This rule requires normal information necessary to process and evaluate an application and, if it is approved, to bill for the services provided.

2 MCAR § 1.6004. This rule sets forth the basis for approval or rejection of an application in consideration of the primary function to satisfy the requirements of the state and the secondary function to aid other governmental bodies.

2 MCAR § 1.6005. This rule applies normal business procedures and conditions and cites the basis for determining the fee charged for sub-leased TELPAK.

Chapter 3: State Building Code. The proposed rules and amendments to the existing State Building Code are made pursuant to Minn. Stat. §§ 16.85 and 16.861, subds. 2 and 3, (1976 and Supplement 1977).

Pursuant to Minn. Stat. §§ 15.0412, subd. 3 (1971), and 16.85, the Commissioner is empowered to promulgate rules and may also amend rules as is deemed necessary upon a showing of need for and reasonableness of the rule.

The proposed rules provide procedures necessary for and methods by which any interested party may be informed of and may proceed with matters pertaining to the administration and enforcement of the State Building Code. The rules also establish criteria which define the experience and training necessary to become a certified building official in Minnesota and the conditions necessary to maintain certification.

2 MCAR § 1.10001 Purpose. This rule is necessary to explain the purpose of 2 MCAR §§ 1.10001 - 1.10010.

2 MCAR § 1.10002 Definitions. This rule defines terms contained in the proposed rules. It also provides statutory references for said terms for further clarification. The rule is necessary to add clarity to the proposed rules and to avoid excess verbiage in the proposed rules.

2 MCAR § 1.10003 Code Adoption and Amendments. This rule is necessary for providing information as to the methods available to the public for amending the State Building Code. Written requests are reasonable in that they ensure clarity and accuracy.

2 MCAR § 1.10004 Application for Appeal. This rule is necessary for providing information to the public regarding procedures for filing appeals following local municipalities' decisions pertaining to the State Building Code. Persons appealing a decision can reasonably be expected to have the required information readily available. Recitation of portions of Minn. Stat. § 16.863 is crucial to the ability of the public affected by the rule to comprehend its meaning and effect.

2 MCAR § 1.10005 State Surcharge Fees. This rule is necessary to establish the procedure for the collection of fees by municipalities for remittance to the State of Minnesota.

2 MCAR § 1.10006 State Building Code Information and Assistance. This rule is necessary to establish procedures for obtaining information pertaining to the State Building Code.

2 MCAR § 1.10007 Education and Training. This rule is essential in explaining to whom training shall be provided including conditions and methods of obtaining information pertaining to training programs.

2 MCAR § 1.10008 Building Official Certification. This rule is necessary to establish prerequisites for persons applying to be certified as a building official. The rule establishes two levels of certification and establishes a testing procedure, required continued training, and professional activities to maintain certification and renewal of certification. This rule further defines the appropriate knowledge of construction necessary for certification application as stated in Minn. Stat. § 16.861, subd. 2.

In Minnesota's smaller communities and sparsely populated counties, the construction activity is limited largely to one and two family dwellings and accessory buildings of those dwellings. In such areas, it is not necessary for a building official to be proficient in total code application. However, when more complex structures are built requiring a higher level of expertise a building official with knowledge of total code application would have to be contracted for by the community for the specific job. The division's experience and information obtained at hearings throughout the state have indicated that total code expertise is essential in approximately 5 to 10% of the construction activity in specific geographical areas other than the principal cities throughout the state. In Minnesota's principal cities the construction activities are balanced and a wide variety of construction occurs which necessitates the knowledge of total code application. The certification system will permit a wider availability of personnel throughout the state in a shorter period of time. It will also allow experience and training of the building official for qualification at the higher level while on the job.

Continuing education is essential for practicing building officials to remain current regarding code changes, new construction methods, new construction materials, and to keep abreast of constantly changing state and federal regulations. Training in administration, regulatory writing, budgets, code techniques and procedures is essential. The continuing training and activities are currently available, easily attainable, and minimal in scope.

The renewal of certification every three calendar years predicated on minimal continuing education and professional activities helps to assure more capable building officials over a period of time and assures that municipalities are more fully meeting their responsibilities of providing safe, healthful structures for the citizens of Minnesota through proper code enforcement and administration.

The two levels of certification are necessary to provide personnel for municipalities at a level of expertise required to provide inspectional services based on types and complexity of construction in a given geographical area of the state.

2 MCAR § 1.10009 Removal from Office and Revocation of Certification. This rule is needed to provide and define procedures for removal of certified municipal building officials by the Commissioner of Administration pursuant to Minn. Stat. § 16.861, subd. 5 (1976).

2 MCAR § 1.10010 Plan Review Function. This rule is necessary to define plans required to be reviewed by the State Building Inspector. The rule further defines the documents and contents of documents necessary for submittal to the State Building Inspector.

The proposed amendment to SBC 320, SBC 326 and SBC 335 of the existing State Building Code are necessarily made for purposes of clarification.

Chapter 16: Procurement. All existing rules presently promulgated, adopted and published as "Admin. 91: Eligibility for the Small Business Procurement Act" are proposed to be repealed and to be replaced by 2 MCAR §§ 1.6701 - 1.6704. Review of the adopted rules reveals several instances where they improperly were repetitive of statute; and, as it became clear that a major recodification was necessary, it was determined that it would be appropriate to repeal the rules in total and propose a completely new set of rules.

Pursuant to Minn. Stat. § 16, 2 MCAR §§ 1.6501 - 1.6804 govern the procurement of materials and services for the state under the competitive bidding requirements. These rules are promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3, 16.05, and 16.28.

2 MCAR § 1.6501. This rule is needed to define the scope of the rules included in this Chapter in order that the reader knows what follows. In paragraph B, certain terms and definitions are provided for uniformity in interpretation, to provide clarity where the terms are used, and to minimize verbiage in the text of the rules.

2 MCAR § 1.6502. In paragraphs A and B, the provisions for advertised bids are stated to emphasize the crucial nature of the portion of Minn. Stat. § 16.07 which relates to this matter. It is crucial to inform the user of the rules as to how the statutes and rules flow together in order to permit overall comprehension of the rules without having to refer constantly to rule and statute interchangeably. Repetition of the statutory language is therefore crucial to the ability of a person affected by the rule to comprehend its meaning and effect.

Paragraph C is needed to inform potential bidders of the procedure by which firms may be placed on the permanent bid list. Because sources of supply must be identified before bids can be solicited, establishing and maintaining a current list of qualified suppliers is a fundamental part of our purchasing program. The bidders list provides a systematic means of reaching the greatest number of qualified vendors. Such a list enhances competition by providing qualified and interested suppliers an opportunity to compete for state business.

Paragraph D is necessary to inform perspective bidders of the means by which they may submit bids. The information on advertised bids also forms the basis for determining the bidders' responsiveness and determining the successful bidders. The rule is further necessary to insure the integrity and equity of the bid process.

2 MCAR § 1.6503. This paragraph is necessary to inform bidders of the consequences of failure of a bidder to enter into a contract, or of failure to properly carry out a contract. This section also provides that a performance bond may be substituted for bid security. It is both necessary and reasonable that this information be provided to all perspective bidders.

Paragraph C is necessary to inform the public of the procedure by which security is returned. The procedure is reasonable in that it allows for administrative processing time while minimizing delay in receipt of bid security by unsuccessful bidders or by successful bidders who have satisfactorily completed a contract. The reader is also made aware that no interest shall be paid on monies held as security. This is reasonable in that the state does not earn interest on said monies.

Paragraph D establishes the procedure by which annual bid and supply bonds may reasonably be used. This procedure has been established for the convenience of both the vendor and the Procurement Division. The paragraph is necessary to inform potential bidders of the opportunity, procedure, and limitations of annual bid and supply bonds. The use of annual bid and supply bonds is reasonable in that it lessens paperwork requirements while adequately protecting the state's interests. Separate bonds are reasonably required for construction projects because annual bonds are conditioned for supply and material requirements only. Construction bonds are conditioned for performance as well. The other limitations are reasonably included in order that the state is properly protected for the reasons outlined in paragraph A above.

2 MCAR § 1.6504. This rule is necessary to establish and protect the equity and fairness of the bid procedure as well as to inform the bidders as to the manner in which their bids will be received and treated. Public bid openings give bidders and the public knowledge of the nature and extent of competition obtained in response to solicitations of bids. Consequently, the bid process reasonably calls for bid openings which can be attended by the general public as well as by bidders. Late bids are reasonably rejected for ease of administration and because experience shows that this eliminates potential disputes concerning the justice of awarding a contract to a bidder who did not follow bid instructions.

The public inspection of bids is an important procedure in maintaining public confidence in bidding. Paragraph B is necessary to inform the public that tabulations are made available for review by any interested party. While public inspection is required by Minn. Stat. § 16.08, substantial recitation of statutory language is crucial to the ability of the public affected by these rules to comprehend all necessary and reasonable components of the procurement procedure.

Paragraph C is needed to inform bidders that the state may reject any or all bids or portions thereof. This paragraph repeats a portion of Minn. Stat. § 16.08. It is crucial to repeat this language in order that the public affected by these rules comprehend all necessary and reasonable compenents of the procurement process.

Paragraph D is necessary to inform perspective bidders that should their sealed bid be rejected, they will be given notice of the rejection and reasons for rejection. This is reasonable in that the perspective bidders understand the reason for not receiving an award in order that their chances for future awards are enhanced.

Paragraph E is needed to inform bidders that informalities and minor deficiencies may be waived. Such waiver may reasonably occur if the best interest of the state would be protected without prejudice to the rights of other bidders.

2 MCAR § 1.6505. This rule cites the statutory provision by which award of contracts shall be made. It is crucial to inform the user of the rule as to how the statutes and rules flow together to permit their overall comprehension without having to refer constantly to rule and statute interchangeably. An award problem arises when a bidder, judged responsible and with the lowest bid price, has taken exception to or deviates from terms and conditions of the bid. The division determines if the bidder's deviation constitutes a material variance which allows the bidder a substantial advantage or benefit not enjoyed by other bidders. This is determined by careful comparison of the bidder's offer with the terms and conditions of the bid. It is both necessary and reasonable that the division determine whether a bidder tenders a response which is in substantial compliance with the terms and specifications of the bid request.

2 MCAR § 1.6506. This rule is necessary to inform perspective bidders of the means by which tied low bids will be resolved. For bids of $500.00 or more, provision is reasonably made for negotiating the breaking of the tie. This procedure is reasonable in that it may lower the cost to the state of goods or services while giving all tied bidders equal opportunity to receive the award. If negotiation is not a viable alternative due to vendor disinterest or inaccessibility, lots will be drawn. For large contracts, vendor representatives are invited to witness the drawing in the interest of fairness and impartiality. For bids of less than $500.00, it is reasonable that tie bids be resolved by drawing lots in order that the state not incur unnecessary expense and delay, while insuring that bid selection is fair and equitable.

If bids are tied between a Minnesota firm and an out-of-state firm, the Minnesota firm may be given preference in accordance with Minn. Stat. § 16.365.

2 MCAR § 1.6507. This rule is necessary so that perspective bidders are aware of the state's contract performance requirements. The provisions for contract performance are deemed reasonable in that they follow accepted business practices. The provisions established by this rule follow closely portions of the Uniform Commercial Code, Minn. Stat. § 336.2. Partial recitation of statutory language is crucial to the ability of the public affected by these rules to comprehend their meaning and effect.

2 MCAR § 1.6508. This rule is necessary to inform bidders who have been awarded a contract of the consequences of failure to perform as specified in the contract. The rule is considered reasonable in that it attempts to protect the state from unnecessary delay and expense due to failure of a vendor to properly carry out a contract. Forfeiture of bid security is reasonable as stated regarding 2 MCAR § 1.6503 above. Removal of responsible bidder status from a vendor who has failed to perform is reasonable in that it protects the state from potential future failures. Further actions by the state as provided by or permitted by law are allowed for since the vendor has failed to carry out a contractual agreement. Paragraph C is needed to inform potential vendors that failure to furnish satisfactory performance security after award of a contract shall be considered failure to perform. This provision is reasonable in that the performance bond requirement acts as part of the terms and conditions of the bid and failure to meet the bond requirements is thus a failure to fulfill a portion of the contract. Paragraph D is needed to inform vendors of the type of action or lack

of action for which they shall be held in default. The provisions are reasonable in that they follow standard commercial practices and/or are included in bid specifications to which the vendor has agreed.

2 MCAR § 1.6509. This rule is necessary in order to inform potential vendors that the state may terminate a contract where deemed necessary. Cancellation of a contract is simply the termination and cessation of obligations of all parties under the contract.

2 MCAR § 1.6510. This rule is necessary to inform potential bidders of how bidder errors will be handled. The sealed competitive bidding process presumes that all bids are submitted without knowledge of the prices being offered by other bidders. When a bidder discovers he has made a mistake after the bid has been submitted, but before it is opened, he will be permitted to make changes or to withdraw the bid, without revealing the amount of the bid. This is reasonable in that all changes made before bids are opened would not threaten the spirit and purpose of competitive bidding. However, once the bids are opened, mistakes are not allowed to be corrected because all bidder's prices are known and corrections might well be made using that knowledge. Bid errors may occur which are obviously unintentional. Our experience has shown that in the few cases where bid errors do occur, the mistake is very obvious. In such cases it is reasonable that withdrawal of such a bid be allowed upon formal request within a reasonable time after the opening of the bids. The rule is reasonable in that it protects the state's interest by limiting such withdrawal to periods of time prior to the state's detrimental reliance on the bid.

2 MCAR § 1.6601. This rule is necessary to inform the public that the Minnesota Association of Rehabilitation Facilities (MARF) is the established clearinghouse for implementation of the sheltered workshop program. Department of Administration dealings and contracts for goods and services are accomplished through the MARF organization as the method of implementation of the cited statute.

2 MCAR § 1.6701. This rule is necessary to identify the scope and purpose of 2 MCAR §§ 1.6701 - 1.6704 in order that the public be informed of the contents of these rules. The rule also cites the statutory references to the small business and small business owned by socially or economically disadvantaged persons set-aside program and is needed so that the public may easily refer to these citations. The rule is needed to clarify any conflicts which may exist between these rules and 2 MCAR §§ 1.6501 - 1.6601.

2 MCAR § 1.6702. This rule is needed to inform the public of the procedure by which one becomes and remains certified as eligible for receiving invitations for set-aside bids. Paragraph A, B, and C are necessary to describe the information to be submitted for self certification and to make known the location to which the information should be forwarded. It is believed that a business can reasonably be expected to provide the information required in the format required. The information requirements are reasonable in that the information is necessary for proper identification of the business and to assure that the business is eligible for participation in the set-aside program.

Paragraph D is reasonable and necessary in order that information on file in the Procurement Division on businesses receiving set-aside preference is kept current.

Paragraph E is necessary to clearly outline procedures and reasons for reasonably rejecting an applicant's self certification.

2 MCAR § 1.6703. This rule is needed to inform the public as to the procedures which will be used for determination of contracts for set-aside. The procedures are reasonable in that they insure equal opportunity for all participants, allow for efficiencies in the procurement operation, and allow compliance with statutory requirements of the set-aside act.

2 MCAR § 1.6704. This rule is needed to inform businesses as to the general terms and conditions applicable to the set-aside program. Paragraphs A through E are needed to inform businesses participating in the set-aside program as to their obligations and rights subsequent to award of bids. These sections allow a reasonable time for a low bidder to consider the consequence of accepting the order or contract and for the Division of Procurement to insure capability of bidder to provide material or service requested. These sections further describe the consequences and action that will be taken if a bidder does not enter into a contract or defaults on a contract. These sections are reasonable in that the set-aside program must be structured to assist the participants as much as possible, but in the process, assure that the state's interests are protected.

Paragraph F is needed to inform the public that bid invitations may be divided in order to facilitate awarding of contracts to businesses in the set-aside program. Such action is allowed by Minn. Stat. § 16.083, subd. 1. This section is reasonable in that it promotes multiple awards to improve opportunity for bidding by small contractors. Many of the suppliers participating in the set-aside program are exceptionally small concerns which will benefit from this extra consideration.

Paragraph G is necessary and reasonable to prevent the abuse of the intent of the set-aside legislation by mere brokering of state contracts through brokers technically qualifying for the program. This provision prevents use of the set-aside program by firms that would not otherwise be eligible.

2 MCAR § 1.6801. This rule defines the purpose and scope of 2 MCAR §§ 1.6801 - 1.6804 in order that the reader understand the contents of these rules. The statutory citation is referenced in order that the reader may easily refer to the statute which provides for state funded partial indemnification. The statutory authority for promulgation of 2 MCAR §§ 1.6801 - 1.6804 is Minn. Stat. § 15.0412, subd. 3.

2 MCAR § 1.6802. This rule provides reasonable procedures for submission of applications. The rule is necessary to describe the content and format of data and information to be submitted for review and to make known the location to which applications should be forwarded. These application procedures and requirements are considered necessary for proper identification of the applicant and for processing of the application. It is believed that an applicant can reasonably be expected to provide the information required in the format required.

2 MCAR § 1.6803. This rule is necessary to inform the public of the factors which will be considered in an eligibility determination and to inform applicants that they will be notified as to acceptance of their application for partial indemnification. The factors to be considered are reasonable in that they insure compliance with statutory requirements relating to procurement and partial indemnification.

2 MCAR § 1.6804. This rule is needed in order to refer the reader to the cited statute and the restrictions and limitations therein.

Date_____

_____

Richard L. Brubacher
Commissioner
Department of Administration

IN THE MATTER OF THE PROPOSED RULES
AND AMENDMENTS TO THE EXISTING RULES
PERTAINING TO SEVERAL UNITS OF THE
DEPARTMENT OF ADMINISTRATION

PROPOSED RULES WITH AMENDMENTS
MADE SUBSEQUENT TO PUBLICATION

The following material constitutes the entire text of the above titled rules proposed for adoption and published in the State Register of June 12, 1978 (2 S.R. 2188-2228). For all new material, strikeouts indicate deletions from the proposed rules which had been made subsequent to publication. Underlining indicates additions to the proposed rules subsequent to publication.

Rules proposed for repeal were published in the State Register in a completely struckout fashion. That format is retained in this version.

Three existing rules of the Building Code Division were proposed to be amended (SBC 320, 326, 335). In the attached set, the single underlining and strikeouts appear in the same fashion as in the publication in the State Register. In one instance, SBC 335 D, changes have been made subsequent to the publication. The strikeouts and underlining in this single clause represent changes made subsequent to publication.

DEPARTMENT OF ADMINISTRATION

PROPOSED RULES PERTAINING TO SEVERAL UNITS

OF THE

DEPARTMENT OF ADMINISTRATION

Table of Contents

Chapter 1	General
Chapter 2	Reserved for Future Use
Chapter 3	State Building Code
Chapter 4	Reserved for Future Use
Chapter 5	Intergovernmental Information Systems Advisory Council
Chapter 6-8	Reserved for Future Use
Chapter 9	Materials Management
Chapter 10	Central Motor Pool
Chapter 11	Plant Management
Chapter 12	Publications and General Services
Chapter 13	Real Estate Management
Chapter 14	Records Management
Chapter 15	Telecommunications
Chapter 16	Procurement

Proposed rules are presented in the order listed in the Notice of Hearing.

Chapter 1: General

2 MCAR 1.0001 Severability

If any provision of these rules is held invalid, such invalidity shall not affect any other provisions of the rules which can be given effect without the invalid provision, and to this end, the provisions of these rules are declared to be severable.

Chapter 5: Intergovernmental Information Systems Advisory Council

2 MCAR 1.2501

Purpose and Scope. Pursuant to Minn. Stat. §§ 16.90 and 16.911, these rules govern the application, solicitation, review, analysis, and final disposition of grant proposals received by the Intergovernmental Information Systems Advisory Council for possible funding of projects or programs under the auspices of the Commissioner ~~and the Department~~ of Administration relating to data processing and systems analysis proposals.

2 MCAR 1.2502

Definitions. For the purposes of 2 MCAR 1.2501 - 1.2508, the following terms have the meanings given:

A. "Commissioner" means Commissioner of Administration.

B. "IISAC" or "Council" means the Intergovernmental Information Systems Advisory Council.

C. "Executive Director" or "Director" means the Executive Director of IISAC.

2 MCAR 1.2503

Eligibility. All Minnesota governmental entities and/or organizations composed of groups of such entities are eligible to submit applications for project grants to IISAC. Information as to the availability of funding and conditions of funding may be obtained from the Executive Director, Intergovernmental Information Systems Advisory Council, 300 Hanover Building, 480 Cedar Street, St. Paul, Minnesota 55101.

2 MCAR 1.2504

Directions for Submission of Proposal

A. Applications shall be submitted in writing to the Executive Director, Intergovernmental Information Systems Advisory Council, 300 Hanover Building, 480 Cedar Street, St. Paul, Minnesota 55101 in accordance with the following procedures.

1. All proposals shall be typed on letter sized paper (8½ x 11).

2. Pages shall be numbered for ease of reference.

3. Twenty five copies of each proposal shall be submitted with the application.

4. The proposals shall follow the proposal format as described in paragraph B of this rule.

5. All proposals shall identify the name, title, address, and telephone number of the person who will represent the eligible agency on matters regarding the proposal content.

6. No standard forms are required.

7. The Commissioner or Executive Director may require other information relevant to processing an application.

B. Proposal Format:

1. A cover sheet stating:

   a. Title of the proposal.

   b. The agency submitting the proposal.

   c. Names, address, and telephone number of agency and project director.

2. A narrative section describing the overall background of the organization, its mission, goals, objectives, whom it services, and its relationship to state agencies and political subdivisions.

3. A section containing a clear, concise explanation of the purpose of the proposal.

4. A section containing a narrative which details and expands on the purpose of the proposal.

5. A section itemizing tasks to be performed and deliverable products resulting from the proposal.

6. A budget section itemizing expenses and showing matching contributions if applicable.

7. A section containing a time schedule relating to the tasks to be accomplished and deliverable products.

8. A section containing pertinent enclosures and endorsements relating to support of the application.

2 MCAR 1.2505

Acknowledgement of Receipt. All applicants shall be notified of formal receipt of applications. Such notification shall include:

1. Date of distribution to Council members.

2. Date of Council meeting at which the application will be reviewed.

3. Notification of completeness of application or requests for additional information.

2 MCAR 1.2506

Oral Presentations. Oral presentations or testimony may be requested by the Council to clarify or further explain portions of the proposal. Such presentations or testimony shall be requested in writing by the Director.

2 MCAR 1.2507

Approval or Disapproval of Applications. Council approval or disapproval of recommendations for funding shall be made by a majority vote of those members present at a regular meeting of the Council. The recommendations shall be based on a consideration of the following factors:

1. Available funding.

2. Potential technological advancements.

3. Cost-benefit relationship.

4. Transferability of anticipated technological advancements to other potential users.

5. Applicant's experience and expertise in the field of data processing and systems analysis.

6. Applicant's financial need.

Recommendations shall be forwarded to the Commissioner for his or her approval. The Commissioner's approval shall be contingent upon his or her consideration of the above factors, ~~availability of funds,~~ and the determination that the proposal is consistent with state information systems priorities. The Commissioner shall notify the Council which shall in turn notify all applicants as to action taken on applications.

2 MCAR 1.2508

Disclaimer. The submission of a proposal or application to the Intergovernmental Information Systems Advisory Council does not commit the Council to fund the proposal or to pay for any cost incurred by the applicant in the development or presentation of the proposal.

Chapter 9A: MATERIALS MANAGEMENT - DOCUMENTS

2 MCAR 1.3001

Authority and Scope: These rules are promulgated pursuant to Minn. Stat. §§ 16.02, subd. 17 and 24, 16.026, 16.80 and 16.811, to inform the general public of the availability of publications, maps and other services from the Documents Section, Materials Management Division, Department of Administration. All references to "Commissioner" refer to the Commissioner of Administration. All references to "Documents Section" refer to the Documents Section, Department of Administration, 140 Centennial Bldg. 658 Cedar St., St. Paul, Minnesota 55155.

2 MCAR 1.3002

Publications and Maps Availability

A. Authorization of Publications. All publications and maps authorized by the commissioner shall be made available to the general public for fees set pursuant to 2 MCAR § 1.3005.

   1. Information about publications or maps currently available may be obtained by writing the Documents Section at the above-noted address or by calling the Documents Section and requesting a catalog or map index.

B. Catalogs of Publications and Maps. The Documents Section shall publish a catalog of Minnesota State publications and indices of maps at intervals deemed necessary by the commissioner, to keep the public reasonably informed of all materials currently available from the Documents Section.

   1. Catalogs shall list current publications, their prices and code numbers including but not limited to the following publications: statutes, directories,

conservation books, miscellaneious reports, teaching guides, and adopted rules of state agencies.

2. Indices for lake and fire plan maps list the name and code number of the lake, township and range for fire plan maps, and the prices for each.

3. Catalogs and indices are available from the Documents Section. There shall be no charge for catalogs and indices.

2 MCAR 1.3003

How to Purchase Available Materials

A. Over-The-Counter Sales. Any person may purchase any publication or map offered for sale from the section by paying the prescribed fee, plus sales tax, at the office of the Documents Section at the above-noted address during regular business hours.

B. Mail Order Instructions. Mail orders shall be sent to Documents Section, Room 140 Centennial Bldg., 658 Cedar St., St. Paul, Minnesota 55155. No forms are required.

1. Mail orders shall include a check or money order for the exact amount of purchase, including sales tax where applicable. If tax exemption is claimed, the tax exempt number shall be given.

2. Mail orders shall include the full title of the publication and code number, if possible.

3. Mail orders for lake maps shall include name of the lake and, where known, the code number. If the code number is unknown the county, township, ~~and~~ range ~~or~~ and other specific information that will aid in locating the exact area shall be provided. All orders for fire plan maps shall be placed by listing township and range numbers of the area. A free index containing information including township and range numbers may be obtained from the Documents Section at the address contained in paragraph B above.

4. Mail orders shall include the full name and address, including the zip code, of the person to whom the order is to be sent.

C. Customer Deposit. Payment received for publications or maps that are temporarily out of stock or in short supply shall be held in "Customer Deposit". The customer shall be notified of the customer deposit number, and the item(s) will be shipped when available. The customer may request a refund of the amount held for each customer in the customer deposit on receipt of the notification. Requests for refund or inquiries regarding customer deposits shall be made to the Documents Section at the address contained in paragraph B above.

1. Unused money in customer deposit shall be refunded at the end of each quarter of the fiscal year unless the customer requests it to be held for future use.

2 MCAR 1.3004

Other Services Offered. Subscription services, photo-copying, white printer reproductions, and other related services shall be offered to state agencies and the general public upon authorization by the commissioner.

2 MCAR 1.3005

Fees. Fees for services shall be prescribed by the commissioner unless otherwise authorized by law or rule and shall take into consideration the following factors: cost of publication, storage, handling, postage, and the operating expenses of the Documents Section. Fee schedules shown in catalogs and indices are subject to change without notice.

2 MCAR 1.3006

Disclaimer of Liability. The Documents Section of the Department of Administration shall assume no responsibility for or liability arising from contents of publications or maps distributed, produced, or otherwise made available under its auspices. Any concern or conflict arising from contents shall be referred to the state agency from which the copy for the publication or map emanated.

2 MCAR § 1.3101

Authority and Scope

~~A.~~ The Federal Surplus Property Section of the Materials Management Division, Department of Administration, was created and operates pursuant to Minn. Stat. §§ 16.061 - 16.066 ~~(1976)~~. The Federal Surplus Property Surplus Property Section maintains a distribution center for federal surplus property made available by the federal government, or any department or agency thereof, for transfer to governmental or non-profit organizations for any purpose authorized by federal and state law and in accordance with any rules and regulations promulgated thereunder.

2 MCAR 1.3102

Definitions. As used in 2 MCAR §§ 1.3101-1.3109, the following terms shall have the meaning given them.

A. "Acquisition Cost" means original purchase price of property paid by the Federal Government.

B. "Donee" means public agency or non-governmental organization qualified or authorized to acquire federal surplus property as provided in 2 MCAR § 1.3103.

C. "FPMR" means Federal Property Management Regulations.

D. "FSP Activity" means the Minnesota Federal Surplus Property Section, 5420 Highway 8, Arden Hills, Minnesota 55112.

E. "Utilization Restriction" means restrictions on the use and disposition of federal surplus property, including required use for one or more public purposes and non-disposal restrictions for stated period of time, as required pursuant to federal and state law, and rules and regulations promulgated pursuant thereto.

F. "Federal Surplus Property Utilization and Sale Coordinator" means FSP Activity person designated to audit the utilization of federal surplus property acquired by donees and to co-ordinate sales of property that has no further utility value.

G. "General Services Administration" means the federal agency responsible for the transfer of Federal Surplus Personal Property.

2 MCAR 1.3103

Eligibility

A. Standards and guidelines for the determination of eligibility are established pursuant to the requirements of FPMR 101-44.207. Eligibility to acquire federal surplus property may include public agencies involved in carrying out or promoting for the residents of a given political area one or more public purposes, including, but not limited to, conservation, economic development, education, parks and recreation, public health, and public safety; or to non-profit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child

care centers, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, museums attended by the public, and libraries serving free all residents of a community, district, state, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, for purposes of education or health, including research for any such purpose. Interested participants shall request on forms obtainable for the FSP Activity, a determination of eligibility from the FSP Activity at the address listed in 2 MCAR § 1.3102, D.

B. The FSP Activity within a reasonable period of time of receipt of request shall make a written determination of eligibility pursuant to federal and state laws and rules, and such determination shall be sent to the applicant.

2 MCAR 1.3104

Financing and Service Charge

A. A revolving fund, established pursuant to Minn. Stat. § 16.064, shall finance the acquisition, storage and distribution of surplus federal property. The fund shall be maintained by the collection of service and handling charges.

B. Service charges shall be assessed at a rate taking into consideration costs involved in acquiring, storing, and distributing surplus property as required by Minn. Stat. § 16.064. Factors considered in determining service charges shall be original acquisition costs, present value, screening cost, quantity, condition, desirability of property, transportation

cost, loading and unloading cost, packing and crating, administrative cost, repair and rehabilitation, utilization and compliance, and delivery to donees when required.

C. When special or extraordinary costs occur, such costs will be added to the service charge. Costs which shall be added are as follows:

1. Rehabilitated property - Direct costs for rehabilitating property shall be added to the service charge.

2. Overseas property - Additional direct costs for returning the property may be added to the service charge.

3. Long-haul property - Charges for major items with unusual costs may be added to the service charge.

4. Special handling - An additional charge may be made for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.

5. Screening - Extraordinary costs incurred in screening property may be added.

D. Where direct transfer of property to eligible donee is made, the service charge may be reduced taking into consideration savings made because of direct shipment to donee or other savings in the above-listed cost categories.

E. In the event the program is terminated, assets shall be converted to cash in accordance with these rules and all funds not used to pay outstanding obligations of the FSP Activity shall revert to the general fund of the State of Minnesota.

2 MCAR 1.3105

Terms and Conditions on Donable Property

A. The following general conditions, in conjunction with conditions imposed by the terms of an individual sale of items, are imposed by the State of Minnesota and are applicable to items with a unit acquisition cost of $2,000 or more:

1. There shall be a period of utilization restriction which shall expire after the property has been used for the purpose for which acquired for a period of 4 years, except that all State of Minnesota agencies shall be required to manage federal surplus property in accordance with statewide inventory management programs.

2. From the date it receives the property, the donee shall not sell, trade, lease, lend, bail, cannibalize, encumber or otherwise dispose of such property or remove it permanently for use outside the State, without prior written approval of the FSP Activity, until expiration of all utilization restrictions.

3. If at any time from the date it receives the property until expiration of utilization restrictions, any of the property is no longer suitable, useable, or further needed by the donee, the donee shall promptly notify, in writing, the FSP Activity and shall be directed, in writing, by the FSP Activity to return the property to the FSP Activity, release the property to another donee or another State Agency, sell or otherwise dispose of the property.

4. In the event that any property acquired through the FSP Activity is sold, traded, leased, loaned, bailed, cannibalized, encumbered or otherwise disposed of contrary to State or federal law or regulation, relating but not limited to the General Services Administration special handling or use regulations, the donee shall pay the FSP Activity the proceeds of the disposal or the fair market value or the fair rental value of the property at the time of such disposal as determined by the FSP Activity. "Fair Market Value" and "Fair Rental Value" as used herein shall mean the value of obtaining a like item in the local industrial, retail, or other market.

5. The proceeds from any authorized sale or transfer shall be reimbursed pursuant to ~~2 MCAR § 1.3104.~~ 2 MCAR § 1.3108A.

B. The following conditions are imposed by the State of Minnesota, applicable to items with a unit acquisition cost of less than $2,000:

1. Appropriate inventory controls shall be established by each donee to ensure optimum property utilization and control in conformance with Federal and State law and rule.

2. Except as listed in 2a, property with acquisition cost of less than $2,000 which is no longer needed or suitable for use in the federal surplus program may be sold or junked by the donee possessing such property, consistent with any laws and internal policies and procedures governing such disposition. Donees shall be authorized to retain all revenues derived from such sale of surplus property, assuming that all aforementioned criteria have been met.

   a. Consistent with Federal statutory requirements, all property must be placed in use within one year and be used for one year after being placed in use. Donees in violation of this requirement shall return such property to the FSP Activity.

C. Failure to comply with all terms, conditions and provisions of State and federal law and regulation may subject donee to removal from FSP eligibility.

2 MCAR 1.3106

Fair and Equitable Distribution

A. Factors considered in the distribution of property are based on relative needs, relative resources and ability to utilize the property and include the following:

1. Relative needs--In considering requests of potential recipients, the criteria for determining the relative needs shall be:

a. Size and type of program conducted.

b. Contemplated use and frequency of use.

c. Economic condition of agency, activity or institution.

d. Critical or urgent need.

e. Geographical location (urban, suburban or rural).

f. Interest and expression of need on the part of the donee in the property available.

2. Relative resources--In considering requests of potential recipients, the criteria for determining relative resources shall be:

a. Funding source and availability (grants, donations, taxes, etc.).

b. Equipment availability.

3. Ability to utilize--In considering requests of potential recipients, the criteria for evaluating ability to utilize property shall be:

a. Length of time of contemplated usage.

b. Date by which item can be put in use.

c. Availability of funds to repair or maintain property in use.

d. Ability of the donee to select and remove property from the distribution center or Federal activity on a timely basis.

e. Type and quantity of property received by the donee to date.

B. The FSP Activity shall operate a distribution center to serve the eligible donees in the distribution of available property. Any donee may submit, in writing, a list of major items needed by the donee, such as vehicles, construction equipment, materials handling equipment, machine tools, generators, air compressors, business machines, boats, aircraft, large electronic and scientific type items. FSP employees shall be guided by these requests in their search for and selection of property. This equipment shall be distributed as outlined in Section A above. Donee shall be notified by telephone by the FSP Activity when a listed major item is acquired.

C. Small miscellaneous items, less than $20.00 per item in value, will be available on the "Help Yourself Plan", with quantity limited to any one donee depending upon the total quantity on hand.

D. Federal surplus property bulletins listing property available for distribution shall be mailed to all donees registered pursuant to 2 MCAR § 1.3103.

E. The FSP Activity shall recommend to General Services Administration the certification of donee screeners, as qualified and needed.

The FSP Activity will, insofar as practical, economical, and equitable select that property requested by the donees, and the FSP Activity will arrange for direct pickup or shipment of the property to the donee if requested to do so.

F. Donees which suffer or experience a local disaster and/or major loss of property due to fire, flood, tornado, etc., may apply for a temporary priority for all requested items of property by telephoning the FSP Activity or writing the FSP Activity at the address noted in 2 MCAR § 1.3102, D. Special efforts shall be made to locate and distribute needed property to such donees.

2 MCAR 1.3107

Compliance, Utilization, and Disposition

A. In order to obtain optimum federal surplus property utilization within Minnesota, obsolete and surplus property

liability and utilization procedures have been established for statewide application. In order to ensure the integrity of the statewide property utilization program, donee field audits shall be periodically conducted by the FSP Activity of the Materials Management Division. All donees shall cooperate with auditors and all audit requests or be subject to removal from FSP eligibility.

B. When property becomes obsolete or surplus to a donee's needs, it shall be reported to the FSP Activity on forms provided by the FSP Activity, as required in 2 MCAR § 1.3108, A.

C. Property reported as obsolete or surplus by donee on forms provided by the FSP Activity shall be evaluated by the Federal Surplus Property Utilization and Sales Coordinator to determine the most feasible means of disposition. If the property is considered to have further utility value within the utilization restriction period, this information shall be circulated to all donees via the Federal Surplus Property **Bulletin**, published periodically, and made available pursuant to 2 MCAR § 1.3106, D.

2 MCAR 1.3108

Property Sales

A. General

1. All obsolete, surplus and recyclable personal property, which no longer provides any utility value to the Federal Surplus Property program, shall be sold. Local sale of personal property may be authorized, in writing, by the FSP Activity or sales shall be conducted centrally by

the State Surplus Property Sales Section pursuant to 2 MCAR §§ 1.3301 - 1.3306.

2. Personal Property Sales may be transacted via the sealed bid process, public auction or on a negotiated basis. All local personal property sales shall be authorized, in writing, by the FSP Activity, Division of Materials Management. Application forms for local sale shall be provided by the FSP Activity.

3. The FSP Activity shall determine the maximum amount of reimbursement allowed the donee selling the property pursuant to 2 MCAR § 1.3105, A5. Any revenue from such sale in excess of the authorized reimbursement amount, shall be submitted to the FSP Activity, accompanied by a copy of the forms required by the FSP Activity for reporting disposition results, a buyer acknowledged (signed) copy of the sales receipt, and a copy of the donee deposit form. Reimbursement to donee shall be on a prorated basis for the following expenses:

   a. Service charge paid to the FSP Activity;
   b. Transportation charges paid by the donee in initially acquiring the property;
   c. Initial costs of repair required to make the items useable; and
   d. Administrative costs incurred in the sale or transfer of such property.

B. Sealed Bid Sales

1. Locally authorized bid sales may be used by all donees in the sealed bid sale of Federal Surplus Property when authorized, in writing, by the FSP Activity pursuant to 2 MCAR § 1.3108 A1.

2. Whenever practicable, at least three competitive bids shall be solicited in the sale of Federal Surplus personal property via the sealed bid process.

3. Sealed bid sales which are not authorized locally shall be processed by the FSP Activity pursuant to 2 MCAR § 1.3304.

4. Any employee directly involved in the sales process shall not be eligible to purchase surplus property for which they have specific responsibility.

C. Auction Sales

1. The FSP Activity shall coordinate all Federal Surplus personal property auction sales for all donees of the State.

2. When a donee has reported property, pursuant to 2 MCAR § 1.3108 A1, to the FSP Activity, which cannot be transferred to another donee, the FSP Activity shall determine the most effective means of disposal. If an auction sale is warranted, the auction sale shall be processed pursuant to 2 MCAR §§ 1.3303.

D. Negotiated Sales

1. Pursuant to Minn. Stat. § 16.07, Subd. 4, sale of Federal Surplus personal property estimated to be $5,000 or less may be made either upon competitive bids or in the open market. All negotiated sales shall receive prior approval, in writing, from the FSP Activity.

2. Whenever practicable, at lease three competitive bids shall be solicited in the sale of Federal surplus personal property via the negotiated process.

3. No employee of any donee organization may purchase Federal Surplus property via the negotiated sale process.

4. The disposition of all negotiated sales shall be reported to the FSP Activity on the form provided by the FSP Activity, accompanied by a buyer acknowledged (signed) sales receipt and a copy of the donee deposit form.

5. A copy of the buyer acknowledged signed sales receipt shall be maintained in the donee(s) files for seven years from the date the sales transaction was consummated.

2 MCAR 1.3109

Consultation with Advisory Groups - Public and Private Groups

A. The FSP Activity shall consult with advisory bodies and public and private groups which can assist in determining relative needs and resources.

B. A private or public body wishing to be a party to the above consultation, shall, in writing, contact the FSP Activity Manager, 5420 Highway 8, Arden Hills, Minnesota 55112.

Chapter 9 C: Office of the State Register

All existing rules presently promulgated, adopted, and published as 9 MCAR §§ 3, entitled "The Office of the State Register Rules of Operation", are proposed to be repealed as follows:

RGSTR-1--General

A.--Documents published in the State Register shall be arranged under four principal headings in the following order:

1.--Executive Orders

2.--Rules

3.--Proposed Rulemaking

4.--Official Notices

B.--A separate issue of the State Register shall be published once a year, and shall be entirely devoted to descriptions of agency organizations, as provided in Minn. Stat. § 15.0412, subd. 2 (1975).

RGSTR-2--Numbering and dating

--Minn. Stat. § 15.051, subd. 2 (1975) provides that all issues shall be numbered and dated.--Issues shall be numbered by volume and number, for example, "Volume 1 Number 1".--All issues of the State Register published in a given year shall be included in a single volume number.--Issues shall be dated by day of the week, and date of the year and shall bear the legend, "St. Paul, Minn.", for example, "Wednesday, October 15, 1975, St. Paul, Minn."

RGSTR-3--Subject indices

A.--Each issue of the State Register shall include a Table of Contents, arranged in the order required by RGSTR-1.

B.--An analytical, cumulative subject index, in the same form as that prepared by the Revisor of Statutes for publication with Minnesota Statutes, shall be published in the State Register at least once each three months.--An analytical subject index cumulated over a 12-month period shall be published annually.

~~RGSTR 4 Numerical finding aids~~

~~Each issue of the State Register shall contain a cumulative, numerical lis~~ ~~of the subjects within each chapter of the Manual of State Agency Rules~~ ~~expressly affected by rules published in the State Register during the curre~~ ~~quarter.~~

~~RGSTR 5 Publication of rules by reference~~

~~The Commissioner may elect to satisfy the requirements of Minn. Stat. § 15.0412, subd. 4, with respect to publication of adopted rules by signifying that the rules adopted are identical in every respect to rules formerly published in the State Register as proposed rules, specifically citing the volu and page on which the proposed rules may be found.~~

~~RGSTR 6 Details of format of State Register~~

~~A. Documents subject to codification in the Manual of State Agency Rules which are published in the State Register shall be keyed to the rules and se as a temporary supplement to the rules.~~

~~B. The closing date and hour of each issue of the State Register shall ap pear on the first page of each issue. The issue date shall be the day of de sit of each issue of the State Register in the United States mail for distri tion.~~

~~C. The Commissioner may designate any other information relating to the nature, use or significance of the State Register for publication on the fir or second page of each issue.~~

~~D. Sections shall be divided as follows:~~

~~ADMIN. 1~~

~~A.~~

~~1.~~

~~a.~~

~~(1)~~

RGSTR-7--General-permission-to-reproduce-contents-of-State-Register

The-cross-reference-tables,-tables-of-contents,-indices,-numerical-lists-ar codification--guides-published-pursuant-to-these-rules-shall-be-copyrighted-i the-name-of-the-State-of-Minnesota-and-may-be-reproduced-only-with-the consent-of-the-Commissioner.--There-shall-be-no-other-restrictions-on-the reproduction-or-republication-of-documents-or-other-materials-published pursuant-to-these-rules,-and-this-section-shall-constitute-the-consent-of-the State-of-Minnesota-to-any-such-republication-or-reproduction.

RGSTR-51--Publication-withheld

--Minn.-Stat.-§-15.051,-Subd.-1-(1975)-provides-that-the-Commissioner-may withhold-publication-of-any-material-not-submitted-according-to-the-form-or procedures-prescribed-in-these-rules.--The-Commissioner-shall-not-withhold publication-of-any-material-without-providing-the-submitting-agency-with prompt-notice.

RGSTR-52--Approval-as-to-legality;-filing

A.--Minn.-Stat.-§-15.0412,-subd.-4-(1975)-provides-that-rules,-excepting emergency-rules,-shall-be-submitted-to-the-Attorney-General-for-approval-as to-form-and-legality.

B.--Minn.-Stat.-§-15.0412,-subd.-4-(1975)-provides-that-rules,-excepting emergency-rules,-shall-be-filed-in-the-office-of-the-State-Register-for-publi tion.

C.--Upon-approval-by-the-Attorney-General-and-after-filing-in-the-office-of the-Secretary-of-State,-except-where-such-approval-or-filing-is-unnecessary, two-duplicate-legible-copies-of-the-document-shall-be-deposited-with-the Office-of-the-State-Register-for-publication.

D.--All copies of documents submitted to the Office of the State Register for publication shall carry the certification of the executive officer, chair or secretary of the submitting agency, or his designee. Initials and impress signatures shall not be acceptable.

RGSTR-53--Agency responsibility

The accuracy and completeness of documents submitted for publication in the State Register are the responsibility of the submitting agency. All docu ments shall be thoroughly proofread before submission for publication.

RGSTR-54--General format

Documents submitted for publication in the State Register shall be in the form indicated in these rules.

RGSTR-55--Name of submitting agency

The name of the submitting agency shall be carried on the front page of any document submitted for publication in the State Register.

RGSTR-56--Name of agency subdivision

Documents submitted by or for a specific board, commission, bureau or similar unit within a department or overall agency shall bear the name of such board, commission, bureau or unit on a separate line immediately below the name of the submitting agency.

RGSTR-57--Short title

A suitable short title identifying the subject of the document shall be pro vided beginning on a separate line immediately below the name of the sub= mitting agency or agency subdivision. Whenever appropriate, a brief caption indicating the nature of the document may be added.

RGSTR-58--Affected-documents

A.--A-list-of-sections-of-the-Manual-of-State-Agency-Rules-affected-by-proposed-or-adopted-rules-submitted-for-publication-shall-be-provided-beginning on-a-line-immediately-below-the-short-title.--The-list-shall-be-in-the-follow form:--"Volume-1,-Manual-of-State-Agency-Rules,-Department-of-Commerce, Banking-Division,-page-21,"-or-"Volume-1,-State-Register,-page-201,"-in-the event-the-affected-rule-has-not-been-published-in-the-Manual-of-State-Agency-Rules.

B.--A-citation-to-any-other-documents-previously-published-in-the-State Register-affected-by-the-document-submitted-for-publication-shall-be-provided beginning-on-a-line-immediately-below-the-list-of-sections-of-the-Manual-of State-Agency-Rules-affected.

RGSTR-59--Requirements as to form and size

A.--All-documents-filed-with-the-Office-of-the-State-Register-by-an-agency pursuant-to-these-rules-shall-conform-to-all-other-applicable-provisions-of these-rules-and-to-the-following-requirements-as-to-form-and-size:--

1.--The-first-page-or-face-sheet-of-each-document-shall-be-16-or-20 pound-white-paper-8½-inches-wide-by-11-inches-in-length.--A-one-inch-margin shall-be-left-across-the-top-of-the-sheet-immediately-below-which-there-shall be-three-boxes-each-2½-inches-high.--The-center-box-shall-be-3½-inches-wide and-the-boxes-on-either-side-shall-be-2½-inches-wide.--In-the-center-box-ther shall-appear-the-following-language:

"Copy-below-is-hereby-certified-to-be-a-true-and-correct-copy-of-a-document-issued,-prescribed-or-promulgated-by:"-which-shall-be-followed-by-the name-of-the-agency-issuing-the-document,-the-date-of-the-adoption;-and-the signature-and-title-of-the-person-signing-the-certification.--The-box-on-the right-side-shall-be-filled-with-the-information-required-by-RGSTR-55-RGSTR--58.--In-the-box-on-the-left-shall-appear-the-following-language:

"Copy below is hereby approved as to form and legality," which shall be followed by the name of the Attorney General, the signature of the Special Assistant or Assistant Attorney General, and the date of such approval. From the left hand box to the bottom of the page a margin at least three-fourths of an inch wide shall be left along the left hand side of the page.

Attached hereto as Exhibit A and made a part of this rule is a copy of a face sheet in the style, form and size prescribed. Such prepared face sheets may be obtained from Central Stores, located at 139 East 12th Street, St. Paul, Minnesota 55101.

2. Every sheet of paper following the face sheet shall also be 16 or 20 pound white paper 8½ inches wide by 11 inches in length. A margin one inch wide shall be left along the top of each continuation sheet and along the full length of the left side of the sheet a margin not less than three fourths of an inch shall be allowed.

Attached as Exhibit B and made a part of this rule is a copy of a continuation sheet in the style, form and size prescribed. Such prepared continuation sheets may be obtained from Central Stores, located at 139 East 12th Street, St. Paul, Minnesota 55101.

3. Documents shall be typed, serially paginated, double spaced on only one side of a sheet and there shall be no interlineation. After filing with Office of the State Register the documents shall not be altered in any way. Documents which are pasted or glued on the prescribed size sheets or the overall measurements of which exceed those specified shall not be accepted for publication. Documents may not be attached to such sheets by pin, staple or adhesive tape.

-

RGSTR 60 Waiver

The Commissioner may waive any of the requirements of these rules relating to style, form, and size at the request of a submitting agency if the

Commissioner determines that the copy submitted by the agency is suitable as an original and as a printer's copy.

RGSTR-61--Language

--All documents shall be drafted in plain, readable English.--Technical or uncommon expressions, understandable only by a minority of the general public shall be avoided, except where subject matter requires.

RGSTR-62--Punctuation, capitalization, spelling

In order to promote uniformity in punctuation, capitalization, spelling and other matters of style in materials submitted for publication in the State Register, agencies are encouraged to consult the most recent editions of the United States Government Printing Office Style Manual, the Document Drafting Handbook of the Federal Register, the Fundamentals of Legal Drafting by Reed Dickenson (1965) and the Elements of Style by White and Strunk. Legal citations may follow the form prescribed by the most recent edition of A Uniform System of Citation published by the Harvard Law Review.

RGSTR-63--Descriptions of tracts of land

In order to promote uniformity in descriptions of tracts of land in materials submitted for publication in the State Register, agencies are encouraged to consult the most recent edition of the Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations, prepared by the Bureau of Land Management, U.S. Department of the Interior.

RPSTR-64--Use of words or figures to express numbers

--The numbers ten and under, when not used in a citation, shall be expressed in words in running text. The numbers 11 and larger shall be expressed in figures.

RGSPR-65--Illustrations,-tabular-materials-and-forms

Whenever possible documents should be drafted as to make the inclusion of illustration, tabular materials and forms unnecessary.--If their inclusio cannot be avoided, a notice of intention to submit such materials shall be given to the Office of the State Register, and Schedule Three and the follow ing shall apply:

A.--Illustrations.--The original drawings or clear reproductions of all ma charts, graphs or other illustrations shall be forwarded to the Office of th State Register 20 working days prior to the time of formal submission, as provided in Minn. Stat. § 15.051, subd. 2.--A notice of intention to submit such materials shall be given to the Office of the State Register at that ti A reproducible copy of the original illustration reduced to a size approx imating 8 by 10½ inches, shall appear as part of the two duplicate legible copies of the document.

B.--Tabular Materials.--Advance copies of tabular materials comprising more than two type written pages shall be forwarded to the Office of the State Register ten working days prior to the time of formal submission, as provided in Minn. Stat. § 15.051, subd. 2.--A notice of intention to submit such materials shall be given to the Office of the State Register that time.

C.--Forms.--Forms for application, registration, reports, contracts and th like, and the instructions for preparing such forms shall be forwarded to th Office of the State Register ten working days prior to the time of formal su mission, as provided in Minn. Stat. § 15.051, subd. 2.--A notice of intentio to submit such materials shall be given to the Office of the State Register that time.

RGSTR 91--Designation of agency representatives

Each agency shall designate a representative to serve as liaison officer in relation to the office of the State Register. Wherever feasible, a single representative shall be designated to function on behalf of all divisions within the agency or department.

RGSTR 92--Notification of designation.

Each agency shall notify the Office of the State Register in writing of the name, title, address and telephone extension of each agency representative designated in compliance with RGSTR 91 (relating to designation of agency representatives), promptly upon adoption of these rules. Whenever a change in representation is made by an agency, prompt notification shall be given to the Office of the State Register.

RGSTR-93--Liaison-duties

The-liaison-officer-shall-represent-his-agency-in-all-matters-relating-to-t submission-of-documents-to-the-Office-of-the-State-Register-and-respecting general-compliance-with-the-provisions-of-these-rules.

RGSTR-94--Receipt-and-processing

Documents-shall-be-received-at-the-Office-of-the-State-Register-during regular-office-hours.

RGSTR-95--Correction-of-errors

In-the-event-an-agency-discovers-an-error-or-omission-in-the-official-text-of-a-document-published-pursuant-to-these-rules,-the-agency-shall-forthwith-deposit,-without-regard-to-the-requirements-of-Minn.-Stat.-S-15.0412-(1975), relating-to-notice-of-proposed-rule-and-adoption-of-rules-but-with-regard-to the-requirement-of-approval-as-to-form-and-legality-of-the-Attorney-General, if-applicable,-or-to-the-other-requirements-of-these-rules,-with-the-Office-o the-State-Register,-an-appropriate-correction-to-the-offical-text.--Nothing-i this-rule-shall-be-construed-to-violate-Minn.-Stat.-S-15.0412,-subd.-4.

RGSTR-96--Publication-schedules--

-All-materials-submitted-for-publication-in-the-State-Register-shall-be-published-according-to-Schedule-One,-Two-or-Three.

RGSTR-97--Procedure-for-Schedule-One

A.--A-document-shall-be-assigned-to-"Schedule-One"--upon-specific-request of-the-submitting-agency-and-agreement-thereto-by-the-Office-of-the-State-Register.--Requests-may-be-made-by-letter-or-otherwise,-as-time-permits.--Confirmation-of-the-assignment-shall-be-made-as-promptly-as-possible.

B.--Schedule-One-is-designed-to-provide-the-fastest-possible-publication-of a-document-involving-the-prevention,-alleviation,-control-or-relief-of-an-emergency-situation.--Requests-for-such-publication-should-briefly-describe the-emergency-and-the-benefits-attributable-to-immediate-publication-in-the-State-Register.--Documents-assigned-to-Schedule-One-shall-be-published-on the-publication-day-next-following-the-day-of-filing.

RGSTR-98--Procedure-for-Schedule-Two-

In-the-absence-of-special-arrangement-with-the-submitting-agency,-documents-shall-be-assigned-to-Schedule-Two-for-regular-publication.--Receipt-in the-ordinary-course-of-business-shall-be-considered-as-a-request-for-such publication.

RGSTR-99--Procedure-for-Schedule-Three

A.--Documents-that-are-the-subject-of-agreements-involving-special-editorial or-publication-services-may-be-placed-on-Schedule-Three-by-prearrangement.

B.--Documents-may-be-assigned-to-Schedule-Three-only-because-of-technical-problems-requiring-additional-time-to-prepare-material-for-the-press. The-requirement-of-additional-time-generally-may-be-obviated-through-advance-consultation-with-the-Office-of-the-State-Register-respecting-unusual tabulations,-illustrations-or-exceptionally-voluminous-submissions.

C.--Documents-assigned-to-Schedule-Three-because-of-technical-problems shall-be-published-as-nearly-on-regular-schedule-as-practicable.

RGSTR-100--Requisitions-for-quantity-overruns-of-specific-items

To meet requirements for special distribution in special quantity of the State Register, agencies may request an overrun of an entire specific print. Requests of overrun must be made to the Office of the State Register at the time material is submitted for publication and shall include the estimated number of copies required. Single issues and overruns may be purchased at either the Office of the State Register or the Documents Section.

The following rule is proposed to replace those proposed to be repealed.

2 MCAR 1.3201

Scope and Purpose. These rules are promulgated pursuant to Minn. Stat. §§ 15.041 - 15.051 and govern the availability of publications from the Office of the State Register, Materials Management Division, Department of Administration. The Office of the State Register publishes and offers for sale the following:

1. The "State Register"
2. The "Minnesota Guidebook to State Agency Services"
3. The "Minnesota Code of Agency Rules (MCAR)"

2 MCAR 1.3202

Availability of the State Register Publications.

A. Publications of the Office of the State Register are available from the Office of the State Register, Hamm Building, 408 St. Peter Street, Suite 415, St. Paul, Minnesota 55101. All purchases from the Office of the State Register shall be prepaid and may be obtained as described below.

B. State Register.

1. The State Register is distributed weekly on Monday to the public when published, either as a part of an annual subscription or in single copies for a fee set pursuant to 2 MCAR § 1.3203.

2. Mail orders for annual subscriptions shall be accompanied by the order form found on the back page of each issue of the State Register or on an order card available from the Office of the State Register and shall be accompanied by full payment.

3. Checks shall be made payable to the "Minnesota State Treasurer".

4. Single issue orders shall be accompanied by full payment.

5. Over-the-counter sales are available at the Office of the State Register at the address noted in section A above.

6. Subscribers to the State Register shall receive a Minnesota Guidebook without additional charge.

C. Minnesota Guidebook to State Agency Services

1. The Guidebook is made available to the public either as part of the annual State Register subscription or in response to requests from non-subscribers. The Guidebook is also available at retail bookstores throughout the state. Retail bookstores interested in distributing the Guidebook may contact the Office of the State Register at the address noted in section A above.

2. Mail orders for the Guidebook shall be made on the order form found in the back page of each issue of the State Register. The order form is also available by phone or written request from the Office of the State Register.

3. Subscribers to the State Register shall receive a Guidebook without additional charge.

4. Orders for the Guidebook shall be accompanied by full payment. Checks shall be made payable to the "Minnesota State Treasurer".

D. Minnesota Code of Agency Rules (MCAR).

1. The MCAR, consisting of a multi volume set of permanent rules of state agencies, is made available to the public for a fee set pursuant to 2 MCAR § 1.3203. A quarterly update service is available for an additional fee.

2. All orders shall be placed in writing or in person at the Office of the State Register at the address noted in section A above.

E. Finality of Sales

All purchases from the Office of the State Register shall be final.

2 MCAR 1.3203

Fees

A. Fees for services shall be prescribed by the Commissioner of

Administration and approved by the Commissioner of Finance unless otherwise authorized by law or rule and shall be based upon the following factors: cost of publication, storage, handling, postage and operating expenses of the Office of the State Register. Fees may differ for quantity purchases.

2 MCAR 1.3204

Disclaimer of Liability.

~~A.~~ The Office of the State Register of the Department of Administration shall assume no responsibility for or liability arising from the contents of publications distributed, printed, or otherwise available under it auspices. Any conflict arising from contents shall be referred to the state agency from which the copy or information for the publication emanated.

2 MCAR 1.3205

Errata Listings.

~~A.~~ Ommission or other errors in copy shall be corrected by errata listings so identified in subsequent issues.

Chapter 9D: STATE SURPLUS PROPERTY SALES

2 MCAR 1.3301

Authority and Scope.

~~A.~~ Pursuant to Minn. Stat. §§ 16.02, 16.07, 16.08, 16.24 and 16.28, the State Surplus Property Sales Section, Division of Materials Management, Department of Administration, is responsible for managing a statewide surplus property sales program in order to ensure the effective ultimate disposition of all surplus personal property. These rules govern the disposition of all such obsolete, surplus and recyclable state property. Sales are conducted via public auction, sealed bid or negotiation, as set forth below.

2 MCAR 1.3302

General Terms and Requirements of Purchase.

A. Waiver of Warranty: The State of Minnesota shall make no warranty as to the fitness, merchantability or other condition of any item sold pursuant to these rules. The purchaser bidding shall agree to purchase said items, conditions "as is - where is." This waiver includes, but is not limited to a waiver of any purchaser's claim pursuant to Minn. Stat. §§ 336.2-312 through 336.2-315.

B. Transfer Requirements and Costs: The purchaser shall assume all cost of title transfer and required vehicle registration fees, if any. Items shall not be removed from the premises until the full purchase price and sales tax have been paid, insurance information provided (insurance company and policy number or binder) and the required license plates are attached to the vehicles, where applicable.

2 MCAR 1.3303

Auction Sales: Pursuant to Minn. Stat. § 16.07, subd. 10, surplus personal property may be sold by auction as follows:

A. Notification of Auctions: Persons wishing to be notified of state public auction sales shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, ~~(612) 296-6132,~~ giving their name and complete address. All interested persons shall be placed on an auction mailing list and shall receive bulletins of all public auctions held by the state. State auctions shall also be advertised in news-media at least seven (7) days prior to the sale. News media used may include the Minneapolis and St. Paul papers and/or local papers in the immediate vicinity of the sale.

B. Auction Terms and Requirements: The full amount of the bid price shall be paid at the time of sale for each item selling for less than $500.00. A minimum of ten percent (10%) of the bid price shall be paid at the time of the sale for each item selling for $500.00. or more. All personal checks shall be accepted for the full amount or the ten percent (10%) down on the day of the sale. A successful bidder shall pay any balance due on the sale, including sales tax, within five (5) days from the date of the sale. Such balance due payments shall be in the form of cash, money order, certified check, or bank draft, made payable to the "Minnesota State Treasurer". Full payment shall be received prior to release of merchandise. Failure on the part of the purchaser to remit the balance due on the amount of the bid within five (5) days shall constitute forfeiture of the amount paid at the time of the sale.

C. Application for Auctioneers. All Auctioneers interested in providing their services to the state shall submit their name and address to the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101. ~~(612)-296-6132~~. Sealed bid invitations for auctioneering services shall be mailed to all interested persons for each scheduled auction. Contracts for auctioneering services shall be awarded to a qualified, licensed Auctioneer based on the bid requirements, and the lowest percentage fee of each sale's proceeds. In the event of tied commission fee bids, Auctioneer shall be chosen on the basis of a draw or by bid negotiation.

2 MCAR 1.3304

Sealed Bid Sales: Pursuant to Minn. Stat. §§ 16.02 subd. 18; 16.07, subd. 2 and 4; 16.08 and 16.24, surplus personal property may be sold by sealed bid as follows:

A. Notification of Sealed Bid Sales: Persons interested in bidding on the purchase of state surplus personal property shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, ~~(612)-296-6132,~~ giving their name and complete address. All interested persons shall be required to indicate the types of property they desire to purchase and shall then be placed on mailing lists by commodity group(s). Applicants shall be advised by sealed bid invitation of all applicable commodities for sale in their respective commodity groups.

B. Conditions for Sealed Bid Sales: The estimated number or weight of the items listed for sale is for the general guidance

of bidders and the state shall assume no responsibility for any variance therefrom. In accordance with the bid requirements, certified checks, cashier's checks, or money orders of successful bidders submitted with the bid, may constitute liquidated damages for failure of bidder to enter into contract. Sealed Bid Sales shall be awarded to the highest responsible bidder.

C. Removal from Mailing Lists: Applicants on sealed bid mailing lists who have not bid for the purchase of state surplus property for a period of two or more years may be removed from all applicable mailing lists. Applicants shall be reinstated upon written request.

2 MCAR 1.3305

Negotiated Sales: Pursuant to Minn. Stat. § 16.07, subd. 4, surplus property sales estimated to be $5,000 or less may be made either upon competitive bids or in the open market.

A. Notification of Negotiated Sales: Persons wishing to be notified of a proposed negotiated sale of specific state surplus personal property shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, ~~(612) 296-6132.~~

B. Conditions for Negotiated Sales: If the state is unable to secure sealed-bids for the sale of property or it is deemed to be in the best interest of the state, sales may be negotiated with persons who have indicated an interest in the purchase of a specific commodity. So far as practi-

cable, the sales shall be based on at least three competitive bids, shall be permanently recorded and awarded to the highest responsible bidder. The full amount of the purchase price shall be paid at the time of sale. All personal checks shall be accepted for the full amount of sale.

2 MCAR 1.3306

Public Employee Purchase of State Surplus Property.

A. Pursuant to Minn. Stat. § 15.054 ~~(1977 Supp.)~~, employees of the state and its political subdivisions are permitted to purchase state surplus personal property including one motor vehicle within each 12 month period via public auction or sealed bid process.

B. Public employees directly involved in the sales process shall not be eligible to purchase state surplus personal property for which they have specific disposition responsibility.

Chapter 10: CENTRAL MOTOR POOL

2 MCAR 1.3501

Scope of Purpose: The purpose of these rules is to define the procedures of the Department of Administration, Central Motor Pool Division, relating to handling insurance claims involving Central Motor Pool vehicles pursuant to Minn. Stat. § 16.75. All references to "Central Motor Pool Division" below mean Central Motor Pool Division, Department of Administration, 610 N. Robert Street, St. Paul, Minnesota 55101.

2 MCAR 1.3502

Insurance Claim Procedures.

A. When a Central Motor Pool vehicle is involved in an accident, the driver of the state vehicle shall complete an accident report on form DPS 32001. This report is to be completed within 3 days of the accident and sent to the Central Motor Pool Division, 610 N. Robert Street, St. Paul, Minnesota 55101. The Central Motor Pool Division shall complete the portion of the form entitled "Insurance".

B. For accidents involving personal injury, death, or total property damage of $300 or more, the Central Motor Pool Division shall forward the accident report to the Department of Public Safety within ten (10) days of the accident, as required by law. A copy of the accident report shall be retained by the Central Motor Pool Division.

C. Notification of the accident, including a copy of the accident report, shall be sent to the state's insurance company by the Central Motor Pool Division. Contact with third parties to discuss settlement for injury or property damage may be initiated by the state's insurer. The Central Motor Pool Division shall direct any persons wishing to file a claim against the state to the proper agency for consideration of such a claim.

D. If it is evident that the other driver was at fault, a claim may be filed with his/her insurance company by the Central Motor Pool Division. A copy of the official repair estimate shall be included. The repair estimate shall be supplied by the body repair shop having the contract for repair of state vehicles or by other responsible body repair shops as approved by the Director of the Central Motor Pool Division.

E. When a check is received covering the damage done to the Central Motor Pool vehicle, a release shall be signed, and the check deposited in the Central Motor Pool revolving fund.

Chapter 11: Plant Management

All existing rules presently promulgated, adopted and published as 1 MCAR 1.080, entitled "Chapter 9: Plant Management Admin. 80: Parking or (sic) Motor Vehicles on Parking Lots", are proposed to be repealed as follows:

Admin.-80-Parking or Motor Vehicles on Parking Lots.

Pursuant to the authority contained in Minnesota Statutes 1969, Section 16.72, Subd. 2, the following are the rules and regulations relating to parking of motor vehicles on parking lots and facilities owned or operated by the State of Minnesota and under the control of the department of administration.

(a) Lots and Facilities.--Parking lots or facilities enumerated herein are located within the Capitol complex, the University of Minnesota Campus, and downtown St. Paul and Minneapolis.

Lot A---N.E. corner of the block bounded by Sherburne, Capitol Blvd., University and Park Avenues.--Entrances and exit on Sherburne.

Lot B---Balance of the square block in which Lot A is located with two entrances and exits, one on Sherburne Avenue and one on Capitol Blvd.

Lot C---Forty feet westward of 117 University Avenue and adjacent thereto including the forty foot lot directly North and facing on Sherburne. Entrance and exit on Sherburne Avenue.

Lot D---Triangular lot bounded by Rice on the West, Aurora on the South and Wabasha on the Northeast.--Entrance and exit on Aurora Street.

Lot E---Directly West of the State Office Building and adjacent thereto, bounded by Aurora on the North, Fuller on the South, and Rice on the West with entrances and exits on Aurora and Fuller Avenue.

Lot F--Northwesterly on the Highway Building and adjacent thereto with entrances and exits on Rice Street and Fuller Avenue.

Lot G -- Southwesterly of the Highway Building and adjacent thereto with entrance and exit on Rice Street and John Ireland Blvd.

Lot H -- Block bounded on the North by Columbus Circle, on the West by John Ireland Blvd., on the South by 12th Street and on the East by Iglehart Avenue with entrance and exit on Iglehart Avenue.

Lot I -- South of the West section of the Veterans Service Building and adjacent thereto with entrance and exit on 12th Street.

Lot J -- East of the Veterans Service Building and adjacent thereto with entrance and exit on Wabasha Street.

Lot K -- Block bounded on the North by Columbus Circle, on the West by Wabasha Street, on the South by 12th Street and on the East by Cedar Street with entrance and exit on Wabasha and Cedar Streets.

Lot L -- Bounded by Central Avenue on the North, East Central Park Place on the East, 13th Street on the South, West Central Park Place on the West, with entrances and exits on East Central Park Place and West Central Park Place.

Lot M -- East of the Capitol and adjacent to the heating plant with Cedar Street on the West and Central Avenue on the South -- Entrance and exit on Cedar Street.

Lot N -- West Driveway on the North side of the Capitol Building with entrance and exit on University Avenue;

~~Lot O -- East Driveway on the North Side of the Capitol Building with entrance on University Avenue and exit on Cedar Street.~~

~~Lot P -- Northeasterly of the Capitol Building and adjacent thereto with entrance and exit on the East Capitol driveway.~~

~~Lot Q -- Area bounded by University Avenue on the South, Robert and Capitol Heights Streets on the East, Charles Street on the North, Cedar Street on the West. -- Entrance and Exit on Sherburne Street, Cedar Street and Charles Ave.~~

~~Lot R -- East of, and adjacent to, heating plant with entrance and exist on Aurora St.~~

~~Lot S -- South two-thirds of block bounded by Central Avenue on the North, East Central Park Place on the West, 13th Street on the South and Robert Street on the East, with entrance and exit on Robert and 13th Streets.~~

~~Indoor Parking at: -- Highway Building, John Ireland Blvd.; Capitol complex Manpower Services Building, 390 N. Robert, St. Paul; State Department of Health Building, 717 Delaware S.E., Minneapolis.~~

~~Outdoor Parking at: -- Manpower Services Building, 309 2nd Ave. So., Minneapolis, State Department of Health Building, 717 Delaware S.E., Minneapolis.~~

~~Ramp: -- State Administration Building parking ramp, 50 Sherburne Ave., Capitol Complex, and any other State owned parking ramp or facility in the Capitol complex.~~

~~Streets:--Iglehart Avenue between 12th Street and Wabasha Avenue; Aurora Street between Cedar Avenue and Park Avenue.--East Central Park Place between Central Avenue and 13th Street.~~

~~(b) Effective Date.--On and after January 3, 1967, no motor vehicle, either privately or publicly owned, may be parked upon any area herein described in these rules and regulations except in conformity with these prescribed rules and regulations.~~

~~(c) Restricted Areas.--Restricted parking in following areas:~~

~~1.--Parking meters in accordance with meter fee schedule.~~

~~2.--Posted areas for elected officials.~~

~~3.--Posted areas for contract parking.~~

~~4.--Posted areas for service vehicles.~~

~~5.--Posted areas by special assignment.~~

~~(d) Stickers.--If it is deemed necessary each State employee will be issued a windshield sticker of a proper identifying color for which he shall pay ten cents for each sticker so issued.~~

~~(e) Prohibited Parking.--All parking is prohibited in the driveway entrances, on sidewalks, on landscaped areas, at bus stops, safety zones, crosswalks, along yellow painted curbs, within 15 feet of fire hydrants, within 20 feet of crosswalks or intersections; parking in a stall assigned to others, parking in driveways and restricted areas of lots, ramps, or parking facilities.~~

~~(f) Violations~~

~~(1) When any motor vehicle is parked upon any area in violation of these rules and regulations a traffic ticket may be issued in~~

The following rule is proposed to replace those proposed to be repealed.

2 MCAR 1.4001

Parking

Pursuant to Minn. Stat. § 16.72, subd. 2, this rule governs the parking of motor vehicles in parking facilities owned or operated by the State of Minnesota and under the control of the Commissioner of Administration.

A. Lots and Facilities: Parking lots or facilities governed by these rules are located within the Capitol Complex, the City of St. Paul, and the City of Minneapolis, and include the following:

1. Outdoor lots within the Capitol Complex; at the Economic Security Building, 309 - 2nd Avenue South, Minneapolis; 1246 University Avenue, St. Paul; and at the State Department of Health Building, 717 Delaware Avenue Southeast, Minneapolis.

2. Indoor parking facilities located in the Department of Transportation Building in the Capitol Complex; the Economic Security Building, 390 North Robert Street; 1246 University Avenue, St. Paul; and the

State Department of Health Building, 717 Delaware Avenue Southeast, Minneapolis,

3. Ramp parking facilities located in the State Administration Building and adjacent to the Centennial Building, both in the Capitol Complex.

4. Street parking facilities located on Aurora Street between Cedar Avenue and Park Avenue.

B. Prohibited Parking. All parking of motor vehicles is prohibited across driveway entrances; upon sidewalks; along yellow painted curbing; within 15 feet of fire hydrants; within 20 feet of crosswalks or intersections; in stalls assigned to other persons, unless permission is granted by such persons; in driveways; and in restricted zones of lots, ramps, or other posted areas.

C. Application for Parking. Applications for contract parking shall be made in writing to the Director of the Plant Management Division located at Room G-9, State Administration Building, St. Paul, Minnesota 55155. The application shall bear the written signature of the person applying and contain the following information: employing agency, telephone number at place of work, type of vehicle (compact or regular), motor vehicle license number, and all other relevant information requested by the Director. Additional information may be required, including the name of each passenger, if carpooling, the employing agency of each passenger, and location if other than in the Capitol Complex. If a desired facility is requested, the facility shall be

identified. The applicant shall not submit payment with the application.

D. Permits shall be granted to applicants in the following priority order:

1. Applicants qualifying for a handicapped parking permit per 2 MCAR § 1.4001 H or demonstrating special needs or circumstances arising from position, nature of work, and/or travel requirements.

2. Applicants with riders with the applicant with the highest number of riders first, the applicant with the second highest number of riders second, etc.

3. All other applicants on a first come-first served basis.

E. Stickers. All authorized parking contract recipients shall be issued a sticker of proper identifying color. Stickers shall be displayed on the reverse side of the rearview mirror.

F. Fees for parking shall be set by the Commissioner of Administration with the approval of the Commissioner of Finance and shall be based on consideration of, but not limited to, the following factors:

1. Administrative overhead and operating cost;

2. Surcharge required pursuant to M.S. 16.72, subd. 7; and,

3. Number of car pool

G. Exemptions from Parking Surcharge.

1. Pursuant to Minn. Stat. § 16.72, ~~Subdivision 7 (1977)~~, as amended, the following are exempt from surcharge:

   (A) Parking contract holders whose work shift is other than the customary daytime work hours, including those individuals employed on rotating shifts.

   (B) Parking contract holders whose work activity does not conform to the customary hours or patterns of work so as to preclude the opportunity to participate in a car pool.

2. Application. Any person wishing to apply for exemption from the surcharge, shall apply in writing on the forms provided to the Division of Plant Management, Department of Administration.

3. Notice of approval or denial for the exemption of the surcharge shall be sent <u>in writing</u> to the applicant.

H. Handicapped. To receive a handicapped parking permit, a written application shall be submitted to the Director of the Plant Management Division at the above-noted address stating the circumstances and extent of the handicap. Certification of handicapped eligibility pursuant to Minn. Stat. § 169.345 shall be deemed sufficient showing to authorize vehicles bearing proper identification of such certification to use handicapped designated parking facilities in the Capitol Complex and other facilities. Upon receipt of an application from a non-certified person, the Director shall instruct the applicant to contact the nurse in the Transportation or Centennial Building for verification of the disability. A written recommendation from the nurse is required stating the estimated length of time required to accommodate the disability. Handicapped parking shall be available on a first come-first served basis. Regular parking rates shall apply.

I. Special Temporary Permits. For departments or agencies having individuals or groups visiting the Capitol Complex for meetings or hearings, temporary reserved hooded meter parking may, if available, be obtained upon request to the Director of the Plant Management Division, for which a per day per unit fee shall be paid by the requesting organization. The amount of the fee shall be set by the Commissioner of Administration and approved by the Commissioner of Finance.

J. Violations. Pursuant to Minn. Stat. § 16.72, subd. 3 and 4, when any motor vehicle is parked in violation of these rules

a traffic warning or summons ticket shall be issued to the vehicle or person(s) deemed as the violator(s).

K. Removal and Impounding. Any vehicle parked upon any parking lot or facility owned or operated by the State, not in conformity with the aforementioned rules, State law, or local ordinances, may be declared a public nuisance and removed or impounded as set forth in Minn. Stat. § 16.72, subd. 3. The cost of such removal or impounding shall be a lien against the motor vehicle until paid.

L. Legislative Parking Resolutions. Pursuant to Minn. Stat. § 16.72, subd. 6, these rules shall not affect regulation of parking of certain vehicles as provided by resolution of the legislative bodies during legislative sessions.

2 MCAR 1.4101

Personal Property Lost on State Property.

A. Pursuant to Minn. Stat. § 16.022, personal property found in the Capitol Complex or other buildings under the custodial control of the Commissioner of Administration shall be sent to the Plant Management Division, Department of Administration, Room G-9, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. Each article shall be labeled indicating the date, the place where the article was found, and the name and telephone number of the finder.

B. Any person wishing to recover any personal property which may have been lost in the Capitol Complex or other buildings under

the custodial control of the Commissioner of Administration shall contact the Plant Management Division at the above-noted address, giving a description of the lost property, the approximate time, and the location where it may have been lost.

C. Articles sent to the Plant Management Division shall be disposed of in accordance with Minn. Stat. § 16.0231.

2 MCAR 1.4201

Permits for Public Rallies in the Capitol Complex.

Pursuant to Minn. Stat. § 16.02, subds. 6 and 6a, the following rules governs the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. "Public rallies" for the purpose of this rule means parades, gatherings, solicitations, concerts, speeches or rotunda ceremonies, and other such related uses of the buildings, grounds, and state-owned streets in the Capitol Complex.

A. These This rules defines the permissible time, place, duration, and manner of the use of the Capitol Complex grounds, including the rotunda, sidewalks, Capitol Building steps and state-owned streets for public rallies, so as not to unreasonably interfere with the rights of others to the use of such public areas, to assure access to driveways and building entrances, to assure traffic movement in such a manner so as to not deprive the public and state employees of police and fire protection, and to assure the public of safe use and enjoyment of such public places.

1. Any person, firm, partnership, association, corporation,

company, or organization shall secure a permit from the Director of Plant Management Division, Department of Administration, Room G-9, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, to conduct a rally on the Capitol Complex grounds prior to announcing or conducting such public rally.

2. Any such person seeking a permit for a public rally shall submit, not less than seven (7) working days prior to the proposed date of the event, a written application identifying the person, firm, partnership, assocation, corporation, company or organization; mailing address and telephone number; date; time; and name, address, and the telephone number of the contact person who shall be responsible for the public rally; and all other relevant information requested by the Director of the Plant Management Division. The Director, where compelling reasons are shown therefore, and if staff and time are available to make arrangements necessary to protect the public interest, shall have the authority to consider any application hereunder which is filed less than seven (7) working days before the date such rally is proposed to be conducted.

3. Proof of Workers Compensation and public liability insurance shall be submitted when required by Director.

4. Upon consideration of the request for the permit, and after written agreement is reached between the parties involved regarding security, police protection, liability for damages, and cleanup of the areas, the Director of Plant Management shall approve the permit application

unless any of the following is found to exist:

a. The conduct of the rally will substantially interrupt the safe and orderly movement of other traffic contiguous to its route or location.

b. The conduct of the rally would require the diversion of so great a number of the security force of the Capitol to properly police the line of movement and the areas contiguous thereto as to prevent normal security.

c. The concentration of persons, animals, and vehicles at assembly areas of the rally will unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

d. The conduct of such rally will interfere with the movement of fire-fighting equipment enroute to a fire.

e. The rally is not scheduled to move from its point of origin and to its point of termination expeditiously and without unreasonable delays enroute.

f. The rally is to be held for the sole purpose of advertising any product or goods or is designed to be held all or in part for private profit.

g. The rally will unreasonably disrupt the normal operations of state government and the public right of safe use or reasonable enjoyment of public spaces.

B. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The rally chairperson or other person heading or leading such activity shall be in possession of the permit during the conduct of the rally.

C. Whenever any rally is conducted in a manner substantially different from that indicated in the period application and rules therefore, the permit shall be deemed to be automatically revoked and shall be forfeited.

D. No public rally in the Capitol Complex shall be undertaken unless a permit has been obtained as required above. Any person violating these this rules, or applicable state or local law, may be subject to prosecution under applicable law.

Chapter 12: PUBLICATIONS AND GENERAL SERVICES DIVISION

2MCAR 1.4501

Purpose and Scope: The procedures herein relate to the Commissioner of Administration's authority pursuant to Minn. Stat. § 16.61, 331.07, 331.08, and 331.09 ~~(1976)~~, providing in part for the certification of and computation of standard and adjusted line rates. ~~and Minn. Stat. § 16.02, subdivision 16 (1976) relating to the Central Mail Room of the Department of Administration~~

2 MCAR 1.4502

Definition of a "standard line" for Legal Notices.

~~A.~~ The "standard line" shall be 6-point Times Roman with a lower case alphabet of 90 points set on a 6-point slug without spacing between the lines, and 11 picas in length, as required by Minn. Stat. § 331.07.

2 MCAR 1.4503

Evaluation and Certification of Line Rates for Legal Notices.

A. Request for Evaluation and Certification: The following procedures shall be followed to request (1) an adjustment evaluation from the standard line and (2) certification of standard or adjusted line rates to any Minnesota newspaper, public official, or interested party requesting same.

1. The functions of computing adjustment evaluations and issuing certifications of standard or adjusted line rates are performed only upon written request.

2. Requests shall be completed as follows:

a. All requests shall be filed with the Commissioner of Administration, c/o State Printer, 506 Rice Street, St. Paul, Minnesota 55103.

b. The request shall contain the following:

(1) Statement by Publisher

(a) name of newspaper

(b) street address, zip code, city and county

(c) Publisher's name

(2) Method of production

(a) letterpress, matted & plated, or print from type

(b) offset, hot type, cold type, or hot and cold type

(3) Type used in printing legal ads

(a) type size and name of type

(b) pica width of single and double column

(c) hot or cold type

(d) justified or not justified (if not justified, minimum sample of five (5) inches of type set in column width of the type used must be provided with request)

(e) three (3) lower case alphabets in compact form for each column width and style of type which requires certification

(f) if the page forms are reduced in the camera or are matted, the lower case alphabet supplied must be reduced at the same percentage

(g) other relevant information requested by the Commissioner or his agent

c. Publishers who change type faces or who make format changes that affect column widths may apply for new certified rates, including in the request a minimum of three (3) lower case alphabets in compact form (no letter spacing) for the type style to be used and for each of the column widths requiring new line rates.

B. Formula for Evaluation

1. To calculate line rates for non-standard type faces and non-standard line lengths, the formula to be used is based on the proportion of the alphabet length of the "standard" type face to the alphabet length of the non-standard type face, in relation to the proportion of the length of the non-standard line to the length of the "standard" line, in relation to the line charge for the "standard" line.

Formula for above is as follows:

$$\frac{\text{L.C. Alphabet (in points) of 6-point Times Roman}}{\text{L.C. Alphabet (in points) of type you use}} \times \frac{\text{Your column width (in picas)}}{\text{Standard Times Roman 11 pica line length}} \times \text{Standard Line Rate} = \text{Adjusted Line Rate.}$$

2. A separate line rate certification is required (1) for each type face used in setting for legal notices, and (2) for each line length used in setting type for legal notices. Each line rate certification applies to only

one type face and one column width (measuring from direct left to direct right of line length). It may not be used for any other billing. Line rate certification procedures apply to cold type composition as well as hot metal typesetting.

2 MCAR 1.4504

Fees for Publication of Legal Notices.

~~A.~~ Fees for publications are established by Minn. Stat. § 331.08 ~~(1976)~~ for a standard line for first insertion and subsequent insertions and for what is termed "price and one-half" or "double price" composition. The definition of "price and one-half" or "double price" composition is established by the State Printer and published in the pamphlet "Publication of Legal Advertising in Newspapers", including approved forms and computation samples, as required by Minn. Stat. § 16.61.

2 MCAR 1.4505

Controversy between publisher and public official.

A. In case of controversy or disagreement between a publisher of a newspaper and a public official of this state as to the measurement of any legal notice published or required by law to be published in newspapers, such public official shall submit a copy of the printed notice to the Commissioner of Administration in accordance with the procedure described herein. The Commissioner shall measure such notice and forward a certificate signed by him giving the number of lines and the amount of the fees allowed for the publication

of such notice.

1. The following procedure is required:

   a. The public official shall send one complete copy of the legal publication to be measured to the Commissioner of Administration, c/o State Printer, 506 Rice Street, St. Paul, Minnesota, 55103. Said copy of publication will not be returned.

   b. The public official shall also send an affidavit of publication with indication of lower case alphabet and the number of insertions used in said publication.

   c. When disputed legal notices have been set by a third party, the public official shall state who set the legal notice and furnish three (3) copies of lower case alphabet in compact form of type used.

   d. If copy for legal notices is furnished in camera ready form for use in the newspaper, the public official shall so state. (Camera ready copy is measured in the same manner as a ballot).

   e. If legal notice was reduced by camera or matted at time of publication, the public official shall require the newspaper to submit a lower case alphabet reduced by the same percentage as the notice which was published.

f. A stamped, return addressed number ten (10) envelope shall accompany each measurement requested.

2. A complete copy of legal publication along with the computation sheet and a copy of certificate of measurement will be kept on file for at least one (1) year.

~~-2-MCAR-1.4601~~

~~-Handling-Federal-Mail.~~

~~-A.--The-Central-Mail-Section-handles-registered,-certified, first-class-and-all-other-federal-incoming-and-outgoing mail-for-all-buildings-located-in-and-around-the-Capitol Complex-according--to-federal-law-and-regulations-cited in-Title-39-of-the-U.S.-Code.~~

Chapter 13: REAL ESTATE MANAGEMENT

2 MCAR 1.5001 PROPERTY ACQUISITION

Pursuant to Minn. Stat. Chapter 16 and specific legislative enactments, this rule shall govern the State's acquisition of real property for the operation of state government.

A. Unless otherwise provided by law or by reorganization order issued pursuant to Minn. Stat. §§ 16.125, 16.13, and 16.135, a state department or agency needing real property shall make a request in writing to the Department of Administration to acquire property, specify the property to be acquire, and indicate the source and sufficiency of funds needed for the acquisition.

B. Real Estate Management Division shall proceed with acquisition as follows:

1. The title to the property shall be examined by an attorney for the Division, whereupon a field title report shall be prepared by the Division. The field title report shall be based on information from the owner or a representative of the owner. The purpose and nature of the acquisition shall be explained to the owner at the time of the field title interview. Where there are occupied buildings involved, a relocation study shall be made to insure that displacees can be relocated without undue hardship.

2. A legal description of the property to be acquired shall be written. Where necessary, a written engineering assessment shall be obtained from the State Architect's Office.

3. The property to be acquired shall be appraised. Appraiser(s) shall be selected by the Director or the Assistant Director, and may be state employees or fee appraisers. Where fee appraisers are used, they shall be selected from a list of qualified fee appraisers, which list shall be maintained by the Division. The fee to be paid to the appraiser shall be as agreed upon between the appraiser and the Director or the Assistant Director.

4. The appraisal(s) shall be reviewed by members of the Division staff. Where the appraisal(s) are deemed satisfactory, the appraisal amount which is deemed to represent value (and damages, where applicable) shall be certified by the Director or the Assistant Director.

5. Instruments appropriate for the acquisition shall be requested from the Attorney General's Office.

6. A direct purchase offer shall be submitted to the property owner. Where possible and practical, the offer shall be submitted in person. A detailed explanation of the state's acquisition policies and of the owner's options shall be made to the owner, especially including, where applicable, a full explanation of relocation benefits available to the owner.

7. If the owner accepts the offer, the property shall be purchased. The Division shall be responsible for proper execution of instruments, closing of transaction, recording of instruments, payment to owner, relocation assistance to the owner, and removal of buildings, where applicable.

8. If the owner rejects the offer, and the legislature has directed by law that acquisition by eminent domain proceedings shall or may be pursued, the Division shall institute necessary proceedings to so acquire.

2 MCAR 1.5101 ISSUANCE OF PERMITS OR EASEMENTS ACROSS STATE LANDS Pursuant to Minn. Stat. § 16.88, this rule shall govern the availability to the public of permits or easements to cross state-owned land other than state-owned land expressly exempted.

A. An application for a permit or an easement to cross state-owned land shall be made in compliance with Minn. Stat. § 16.88, Subd. 3, to the Director, Real Estate Management Division, Department of Administration, Room G-22 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

B. The Real Estate Management Division shall grant or deny the application in accordance with the provisions of Minn. Stat. § 16.88. The applicant shall be informed in writing of granting or denial

of the permit or easement. Where the application for permit or easement is denied, the applicant shall be informed of the reasons for such denial.

C. Pursuant to paragraph B above, where the application for permit or easement is granted, the permit or easement shall be granted only after agreement by the applicant to pay to the state an amount to be determined on the basis of an appraisal by the Real Estate Management Division, and to comply with all terms and conditions of the permit or easement.

D. Except where the permit or easement is clearly a benefit to the state, no permit or easement shall be granted for less than the amount of $100.00.

2 MCAR 1.5201 Permits to Search for Lost Property

Scope and Purpose. Pursuant to Minn. Stat. §§ 16.021, 16.022, and 16.023, 2 MCAR §§ 1.5201-1.5205 govern the granting of permits to search upon lands owned by the state for abandoned or lost property and disposition of abandoned or lost property found thereunder.

2 MCAR 1.5202

Terms and Conditions. Permits shall be granted upon permittee's agreement to and performance of the following terms and conditions:

A. Permittee shall indemnify and hold the State of Minnesota harmless for any claim, meritorious or otherwise, and for any clauses of action regardless of their nature arising directly or indirectly out of any permittee's activities. The state shall not be liable for any damage to property of permittee or injury to permittee or

invitees. ~~The State may require purchase by the permittee of a surety bond for these purposes.~~

B. If in the opinion of the Director or the Assistant Director the activity to be conducted may endanger life or property, permittee shall purchase liability insurance which protects all persons and their property from injury or damage. The amount of such liability insurance shall be no less than:

Minimum coverage per person per occurrence	$100,000
Minimum coverage per occurrence	$500,000

The State of Minnesota shall be designated as sole payee in the event of loss.

C. Permittee shall obey and conform to all federal, state, and local laws, rules and ordinances.

D. Permittee shall cause no damage to any property by virtue of its activities. In the event of any damage to any state property, permittee shall immediately repair same. Failure to immediately make such repairs when advised to do so in writing by the Director or Assistant Director shall result in cancellation of permit.

E. Permittee shall conduct its activities in a manner so as not to adversely affect the environment and shall restore areas of activity to original conditions. Permittee shall remove all equipment

relating to and debris resulting from permittee's activities from state land by the termination date of the permit.

F. Permittee shall limit its activities on state land to areas specified by the permit.

G. Unless otherwise specified, permits shall remain in effect for one year from effective date so long as conditions prescribed hereby and in the permit are met.

H. Permittee shall neither assign nor transfer any rights or obligations under the permit without the prior written consent of the Commissioner or his authorized designee.

I. Permittee shall not vary the permit without the prior written consent of the Commissioner or designee.

J. Receipt of permit shall not constitute an exclusive grant, and the State may issue similar or identical permits for the same or overlapping areas of land.

K. The permit may be cancelled by either party at any time, with or without cause, upon thirty (30) days' written notice to the other party.

L. Unless specifically excepted for cause in the permit, all permits shall be granted with the understanding that the lost or abandoned property which is recovered from state lands shall be turned over

to the Department of Administration for disposition as provided by statute. The permittee's share of the proceeds shall be agreed upon between the permittee and the State prior to issuance of the permit. The State's share shall be deposited in the general revenue fund.

2 MCAR 1.5203 APPLICATION FOR PERMIT

Applications for permits shall be made in writing to the Division to the following address:

Director
Real Estate Management Division
Department of Administration
G-22 State Administration Building
St. Paul, Minnesota 55155

Application shall include the following items:

A. Applicant name, mailing address, and phone number.

B. Description of proposed search.

C. Written acceptance of the specified terms and conditions.

D. Specification of area within which activity will take place.

2 MCAR 1.5204 GRANTING OF PERMITS

Upon receipt of application, the Commissioner or designee shall undertake the following action:

A. Determination as to department jurisdiction over the lands concerned in the application.

B. Determination as to the necessity for liability insurance as specified in 2 MCAR § 1.5202, A and B.

C. Preparation of a written agreement between the State and the applicant.

D. Submission of permit (written agreement) for review and signature by Department of Finance and Attorney General.

Upon execution of the written agreement, the permit shall be in effect under the terms and conditions thereof.

2 MCAR 1.5205 DISPOSITION OF FOUND PROPERTY

Upon discovery of lost of abandoned property, permittee shall, within thirty (30) days of discovery, place such property at the disposal of the Commissioner. The Commissioner or designee shall determine the method and location of maintenance and storage of property. Property will be disposed of under the procedure specified by Minn. Stat. § 16.022. Upon disposition, the Commissioner or designee shall, in a timely manner, authorize payment to the finder the share due him under the terms and conditions of the permit.

2 MCAR 1.5301 PROPERTY LEASING (Where State is Lessor)

Pursuant to Minn. Stat. § 16.02, Subdivision 14, this rule governs the leasing out of state owned real property which is temporarily not needed by the state.

A. All persons wishing to be notified of the availability for leasing of state-owned property shall request in writing such notification. Requests shall be sent to:

Director
Real Estate Management Division
Department of Administration
G-22 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

A list of persons having requested such notification shall be maintained by the Real Estate Management Division. The list shall indicate the particular area in the State and the type of property (i.e., farm, office, etc.) the interested party has expressed an interest in.

B. At least fifteen (15) calendar days prior to the bid return deadline, bid solicitations shall be mailed to appropriate parties who have requested notification of the availability of property for leasing. In addition to mailing of bid solicitation to all parties known to have an interest in leasing the property, the Department of Adminstration may, where circumstances merit, advertise the property for lease in a newspaper having general circulation in the area in which the property to be leased is located. The property shall be leased to the highest responsible bidder, consistent with the State's intended use and management of the property. The Department expressly reserves the right to reject any or all bids or to waive informalities therein.

C. Competitive bidding shall not be used when the Commissioner or designee determines that one or more of the following circumstances exist.

1. There is only one interested party that can feasibly use the property.

2. Factors other than bid price, such as maintenance of the property, are paramount.

3. The contemplated rental term is of short duration.

4. Other governmental entities have expressed the desire to lease the property.

5. Factors exist which make the taking of competitive bids impractical or not in the best interest of the State of Minnesota.

Chapter 14: RECORDS MANAGEMENT

2 MCAR 1.5501

Scope and Purpose. Pursuant to Minn. Stat. § 138.17, these procedures govern the records management practices of all state agencies.

2 MCAR 1.5502

Definitions. For 2 MCAR 1.5501 - 1.5901, the following terms shall have the meaning given them unless clearly indicated otherwise by the context:

A. "Agency" means any agency of state government identified in Minn. Stat. § 138.17, subds. 1 and 7, entitled to request services from the records management division and for which the Commissioner of Administration may authorize or require records management services.

B. "Archival quality" means that the medium on which the record is recorded has a lasting property with regenerative capability of at least 100 years and that data contained thereon will be readable, whether by human eye or by machine (as in microfilm), for that period.

C. "Authorized person" means an agency employee whose name has been submitted in writing by the agency head as one who is entitled to retrieve records or information from records which belong to that specific agency and which are stored in the State Record Center.

D. "Commissioner" means the Commissioner of Administration.

E. "Consultative services" means the giving of professional advice regarding records management practices which are not required under these rules. Examples of consultative services include assisting in establishing an office filing system, assisting in the design of a new form, providing guidance in taking inventory of an agency's file series.

F. "Director" means director of Records Management Division, Department of Administration.

G. "File, also referred to as a "file unit", is a sequence of documents relating to one subject or transaction.

H. "File series" refers to a group of files, or file units, kept together because they relate to a particular subject, function, or transaction, or because they have similar/identical physical characteristics. A file series has a beginning and an end and is arranged systematically.

I. "Form" means a paper, film, film overlay, or computerized format containing information, printed or reproduced by whatever means, with blank spaces left for the entry of additional information. Forms include temporary as well as permanent versions; numbered as well as unnumbered versions, those purchased from vendors as well as those reproduced internally by office duplicating equipment; those used in small as well as large quantities, tags, hand-drawn, special use, and one-time-use items. Form letters

which have blank spaces left for additional entry of data (except for addressee's name, address, and the date) are forms.

J. "Forms management program" means the specific set of procedures, principles and techniques which are designed to manage the forms inventory system and to improve the effectiveness of official government forms.

K. "Microfilm" means the reproduction onto film in a reduced size of records originally created on paper, photographic plates, magnetic tapes, or other means, or copies thereof.

L. "Micrographics" means all activities which produce microfilm, including, but not limited to, systems design, filming, processing, duplicating and testing for archival quality.

M. "Records" means "state records" as that term is defined in Minn. Stat. § 138.17, subd. 1.

N. "Records disposition panel" means the body established pursuant to Minn. Stat. § 138.17, subd. 1.

O. "Records management" means the application of efficient and economical methods to the creation, utilization, maintenance, retention, preservation, and disposal of official state records pursuant to a program established under these rules. It involves developing standards, procedures, and techniques for managing the longevity of records; and includes implementing controls over office filing equipment, scheduling records for disposition,

administering records storage, documenting those benefits accruing from the program, and undertaking surveys and audits of disposal operations where implementation has taken place.

P. "Records Management Division" means the division of the Department of Administration designated by the Commissioner to fulfill the responsibilities described in Minn. Stat. § 138.17 and the procedures set forth in these rules. The division is located at Room 100, Nalpak Building, 333 Sibley Street, St. Paul, Minnesota 55155.

Q. "Records management services" are those services provided by the Records Management Division. Services are of two types: consultative and required. Consultative services (see Section E of this rule) are discretionary and are available from Records Management Division upon request by an agency head or designee. Required services (Section S of this rule) are not discretionary and shall be requested from the Records Management Division by the agency head or designee.

R. "Records retention and disposition schedule" means a listing of all approved file series and their respective retention periods and a description of the method, manner, dates and events which govern the disposition of each file series.

S. "Required services" are those records management procedures, standards and policies which agencies shall request and utilize when creating, installing, and maintaining a records management program. Examples of required records management services are inventorying and controlling state agency forms; developing and

~~implementing records retention and disposition schedules; storing and retrieving records from the state records center; and microfilming records.~~

~~T. "State Archives" is an administrative unit of Minnesota Historical Society headed by the State Archivist.~~

~~U. "State forms" are forms which are listed on the state-wide forms inventory system operated by the Records Management Division, Department of Administration, for State of Minnesota agencies.~~

~~V. "State Records Center" means the facility which provides for planned retention of inactive records and for orderly and timely disposition of records. The purpose of the State Records Center is to make available low cost, safe storage space for inactive records of agencies of state government as defined in Minn. Stat. § 138.17, subd. 1. The State Records Center is under the supervision of the Director of the Records Management Division.~~

~~2 MCAR 1.5503~~

~~Exceptions: These rules shall not apply to the exceptions cited in Minn. Stat. § 138.17, subds. 1 and 3.~~

~~2 MCAR 1.5504~~

~~Records Management Services and Requirements: Consultative services shall be provided upon request within the limitation of the Records Management Division's personnel and funding. Agencies shall request records management required services when implementing a records retention and disposition schedule, issuing a new or revised form,~~

cancelling a form, developing or modifying a microfilm system, and/or engaging in any other required records management program which may be identified in the future.

A. Agencies shall submit written requests for records management services to the Director, Records Management Division, at the previously noted address. All written requests shall be made on application forms provided by Records Management Division Office. Application forms are available from the previously noted address.

B. Within a reasonable time period after receipt of a request by the division, the agency shall be informed of the following:

1. The records management project number assiged to the request; and

2. The approximate date when request will receive first action.

2 MCAR 1.5601

Records Retention and Disposition Schedules.

State agencies shall have established records retention and disposition schedules for their records by July 1, 1989. The following procedures shall be followed:

A. Agencies shall apply for records retention and disposition schedules on forms provided by the Records Management Division and shall complete the forms according to instructions.

1. Agencies shall list:

a. Proposed retention periods for each file series for each location in which that series may be stored, such as office storage, department storage facilities, state records center storage, regional storage facility. Final disposition period or date shall be included for each file series.

b. Statutory requirements, and rules and regulation requirements which affect retention periods shall be listed.

2. The head of the applying agency, or designee, shall sign the application for records retention schedule and forward the request form to the Director, Records Management Division, at the previously noted address.

3. The Director shall review the agency's completed application for retention schedule for completeness, and compliance with Minnesota Statutes and applicable rules requirements.

B. The Director shall forward the application to the State Archivist, who, as representative of the Director of the Minnesota Historical Society on the records disposition panel, shall act on the application for records retention and disposition schedule and shall present it to the other panel members for action.

C. Upon making its determination, the records disposition panel shall

return the application, and the panel's written recommendation, for retention schedule to the Director.

D. The Director shall record the official records retention schedule for the applying agency and notify in writing the applying agency of the status of its application.

E. The Director shall notify the agency and the State Archivist not less than 90 days in advance of the next disposition date(s) as designated on the agency's approved schedule.

F. Agencies disposing of records under an approved records retention and disposition schedule shall notify the Director and the State Archivist identifying each file series of records which has been destroyed or delivered to the State Archives, Minnesota Historical Society.

2 MCAR 1.5701

The State Records Center

A. The following shall be completed or satisfied prior to the transfer of files to the State Records Center:

1. Records retention schedule shall be approved or shall be in a pending approval status pursuant to 2 MCAR 1.5601.

2. Records scheduled for destruction in less than one year shall not be transferred to the State Records Center unless the applying agency is moving its quarters or is being dissolved.

3. The Records Center shall not be required to maintain records in paper form for more than 10 years. Records which must be kept for any period greater than 10 years shall be stored in the State Records Center on microfilm which has been tested by the Minnesota Historical Society for archival quality. Records so microfilmed and tested shall be considered original documents.

4. Prior to the transfer of records, a written agreement shall be completed between the transferring agency and the State Records Center reflecting the following: Transfer intervals, liability for providing proper identification of persons authorized to retrieve records and/or information from records, procedures for retrieval, and other necessary documentation as each specific transfer may require.

5. Services to non-state agencies shall be provided by the State Records Center staff within limitations of personnel and fiscal resources.

B. Transferring records to the State Records Center.

1. Ownership of records: Records transferred to the State Records Center shall remain in the legal custody of the owning agency.

a. The staff of the State Records Center shall not be authorized to accept a subpoena for release of any records or for information from any records.

b. Records shall be released only on the authority of the owning agency and only to those persons previously identified in writing by the agency head.

~~or designee, as being authorized to receive either records or information from records stored in the State Records Center.~~

~~(1) Agency heads shall annually, upon a date determined by the Director, file with the Records Management Division, a list of names, signatures, titles, telephone numbers, and addresses of persons authorized to obtain records or information from the agencies' stored records. The Director shall assign an authorization number to each authorized person and notify each of his/her assigned number.~~

~~(2) Each authorized person making a record or information from records request by telephone shall use his/her authorization number as means of identification. Records Center staff shall verify the authorization number prior to releasing records or information from records.~~

~~(3) When necessary, amendments to the list of authorized persons, together with sample signatures, shall be submitted in writing by the agency head or designee to the Director.~~

~~(4) State Records Center staff members shall not~~

release records or information from records belonging to one agency to employees of another agency.

c. The State Records Center, as the physical custodian of the records shall take reasonable steps to protect records in order to prevent unauthorized access; misuse of records; and fire, water or other damage due to dust or an unclean environment.

2. Preparation of records procedures.

a. The sending agency shall remove rubber binders, three-ring binders and paper clips from the records to be transferred, and pack said records into standard storage boxes in such a manner that boxes are not unreasonably full and that all records stored in one box have the same retention and disposition schedule.

b. Records to be transferred to the State Records Center shall be enclosed in labeled standard manilla file folders. Files which have been previously stored in hanging-type folders must be transferred to the labeled manilla file folders before packing in storage boxes. Recycled manilla folders may be used for this purpose providing the previous label is obliterated and the appropriate folder label is clearly visible.

c. Agency shall complete the transfer form in triplicate and prepare on label for each storage box. In the event

~~of use of pre-printed boxes, agencies shall properly complete the label information on each box. Transfer forms and labels shall be provided by the State Records Center at the previously noted address.~~

~~d. Owning agencies shall notify the Director of the number of boxes to be transferred. Said agencies shall arrange for delivery of records to and return of records from the State Records Center.~~

~~e. The owning agency shall keep one copy of the transfer forms and send two copies to the Director.~~

~~f. The State Records Center shall index the storage boxes to indicate the shelf location and shall duplicate this information on the transfer forms. State Records Center shall return a copy of the completed transfer form to the agency.~~

~~C. Retrieving records and information from records.~~

~~1. Records and information from records shall be available upon request subject to provisions of subd. B (1) of this rule.~~

~~2. The request shall include the following in addition to the identification requirements of subd. B (1) of this rule:~~

~~a. a reference to the transfer form and~~

~~b. the shelf and box location of the desired record.~~

~~3. The State Records Center shall retrieve the requested record or information from a record, prepare a charge-out card if the record is to be removed from the Center, and forward the record/information from the records to the owning agency within a reasonable period after receiving the request.~~

~~D. Disposition of records by the State Records Center.~~

~~1. All records transferred to the State Records Center shall have retention and disposition schedules.~~

~~2. Disposition procedures for records transferred to the Records Center after the effective date of these rules are as follows:~~

~~a. State Records Center staff shall notify the owning agency in writing at least 90 days prior to the date that the disposition of said records will take place.~~

~~b. State Records Center staff shall send a duplicate copy of the notice to the records disposition panel.~~

be destroyed, the Director shall hold the records until the next agreed-upon disposition date.

(1) Upon receipt of notice not approving the disposition, the Director shall notify all parties in writing that the disposition has been postponed either indefinitely, or until the next scheduled disposition date.

(2) If both the agency head and the records disposition panel agree to dispose of the records, the Director shall either destroy the records or send them to the Minnesota Historical Society, according to prior records disposition panel determination.

3. Disposition procedures for records transferred to the Records Center prior to the effective date of these rules are as follows:

a. The owning agency shall request an application for authority to dispose of records from the Director at the previously noted address.

b. The owning agency shall complete the application form for authority to dispose of records in triplicate according to instructions on the face of the form and forward it to the Director. All applications for authority to dispose of records shall be signed by the agency head or designee. The Director shall review the

c. If owning agency head chooses not to prevent the disposition of the records, said agency head shall signify approval of the planned disposition on the notice and return it to the Director no later than 30 calendar days prior to disposition date.

d. If agency head wishes to prevent the disposition of the records, it shall be so signified on the notice indicating the additional time period the records shall be kept and the notice returned to the Director no later than 30 calendar days prior to the proposed disposition date.

e. If the records disposition panel chooses to authorize the disposition of the records, the panel shall signify approval of the planned disposition on the duplicate notice and return it to the Director no later than 30 calendar days prior to the proposed disposition date.

f. If the records disposition panel wishes to prevent the disposition of the records, the panel shall so signify on the duplicate notice indicating the additional time period the records shall be kept and return it to the Director no later than 30 calendar days prior to the proposed disposition date.

g. The Director shall follow the instructions of the agency head, or designee, and the records disposition panel. If either body had indicated that the records are not to

application for completeness and forward it to the State Archivist. The State Archivist, acting for the Director of the Minnesota Historical Society as a member of the records disposition panel, shall bring the application for authority to dispose of records to the attention of the members of the records disposition panel.

c. As stated in Minn. Stat. § 138.17, subd. 1, the records disposition panel's written determination to approve the request to dispose of records must be unanimous. The State ARchivist shall notify in writing the Director by sending two copies of the approved application.

d. Upon receipt of the approved application, the Director shall notify the owning agency, in writing, and shall proceed to dispose of the records.

e. If the records disposition panel's determination is not to approve the request to dispose of records, the State Archivist shall, in writing, so inform the Director, who shall in turn notify in writing the owning agency.

2 MCAR 1.5801

Forms Inventory System

This rule applies only to state agencies as defined in Minn. Stat. § 138.17, subd. 1.

A. State forms are those which state agencies originate and distribute to other state agencies, to other units of government, to the

~~general public or specific portions thereof, or are used internally by the originating agency. All such forms shall be listed on the state's automated forms inventory system.~~

~~B. In the instances where a state agency is formed after these rules become effective, the head of the new agency, or designee, shall request the Forms Inventory Supervisor, Records Management Division, to assist in the development and implementation of a forms management program for the new agency. Request for assistance shall be made by completing an application for records management services available from the Records Management Division at the previously noted address.~~

~~2 MCAR 1.5901~~

~~Micrographics Services~~

~~The following procedures shall apply to all agencies which use micrographics services:~~

~~A. Agencies of local government may use the services of the state's central micrographics laboratory.~~

~~B. State agencies planning to microfilm documents shall obtain micrographics services from the state's centralized micrographics services section by completing an application for records management services provided by the Records Management Division and available at the previously noted address.~~

~~C. Any agency using the micrographics production services shall be charged for all costs involved in said production. Fee~~

schedules for such charges shall be set by the Commissioner of Administration and approved by the Department of Finance and shall take into consideration normal business factors such as overhead, production costs, labor depreciation, and capital investment.

D. Micrographics services section shall provide the owning agency with estimated costs prior to production.

E. All microfilm produced by the state central micrographics laboratory shall be of archival quality. It shall be stored in an air-filtered, fireproof area where the temperature and humidity are held constant at approximately 70°F and at 40% or less relative humidity. Microfilm output shall be routinely tested by the Minnesota Historical Society to insure that the following minimum standards are met.

1. Residual thiosulfate: Must not exceed 0.7 micrograms per square centimeter. Testing shall be done within 2 weeks of processing.

2. Background density (document contrast), acceptable limits: 0.80 minimum to 1.40 maximum,

3. Base plus fog density (film contrast): Must not exceed .11.

4. Resolution (legibility): Must be 90 lines per millimeter or higher for 16 mm film; 100 lines per millimeter or higher for 35 mm and 105 mm film.

~~5. Microfilm shall also be examined for clarity and completeness of image, film spotting or damage, splices, and other factors affecting film quality.~~

Chapter 15: Telecommunications

2 MCAR 1.6001

Scope and Purpose: Pursuant to Minn. Stat. § 16.02, Subd. 2a, these rules govern the procedures relating to the application by governmental bodies for sublease of TELPAK services from the Telecommunications Division, Department of Administration, G-4 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2 MCAR 1.6002

Definitions.

A. For the purposes of 2 MCAR 1.6001 - 1.6005, the terms defined herein shall have the meanings given them, unless clearly indicated otherwise by the context.

1. "TELPAK" means intercity private telephone circuit groups leased by the Telecommunications Division of the Department of Administration from any source including a common carrier, specialized common carrier, or the federal government.

2. "Governmental Body" means any unit, agency, or political subdivision of state or local government.

2 MCAR 1.6003

Application for Sublease.

A. Any governmental body may apply for subleasing TELPAK in accordance with applicable tariffs. Applications shall be made in writing to:

Telecommunications Division
Department of Administration
G-4 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

B. The application shall include the following:

1. Name and address of governmental body applying for use of TELPAK service.

2. Name, address, and telephone number of applicant's representative who will administer the lease.

3. Name and address for billing of charges.

4. Termination points and intended use of TELPAK circuits requested.

2 MCAR 1.6004

Application Approval.

A. Applications shall be approved or rejected based on the availability of unused circuits and projections of state needs. No obligation exists on the part of the State to sublease any requested TELPAK.

B. All applicants shall be notified within a reasonable time in writing of the disposition of their application.

2 MCAR 1.6005

Fees and Conditions.

A. Fees shall be established with the approval of the Commissioner of Finance and shall be based on TELPAK cost to the Telecommunications Division and administrative overhead costs. Fees shall be changed as the above-noted cost factors change.

B. ~~In addition to the terms of individual leases,~~ the following general terms shall apply to all leased TELPAK.

1. The Telecommunications Division or the user may terminate the sublease on thirty (30) day written notice to the other party.

2. The Telecommunications Division assumes no liability for any service interruptions or other damage suffered by lessee as a result of TELPAK use.

Chapter 3: State Building Code Division

2 MCAR 1.10001

Purpose.

A. These rules govern responsibilities undertaken pursuant to Minn. Stat. §§ 16.83 through 16.867. They relate to administration and enforcement of the State Building Code and the requirements for certification and continuing education of municipal building officials.

2 MCAR 1.10002

Definitions

A. The terms used in rules 2 MCAR 1.10001 through 2 MCAR 1.10010 shall have the following meanings:

1. "Building Official" means the municipal building code administrative authority certified pursuant to Minn. Stat. § 15.861, subds. 2 and 3.

2. "Code" means the State Building Code pursuant to Minn. Stat. § 16.84, subd. 4.

3. "Commissioner" means Commissioner of Administration.

4. "Municipality" means an entity as described in Minn. Stat. § 16.84, subd. 3.

5. "State Building Inspector" means the person who, under the direction and supervision of the Commissioner, administers the State Building Code. State Building

Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

2 MCAR 1.10003

Code Adoption and Amendments.

A. Pursuant to Minn. Stat. § 16.85, the code is adopted and periodically updated to include current editions of national model codes in general use and existing statewide specialty codes and amendments thereto.

B. Pursuant to Minn. Stat. § 16.86, subd. 6, amendments to the code may be proposed and initiated by any interested person, by the Building Code Standards Committee, or by subcommittees thereof.

1. Proposed amendments shall be submitted in writing on a form provided by the Commissioner.

2 MCAR 1.10004

Application for Appeal.

A. Pursuant to Minn. Stat. § 16.863 any person aggrieved by the final determination of any municipality as to the application of the code may, within 30 working days of said decision, appeal to the Commissioner. The appeal shall be accompanied by a cashiers check, certified check, money order, or equivalent, payable in the amount of $20 to the "Commissioner of Administration".

B. The request for appeal shall contain the following:

1. Name and address of applicant appealing the decision.

2. Attorney representing applicant, if any.

3. Municipality information including name of municipality, building official, and the local appeal board ~~composition and the~~ chairman's ~~name~~.

4. Property description, including address of property involved.

5. Description of structure, including occupancy, size, construction type.

6. A copy of the municipality's written decision.

7. Specific nature of appeal including, but not limited to the following:

   a. Code section(s) which are applicable to the specific question.

   b. Code section(s) that may indirectly apply.

   c. Listing of issues involved.

8. Any other relevant information requested in writing by the Commissioner.

C. The Commissioner shall arrange for the State Hearing Examiner's Office to conduct a hearing on said appeal pursuant to Minn. Stat. § 15.0418 through 15.0426.

D. Copies of all final determinations of the Commissioner shall be sent to the appellant and the municipality involved or the attorney representing the appelant or municipality.

2 MCAR 1.10005

State Surcharge Fees. All municipal permits issued for work pursuant to the State Building Code shall be subject to a surcharge fee. Said fees are established by Minn. Stat. § 16.866. Reports and remittances by municipalities shall be filed with the Commissioner.

A. All surcharge fees imposed by the State shall be in addition to municipal permit fees.

B. Surcharge report forms and information may be obtained by writing the Commissioner to the attention of the State Building Inspector.

2 MCAR 1.10006

State Building Code Information and Assistance. Any building code information or assistance may be obtained by contacting the State Building Inspector in writing or by telephone.

2 MCAR 1.10007

Education and Training. Within limitations of personnel and funds the State Building Inspector shall provide training programs for municipal building officials, legislative bodies, administrative

Authority? Looks like it given to Dept Could argue that add'l guess & Pers but doesn't

staff persons, design professionals, construction industry and the general public.

A. Information concerning training program availability may be obtained from the State Building Inspector by written or telephone inquiry.

2 MCAR 1.10008

Building Official Certification. This rule establishes procedures for certification of building officials, establishes prerequisites for persons applying to be certified by examination, establishes two classes of certification, and requires continuing education to maintain certification.

A. All building officials shall be certified in one of the following:

1. Class I certification shall permit building code administration limited to evaluation and inspection of one and two family dwellings and their accessory structures.

2. Class II certification shall permit building code administration including evaluation and inspection of all buildings and structures within the scope of the Code.

Per 16.86 subd. 1 The Dept/Per Com'n establishes the classes

Lee says Pers. testified & said they were involved in development of rules.

Sheila agrees that there should be addition to Com'rs Findings

B. Before making application for Class I certification each individual shall meet the following prerequisites.

1. 3 years experience in any of the skilled construction trades; or

2. 3 years experience in complete design of 1 and 2 family dwellings and accessory buildings thereto; or

3. 2 years experience in municipal building construction inspection; or

4. 24 credits in Building Inspection Technology program in a community college system, plus one year experience in subdivisions one, two, or three of this section. Building Inspection Technology courses must include courses in Field Inspection, Plan Review Non-structural, Plan Review Structural, Administration, Building Codes and Standards and Energy Conservation; or

5. International Conference of Building Officials certification in building inspection, plus one year experience in one, two, or three of this Section; or

6. 2 years in post high school construction oriented architectural or engineering courses, plus one year experience in one, two, or three of this Section.

C. Before making application for Class II certification, each individual shall meet the following prerequisites.

1. 5 years experience in one or a combination of the prerequisites described in subdivisions one, two, or three of Section B of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required five years experience; or

2. 24 credits in Building Inspection Technology program in a community college system, plus three years experience in one, or a combination of prerequisites described in one, two, or three of Section B of this rule, and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

3. International Conference of Building Officials certification in building inspection; and 3 years experience in one or a combination of prerequisites described in one, two or three of Section B of this rule; and two years of general construction supervision or building code administration experience which my be concurrent with the required three years experience; or

4. 2 years in a post high school course in construction or construction oriented, architectural or engineering courses plus three years experience in one, or a combination of prerequisites described in one, two, or three of Section B of this rule, and two years of general construction supervision or building code administration

experience which may be concurrent with the required three years experience.

D. Each person seeking certification as a building official shall submit a completed application to the State Building Inspector with a $20 fee payable to the State of Minnesota on application forms provided by the Commissioner.

1. The State Building Inspector shall review applications for compliance with prerequisites set forth in Sections B and C of this rule.

2. The State Building Inspector shall forward the application to the State Department of Personnel for ~~testing~~ if the prerequisites set forth in Sections B and C of this rule are satisfied.

E. The ~~examination~~ testing shall be ~~both~~ by written ~~and oral~~ examination. The ~~written test~~ examination shall be given by the State Department of Personnel pursuant to the rules of that department and the following.

1. If the applicant fails the written ~~test~~ examination, or fails to appear, the applicant shall be permitted to retake the ~~written portion~~ examination or be scheduled for a second administration following 30 calendar days after test results notification.

2. If the applicant fails the written ~~portion~~ examination a second time, or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit application pursuant to section D of this rule

F. An applicant shall be permitted to take the oral examination after successfully passing the written test.

1. The State Building Inspector shall schedule an oral examination for the applicant.

2. If the applicant fails to pass the oral examination, the applicant may apply to retake it. Such reapplication shall be made in writing to the State Building Inspector.

3. If the applicant fails to pass the oral examination after two opportunities, the applicant must wait six months before reapplying to take the written and oral examination.

4. A letter, stating reason for failure, shall be sent to applicants who fail the oral examination.

5. If the applicant successfully completes the total examination, a certificate of certification shall be issued.

G. Oral Examination Board. The Board for Oral Examination shall be comprised of four people selected by the Commissioner. The composition of the board shall be two certified building officials, a representative of a municipal administrative staff, and a representative of the State Building Code Division staff.

F. ~~H.~~ Maintenance of Certification.

1. Effective January 1, 1979, each person certified as a state building official by the ~~testing~~ certification procedures of the State of Minnesota shall satisfactorily complete 18 units of instruction in applicable educational programs within each three calendar year period. Evidence of compliance with educational program requirements shall be submitted in accordance with Section ~~I~~ G of this rule.

2. The applicable education programs shall deal with matters of building code administration and enforcement of codes used in the State of Minnesota.

3. Of the 18 required units, 10 units shall be obtained by attending two Minnesota Annual Building Official Institutes and four one-day seminars offered by the State Building Inspector, within the prescribed three year period. The remaining eight units may be obtained by participation in the programs as listed in Subdivision 4 of this Section.

4. Each unit of instruction will be determined in the following manner:

   a. Annual Building Officials Institute (1 unit per day).

   b. State Building Code Division Seminars (1 unit per day).

c. International Conference of Building Officials Training Programs (1 unit per day).

d. North Star Chapter of ICBO Meetings (1/3 unit per meeting).

e. Regional Building Officials Meetings (1/3 unit per meeting).

f. Community College Courses (Building Inspection Technology) (1 unit per credit earned).

g. Vocational Technical Training Institutes (Construction oriented courses) (1 unit per course).

h. Continuing Education Units (CEU's) (Construction or inspection related courses) (1 unit per CEU).

i. Courses offered by other states, correspondence schools, universities, and institutes of learning offering building code related courses shall be considered on an individual basis. Each applicant shall prearrange for unit approval from the Division. Unit determination shall be based on the value of units granted for a like offering in items a through h in this subdivision of this rule.

G. ~~F~~ Renewal of Certification. Authority

1. Effective January 1, 1979, each person certified as a

state building official, by the ~~testing~~ certification procedures of the State of Minnesota, shall submit in writing to the State Building Inspector an application for renewal of his certification within 60 days of the last day of the third calendar year period following the last certificate issued. For persons certified ~~by the testing procedure~~ prior to January 1, 1979, the first three year period shall begin January 1, 1979.

2. A renewal fee of $10.00 shall be paid, at time of application, to the State of Minnesota.

3. The application shall be on a form furnished by the State Building Inspector and shall include evidence of the required educational units as described in Section ~~H~~ F of this rule.

4. Any person not complying with the requirements of this section shall be notified in writing by the State Building Inspector of the expiration of the individual's certification as a state building official.

5. Any person's certification which expires for non-compliance with the requirements of this rule may apply for recertification by the testing procedures described in this rule.

2 MCAR 1.10009

Removal from Office and Revocation of Certification. Pursuant to

Minn. Stat. § 16.861, subd. 5, upon notice and hearing, a building official may be removed from office and his certification shall be revoked, when competent evidence is submitted to the Commissioner indicating that a building official has consistently failed to act in the public interest in performance of his duties. A hearing shall be held pursuant to the provisions of Chapter 15 governing contested case proceedings.

2 MCAR 1.10010

Plan Review Function. Within the limitations of personnel and funds, or as required by law the State Building Inspector shall review plans, specifications, and related documents for compliance with the code.

A. Types of Plan Review

1. Plans of buildings required to be submitted to any state agency include, but are not limited to:

   a. State-owned buildings.

   b. Buildings licensed by state agencies.

   c. Buildings financed in whole or in part by state funds.

2. Manufactured buildings in which all elements of the total assembly cannot be visually inspected on site.

3. Plans submitted by municipal inspection departments for review.

B. Content of Plan Review includes:

1. The plan review function, for structures in Section A.1 and A.3 of this rule, applies to non-structural code requirements. The structural portion of a plan shall be reviewed to determine that the professional engineer has considered the minimum loading requirements of the code, but shall not include review for accuracy of structural design and calculations.

2. The plan review function for Section A.2 structures applies to all aspects of code application and shall be marked approved by the State Building Inspector.

C. For plan review the following material shall be submitted:

1. One set of plans, specifications, and other relevant documents necessary to evidence code compliance, together with a transmittal letter shall be sent to the State Building Inspector, State Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101. Manufactured building submittals shall include two sets of plans, specifications, and other relevant documents.

D. The State Building Inspector shall review submittals and forward written comments on items not in compliance with the code. The letter shall be mailed to the following:

1. Municipal building official.

2. Designer of plans and specifications.

3. State Agencies involved, if applicable.

E. The State Building Inspector may contract for plan review as required by this section with any municipality the State Building Inspector determines is properly staffed and qualified to perform the plan review function. No fees shall be paid by the State to any municipality performing said contract function. The municipality shall charge its standard plan review fee directly to the applicant for a building permit.

F.~~B.~~ Fees.

1. No fee shall be charged for the review of submittals listed in Section A.1 of this rule.

2. Fees shall be charged for review of plans submitted as described in Sections A.2 and A.3 of this rule.

3. Fees shall be as required in ~~State Building Code 111.~~ 2 MCAR §§ 1.10107 and 1.10335.

Existing rules of the Building Code Division are amended to read as follows:

SBC 320 Seals. Each manufactured building or system manufactured pursuant to the Code shall have permanently attached thereto in a visible location as shown on the approved plans, a state seal evidencing the State Building Inspector's approval of such building, component or system. No seals shall be issued prior to plan approval for buildings to which the seals are to be affixed. Application for seals shall be made in writing and accompanied by the appropriate fee in accordance with SBC 335.

SBC 326 Plan Approval Procedures. A plan approval shall be obtained from the State Building Inspector or the evaluation agency for manufactured buildings and systems. Such approvals are mandatory for all closed construction. Approval for open construction is optional to the manufacturer. Plan approval application shall be made to the State Building Inspector in accordance with SBC 335 and shall include, but not be limited to the following:

A. ~~(a)~~ Applications, plans, specifications and other documentation shall be submitted in sufficient copies as required.

B. ~~(b)~~ Applications shall be made in letter form.

C. ~~(c)~~ All documentations and plans shall indicate the manufacturer's name, office address, and address of manufacturing facility.

D. ~~(d)~~ A quality control manual prepared by the manufacturer shall be submitted.

1. Where the manufacturer elects to have each building or system produced individually inspected, a quality control manual need not be submitted.

E. ~~(e)~~ Manufacturers shall submit plans showing all elements relating to specific systems on sheet(s) properly identifiable.

F. ~~(f)~~ Each plan shall bear the signature and seal of an approved registered architect or professional engineer where required.

G. ~~(g)~~ The plan shall indicate the method of evaluation and inspection for all required on-site testing of the system.

H. ~~(h)~~ Plans shall designate all work to be performed on site, including connections of all systems, equipment and appliances and all work performed in the plant.

I. ~~(i)~~ A 3" x 4" clear rectangular space shall be provided on all sheets of plans near the title box for the stamp of approval.

J. ~~(j)~~ The design of plumbing, electrical, heating and mechanical systems or any structural design or method of construction and data shall be in accordance with the State Building Code.

K. ~~(k)~~ Grade, quality and identification of all materials shall be specified.

L. ~~(l)~~ Design calculations and test reports shall be submitted when required.

M. ~~(m)~~ Plans shall be drawn to scale.

N. ~~(n)~~ Plans shall indicate the location of the approved seal and data plate.

SBC 335 Fees and Applications.

All fees shall be:

A. ~~(a)~~ In the form of checks or money orders.

B. ~~(b)~~ Payable to: Minnesota State Treasurer.

C. ~~(c)~~ Addressed to:

State of Minnesota
Department of Administration
Building Code Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

D. ~~(d)~~ Seal Fee, ~~ten~~ twenty dollars ~~($10.00)~~ ($20.00) per Seal. ~~Replacement seals one dollar and fifty cents ($1.50) per seal.~~

E. ~~(e)~~ For all other work performed by the Building Code Division such as, but not limited to: the review of plans, specifications, and independent agency reports, inspection and quality control evaluation, a fee of fifteen dollars ($15.00) per man hour shall be charged.

F. ~~(f)~~ Travel expense shall be charged at the rates established for state employees by the Commissioner of ~~Administration~~ Personnel.

Chapter 16: Procurement

All existing rules presently promulgated, adopted, and published as 2 MCAR § 1, and entitled "Admin. 91: Eligibility for the Small Business Procurement Act", are proposed to be repealed as follows and to be replaced by 2 MCAR §§ 1.6701 - 1.6704

Admin:-91-Eligibility-for-the-Small-Business-Procurement-Act

(a)-Eligibility-for-the-set-aside-of-10%-of-the-State Procurement-budget-shall-include-small-businesses-organized-for profit-with-their-principal-place-of-business-in-Minnesota.

(1)-Eligibility-shall-include-individuals,-partnerships, corporations,-joint-ventures,-associations-and-cooperatives.

(2)-The-business-cannot-be-dominant-or-an-affiliate-or subsidiary-of-a-business-that-is-dominant-in-its-field-of-operation.

(3)-A-manufacturing-business-must-employ-100-or-less persons-and-have-less-than-$15,000,000-in-total-gross-receipts-in the-3-year-period-preceding-the-application.

(4)-A-general-construction-business-must-have-less-than $6,000,000-in-total-gross-receipts-in-the-3-year-period-preceding the-application.

(5)-A-specialty-construction-business-must-have-less-than $3,000,000-in-total-gross-receipts-in-the-3-year-period-preceding the-application.

(6)-A-non-manufacturing-business-must-employ-25-or-less persons-and-have-less-than-$3,000,000-in-total-gross-receipts-in 3-year-period-preceding-the-application.

(7)-An-affiliate-or-subsidiary-of-a-business-dominant in-its-field-of-operation-may-be-eligible-if-it-retains-at-least 80%-self-ownership.

(b)-Eligibility-for-10%-of-10%-set-aside-program.

(1)-Eligibility-shall-include-small-businesses-owned-and operated-by-socially-or-economically-disadvantaged-persons.

(aa)-Such-disadvantage-may-be-caused-by-cultural, social-or-economic-circumstances-or-background,-or-by-location-in an-area-with-surplus-labor-as-declared-by-the-U.S.-Department-of Commerce-or-other-related-causes.

(c) Self-Certification of Eligibility

(1) To become eligible to receive invitations for bids each small business shall complete, certify and file with the Division of Procurement form Admin. 527A or 527B.

(aa) The form shall provide for designation as a small business and/or as an economically or socially disadvantaged person.

(i) Designation shall be made as to the type of business operated and the kinds of services, materials or supplies which can be delivered.

(ii) Designation shall be made if the business is an affiliate of subsidiary of dominant business.

(2) To assist in verification of the Self-Certification the Commissioner of Administration may require each business to submit a copy of its income statement for the three preceding fiscal years as well as a statement of the number of employees.

(aa) If a business does not have three years' experience, the date the business was organized and a current income statement shall be submitted.

(3) Each business shall complete and file an application for a certificate of compliance with the Department of Human Rights (form DHR-31) if it has not already filed one.

(d) Lists of eligible small businesses to be established.

(1) Based on filing of Admin. form 527A or 527B, businesses shall be coded to show those eligible as socially or economically disadvantaged persons.

(aa) By types of business; manufacturing, general or special construction and non-manufacturing; and

(bb) By types of services, materials, goods and supplies.

(2) Statistical information shall be prepared for the annual report to the Governor and Legislature as required by Laws

(c) Establishment of set-aside.

(1) After reviewing the capabilities of the small businesses and matching this with estimated needs:

(aa) At least 10% of the estimated procurement dollars for the fiscal year will be allocated and set aside for this program.

(bb) At least 10% of the dollar figure computed in (aa) will be allocated and set aside for purchases from socially or economically disadvantaged persons.

(2) When a requisition is received by the Division of Procurement:

(aa) It shall determine if the required goods, services or construction can be provided by small businesses or socially or economically disadvantaged persons.

(i) If it is a set aside purchase, first attempt at purchase will be made from a socially or economically disadvantaged person.

(ii) When feasible, competive bids shall be obtained; if not, a price may be negotiated.

(bb) For all such requisitions the Division of Procurement will establish an estimated price for the goods or services.

(cc) No award will be made when the low bid or the negotiated price is more than 5% over the estimated price.

(dd) Acceptable bids shall be recorded and the award made to the lowest acceptable bidder.

(ee) Where there are no acceptable bids, unsatisfactory bids will be recorded and the contract will be rebid under normal procurement procedures.

(ff) If an acceptable bid is received under normal procurement procedures, cost or price will be recorded for report purposes.

(f) Problem Areas

(1) A business which is offered an award but finds it cannot produce, supply or construct according to the bid terms and conditions shall, within seven (7) calendar days after receipt of notice as low bidder, notify the Division of Procurement of the reasons therefor.

(aa) In such cases, the Department of Economic Development shall be notified by the Division of Procurement so that they can assist the small business in attempting to remedy the causes of the inability to perform.

(2) Failure to enter into contract or accept an offered award will not automatically disqualify a business from further bidding or negotiation.

(aa) The records shall show the reason for such failure.

(3) Failure to satisfactorily complete and meet the terms and conditions of a bid after a contract or award has been made and accepted will disqualify a business from further bidding or negotiation until assurance of ability to perform is provided, documenting the corrections made to assure performance of future contracts.

(g) Miscellaneous

(1) The Commissioner of Administration may divide bid invitations by dollar amounts, units of production, or duration of contract to facilitate awarding contracts to businesses in the set-aside programs.

~~(aa) State agencies shall purchase from approved small business, within the guidelines of Statutes and these rules.~~

~~(2) Small businesses and socially or economically disadvantaged persons shall be governed by State Purchasing Statutes and Division of Procurement rules and procedures subject to modifications expressed herein.~~

The following rules are proposed for adoption.

2 MCAR 1.6501

GENERAL PROVISIONS

A. Scope: Pursuant to Minn. Stat. § 16, these rules govern the procurement of materials and services for the state under the competitive bidding requirements.

B. Definitions: Within 2 MCAR 1.6501 - 1.6804, the following apply, unless clearly indicated otherwise by the context:

1. "Division of Procurement" means Division of Procurement, Department of Administration, Room 112, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2. "Director" means Director of the Division of Procurement.

3. "Liquidated damages" means a specific sum of money, agreed to as part of a contract to be paid by one party to the other in the event of breach of contract in lieu of actual damages, unless otherwise provided by law.

4. "Material variance" means a variance in a bid from specifications or conditions which allows a bidder a substantial advantage or benefit not enjoyed by all other bidders.

5. "Newspaper of general circulation" means Finance and Commerce for general commodities and services and Construction Bulletin for construction projects, or an

alternate approved by the Director.

6. "Responsible Bidder" means a bidder who

a. is a manufacturer of, regular dealer in, or an agent of a manufacturer of supplies of the general character to be furnished; or

b. is in the business of furnishing the services to be provided; and

c. is financially and otherwise able to perform the contract, as evidenced by integrity, ability, skill, experience, and performance of past contracts for the state or other purchasers; and

d. is otherwise qualified under law and rule, including incorporation or registration to do business in the State of Minnesota; and

e. is in compliance with all tax laws thereof.

2 MCAR 1.6502
Method of Bidding.
A. Any purchase estimated to exceed $5,000.00 shall be purchased on sealed bids, notice of solicitation of bid to be inserted once in a newspaper of general circulation at least seven (7) days prior to the bid opening date. Bids shall also be solicited by sending bid invitations to all prospective bidders registered with the Division of Procurement pursuant to 2 MCAR 1.6502, C, and by posting notice on a public bulletin

board in the Division of Procurement Office at least five (5) days prior to the bid opening date.

B. Any purchase estimated to be $5,000.00 or less may be made upon competitive bids or in the open market, but in either case will be based on three (3) competitive bids, so far as practicable. ~~Such solicitation shall also be posted as described in 2 MCAR 1.6502, A.~~

C. A list of bidders shall be maintained by the Division of Procurement for various commodity classes. Any persons desiring to sell supplies to the state may file with the Director of Procurement a letter showing their business address, the commodities they desire to sell to the state, and proof of incorporation or registration to do business in the state. The firm name shall then be placed on the permanent bid list to receive invitations to bid. The name of a bidder who fails to respond to three (3) consecutive bid invitations shall be removed from the list of bidders upon written notice. The name of a bidder so removed shall be restored only by specific written request.

D. Submission of Advertised Bids:

1. Each invitation to bid shall include the following information and any other relevant information required by the nature of the individual bid, as called for in the bid specifications.

   a. Department, Division, and Requisition Number.

   b. Name and address of using agency.

   c. Date of issuance.

   d. Time and place of delivery of bid.

e. Date, hour, and place for openings bids.

f. Security requirements, if any.

g. Quantity of supplies and/or services to be furnished.

h. Description of supplies and/or services to be furnished.

i. Place, method, and conditions of inspection or testing, if required.

j. Applicable general and special conditions.

2. General Bid Conditions: Bid conditions applicable to all state purchases shall be stated on the standard invitation to bid.

3. Special Bid Conditions: Bid conditions applicable to specific commodities or types of purchase shall be stated in the invitation to bid. Special conditions supersede general conditions, if conflicting.

4. Bids shall be completed, signed, and submitted by each bidder in accordance with the instructions contained in each invitation for bid. Telegraphic bids shall not be considered unless expressly permitted in the invitation to bid. Bids shall be delivered to the Division of Procurement at address shown on bid invitation.

5. In each instance, the bids shall be on the form provided, in a sealed bid envelope or an envelope clearly identified with the commodity, time and date of opening, and the name of bidder on the front of the envelope.

2 MCAR 1.6503

Bid Security

A. Each bid invitation shall set forth the bid security required by the Division. Such bid security shall be made payable to "State of Minnesota" and shall be made upon the condition or guarantee that in the event the bidder's offer is accepted, the bidder shall enter into contract in accordance with the proposal.

B. Certified checks or bid bonds of successful bidders shall constitute liquidated damages for failure of a bidder to enter into a contract, and shall also be held as security for delivery and acceptance of merchandise, or satisfactory completion of the contract. A performance bond for twenty-five (25) percent of the award may be substituted.

C. Checks of unsuccessful bidders shall be returned to vendor by placing them in the mail within five (5) working days after an award is made. Checks of successful vendors shall be returned as soon as delivery is completed and acceptance is made by the agency, or the contract is satisfactorily completed. No interest shall be paid on any monies held as security.

D. Annual Bid and Supply Bond

1. Bidders may file with the Director of Procurement an annual bid and supply bond in lieu of individual bonds or other security required in various individual bid invitations.

2. Annual bid and supply bonds, when accepted by the Director of procurement, shall cover all bids by the vendor for materials,

commodities, and supplies during the effective period of the annual bond, except as provided in 2 MCAR § 1.6503, D 3.

3. Annual bid and supply bonds shall not cover bid:

a. for building construction, repair, remodeling or other public works;

b. on which the annual bid security does not amount to 5% of the bid;

c. when another bond is required by specification; or

d. when bond is used as security on other bids.

4. The vendor shall be notified in writing if the necessity arises to attach the bond for breach of contract.

2 MCAR 1.6504

Opening of Bids

A. Upon receipt in the Division of Procurement, all bids will be time stamped, showing the date and hour received. Bids received after the time set for the opening of bids will be returned unopened to the bidders. Bids shall be opened publicly and read aloud at the time and place established in the bid invitation. All original bids will be retained pursuant to Minn. Stat § 16.07, subd. 2, for public inspection in the Division of Procurement.

B. Recording and tabulation of bids: The names of bidders, prices bid, and other pertinent data shall be recorded on a tabulation form which shall be available for public inspection in the Division of Procurement.

C. Rejection of bids: The State may reject any or all bids or portions thereof. All bids shall be rejected for good and sufficient cause ,including but not limited to, abandonment of the project by the State, or insufficient state funds.

D. A vendor whose sealed bid is rejected shall be given notice of the rejection and the reason(s) for rejection of the bid.

E. Informalities and minor deficiencies: The State reserves the right to waive minor deficiencies or informalities in bids. Minor informalities shall be waived if, in the judgment of the Director of Procurement, the best interest of the State would be served without prejudice to the rights of the other bidders. Examples of minor deficiencies include, but are not limited to:

1. Omission of the title of the signatory;
2. Failure to furnish required catalog cuts;
3. Minor detail omissions.

2 MCAR 1.6505

AWARD

A. Award of contracts shall be made in conformity with Minn. Stat. § 16.08 and with no material variance from the terms and conditions of the bid invitation.

2 MCAR 1.6506

TIE BIDS

A. Tied low bids for less than $500.00 shall be resolved by drawing lots among the tied low bidders, except as provided in 2 MCAR § 1.6506.

B. Except as provided in 2 MCAR 1.6506, tied low bids for $500.00 or more shall be referred to the Director or Assistant Director of Procurement for disposition. The Director of Procurement may enter into negotiation with tied low bidders when the Director deems such action to be in the best interest of the State.

C. Whenever a tie involves a Minnesota firm and one whose place of business is outside the State of Minnesota, ~~Minn. Stat. § 16.365 shall govern.~~ preference shall be given to the Minnesota firm.

2 MCAR 1.6507

CONTRACT PERFORMANCE

A. The Director of Procurement or authorized agents of state departments shall place orders with successful bidders using official state purchase orders.

B. Upon award, shipment shall be made in accordance with delivery instructions in the invitation to bid.

C. All deliveries shall conform to specifications of the bid. Failure in this respect shall be cause for rejection of the goods.

D. Commodities that fail to comply with specifications, fail to conform to the vendor's sample, are not as provided on the purchase order, or arrive in an unsatisfactory condition shall be rejected except as provided in 2 MCAR § 1.6507 H (2).

E. Notice of rejection, based upon apparent deficiencies disclosed by ordinary methods of inspection, shall be given by the receiving agency to both vendor and the carrier (if FOB shipping point) within reasonable time after delivery, with a copy of this notice to the Division of Procurement. Revocation of acceptance for latent deficiencies that would make the items unsatisfactory for the purpose intended shall be given by the State within reasonable time after discovery. The contractor shall satisfactorily repair or replace such items within a reasonable period of time.

F. The State may require that the vendor permit inspection of the commodities prior to shipment at the factory, plant, or establishment where produced, manufactured, or stored. Unless provision for inspection is made in the invitation to bid, costs thereby incurred will be paid by the State.

G. The vendor shall forthwith remove at his expense any item rejected by the State. If the vendor fails to remove such an item, or to forthwith forward shipping instructions to the agency concerned, the State may sell the item and remit the proceeds of sale, less the expense involved, in accordance with law including but not limited to Minn. Stat. § 336.2-603.

H. If the needs of a state agency do not permit time to replace rejected merchandise, or if deliveries are not made within the time specified in the contract, the agency may:

1. With the approval of the Director of Procurement, buy on the open market supplies of the nature required. The vendor shall be liable for all additional costs and expenses.

2. If it is determined that an item does not conform strictly to specifications, but can be used satisfactorily, the Director of Procurement may adjust the price with written acquiescence of the vendor, and authorize the agency to keep and use such part of the order when such action is required to sustain continued operation.

I. The Director of Procurement may direct that a laboratory analysis or other tests be made to determine the acceptability of the delivered product(s) and to insure that product(s) meet specifications. In these instances, acceptance by the State shall not occur nor be deemed to have been made, and the discount time shall not begin, until testing is completed and affirmative results are obtained. Vendors shall be notified of unsatisfactory test results.

2 MCAR 1.6508

FAILURE TO PERFORM

A. If a bidder who is awarded a contract fails to perform as specified, the bid security shall be retained by the State and deposited with the State Treasurer as liquidated damages. The vendor may also be determined not to be a responsible bidder. The state may also pursue all other remedies permitted or provided by law.

B. If the bid security is in the form of a bond, the bonding company shall be notified in writing of the default. A vendor who fails to enter into contract that has been awarded to him may be determined not to be a responsible bidder regardless of whether bid security was required. The state may seek further damages and shall not be limited by the absence or existence of a bond.

C. After the award of a contract, if the vendor fails to furnish satisfactory performance security, if required, the vendor shall be deemed in default and subject to the above provisions.

D. A vendor shall be held in default for failure to conform to bid specifications or standard commercial practices including, but not limited to the following:

1. Failure to make deliveries within the time specified in in the contract; or

2. Deliveries of goods or materials that do not conform to samples or specifications, and are not promptly replaced; or

3. Delivery of goods or materials that are repeatedly rejected; or

4. Misbranding or materially misrepresenting goods or materials purchased under the contract.

E. In all cases of default, the vendor may be determined not to be a responsible bidder.

2 MCAR 1.6509

CONTRACT CANCELLATION

A. The Director of Procurement may cancel a purchase entered into under competitive bidding under any one of the following conditions including, but not limited to:

1. The contractor agrees to the cancellation;

2. The contractor has obtained the contract by fraud, collusion, conspiracy, or in conflict with any statutory or constitutional provision of the State of Minnesota;

3. Failure to deliver as agreed.

2 MCAR 1.6510

BIDDER ERRORS

A. Prior to the opening of sealed bids, any person may withdraw his bid by notifying the Director in writing of his desire to withdraw, by appearing in person at the Division of Procurement's Office and withdrawing the bid, or by telegraphic writing received by the Director requesting withdrawal of his bid.

B. Subsequent to the opening of sealed bids, a person may withdraw his bid only upon a showing that an obvious ~~unintentional, non-negligent~~ error exists in the bid. The showing and request for

withdrawal must be made in writing to the Director within a reasonable time after the opening of the bids and prior to the state's detrimental reliance on the bid.

2 MCAR 1.6601

SHELTERED WORKSHOP

A. Any sheltered workshop wishing to apply to receive notice of available state contracts pursuant to Minn. Stat. § 16.281, shall apply in writing to Director, Minnesota Association of Rehabilitation Facilities, 550 South Snelling Avenue, St. Paul, Minnesota 55116.

2 MCAR 1.6701

Scope and Purpose. ~~The following rules~~ 2 MCAR §§ 1.6701 - 1.6704 are promulgated pursuant to Minn. Stat. §§ 16.081 - 16.086 for the purpose of establishing procedures relating to the small business and small business owned by socially or economically disadvantaged persons set-aside program administered by the Procurement Division, Department of Administration, 50 Sherburne Avenue, St. Paul, Minnesota 55155. 2 MCAR §§ 1.6501 - 1.6601 shall also govern procurement under this program. In the event of irreconcilable conflict between the general procurement rules and rules relating specifically to the set-aside program, the rules of the set-aside program shall govern.

2 MCAR 1.6702

SELF-CERTIFICATION OF ELIGIBILITY

A. To become eligible to receive invitations for set-aside bids, each business shall certify and file with the Division of Procurement the following information on the forms provided:

1. Name and address of applicant and principal place of business.

2. Whether applicant is applying for designation as a small business or a small business owned and operated by a socially or economically disadvantaged person(s). Designation shall be made as to the type of business operated and the kinds of service, materials, or supplies which can be delivered.

3. Number of employees.

4. Gross receipts for each of the past 3 years.

5. Whether the business is an affiliate or subsidiary of a dominant business as defined in Minn. Stat. § 16.082.

6. Listing of all owners, including percentage of ownership, and all officers of the applicant with full disclosure of all owners' and officers' direct and indirect involvement in other businesses and enterprises which are in the same field of operation as the applicant, unless ownership is by common stock regularly bought and sold through recognized exchanges.

7. All other relevant information requested by the Division.

B. If the applicant is certifying itself for designation as a business owned and operated by socially or economically disadvantaged persons, the applicant shall also provide information indicating the basis of claim for designation under the standards established by Minn. Stat. § 16.082, subd. 5, for each officer and owner of the business.

C. To assist in verification of the self-certification, the Commissioner of Administration may require each business to submit a copy of its income statement for the three preceding fiscal years as well as a statement of the number of employees.

If a business does not have three years' experience, it shall indicate the date the business was organized and provide income statements since that time, including a current income statement.

D. The Director of the Procurement Division shall be notified in writing of any and all changes in the applicant's business which may alter the information provided above within thirty (30) days of such change(s).

E. Applicants shall be notified in writing only if the Procurement Division rejects an applicant's self-certification. Applications shall be rejected on any of the following grounds:

1. Applicant is dominant in its field or is an affiliate or subsidiary of a dominant business, as prohibited by Minn. Stat. § 16.082, subd. 2; or given figures provided pursuant to 2 MCAR 1.6702, C 1, applicant is dominant in its field or operation for the period of operation.

2. Applicant has failed to provide all relevant required information.

3. Where applying for designation as a business owned and operated by socially or economically disadvantaged person(s), applicant failed to establish that majority ownership and operating control are held by socially or economically disadvantaged person(s).

4. Applicant has failed to comply with laws and rules of the state relating to procurement.

5. Applicant's failure to comply with the requirements of these rules or Minn. Stat. § 16.083, et seq or bad faith in application for inclusion in this program.

2 MCAR 1.6703

ESTABLISHMENT OF SET-ASIDE

A. A list of set-aside contractors properly certified pursuant to 2 MCAR 1.6702, shall be established and maintained by the Division.

B. Determination of contracts for set-aside: When a requisition is received by the Division of Procurement and is placed on the list of set-aside contracts, the contract shall be offered and awarded as follows:

1. First attempt at purchase shall be made from a small business owned by socially or economically disadvantaged person(s). When feasible, competitive bids shall be obtained; if not a price may be negotiated.

2. For all such requisitions, the Division of Procurement shall establish an estimated price for the goods or services.

3. No award shall be made when the low bid or the negotiated price is more than 5% over the estimated price.

4. Acceptable bids shall be recorded and the award made to the lowest responsible bidder.

5. Where there are no bids or no acceptable bids, unsatisfactory bids, if any, will be recorded and the requisition shall thereafter be rebid through normal procurement procedures.

6. If it is necessary to reject original bids and the bid specifications are substantially changed or were in error, specifications shall be revised and the project rebid under set-aside rules.

7. If an acceptable bid is received and awarded under normal procurement procedures, the cost or price shall be recorded for report purposes.

2 MCAR 1.6704

General Terms and Conditions

A. A business which, if offered an award, ~~but~~ finds that it cannot produce, supply or construct according to the bid terms and conditions shall, within seven (7) calendar days after receipt of notice as low bidder, notify the Division of Procurement in writing of the reasons therefore.

B. When the Commissioner of Administration finds that the low bidder is unable to perform, the Department of Economic Development shall be notified by the Division of Procurement in accordance with Minn. Stat. § 16.084, so that the ~~Deputy~~ Commissioner of Economic Development can

assist the small business in attempting to remedy the causes of the inability to perform.

C. Failure to enter into the contract or to accept an offered award will not automatically disqualify a business from further bidding or negotiation.

D. The records of the Procurement Division shall show the reason(s) for such failure.

E. Failure to satisfactorily complete and meet the terms and conditions of a bid after an award has been made and accepted shall disqualify a business from further bidding or negotiation until assurance of ability to perform is provided, documenting the corrections made to assure performance of future contracts. Such assurances shall be given in writing to the Director, Procurement Division.

F. The Commissioner of Administration may divide bid invitations by dollar amounts, units of production, or duration of contract to facilitate awarding contracts to business in the set-aside program.

G. No contractor awarded a contract under the set-aside program shall subcontract fifty (50%) percent or more of the dollar value of the work under such contract. In construction contracts, the amount of specialty subcontracting shall be excluded in determining the total amound of permissible subcontracting.

2 MCAR 1.6801 State-Funded Partial Indemnification of Small Businesses and Small Businesses Owned by Economically and Socially Disadvantaged Persons.

Pursuant to Minn. Stat. § 574.262 (1977), 2 MCAR § 1.6801 - 1.6804 establish procedures relating to state funding of partial indemnification for certain state contractors which are small businesses and small businesses owned by economically and socially disadvantaged persons. Rules establishing eligibility standards are exempted from the provisions of Minn Stat Chapter 15.

2 MCAR 1.6802

Any person, corporation, or other legal entity wishing to apply for partial indemnification shall contact the Division of Procurement, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, 55155. The application for determination of eligibility shall include the following:

1. A current certified financial statement or equivalent approved by the Director.
2. Reasons for requesting partial indemnification.
3. A list of all bonding companies contacted.
4. Copies of all denials of application(s) for bonding received from bonding companies or bonding agencies.
5. A summary of all other efforts undertaken to obtain bonding.
6. All other relevant information requested.

2 MCAR 1.6803

Upon receipt of an application for determination of eligibility, the Commissioner shall make an eligibility determination and notify the applicant within a reasonable time. ~~A determination shall be made based upon consideration of the following factors:~~

~~a. Good faith effort of contractor to obtain bonding from private bonding agencies or bonding companies.~~

~~b. Qualification of the contractor to do business in the State of Minnesota under the laws of the State of Minnesota and the rules of the procuring agency(ies).~~

2 MCAR 1.6804

Participation in partial indemnification pursuant to these rules shall be restricted or limited as set forth in Minn. Stat. § 574.262, subd. 2.

Fl
(Incl 2 materials)

ATTORNEY GENERAL - Health

Lee Sheehy, Special Assistant
Attorney General
G19-k Administration Building

February 23, 1979

Richard A. Wexler
Assistant Attorney General

296-5370

File on Department of Administration Procedural Rules

The attached material constitutes the Attorney General's file material on the Department of Administration Procedural Rules which I reviewed. As I mentioned to you, I think that the file should be kept in your office along with the other files on rules reviewed by the Attorney General. If you have any questions, please call.

RAW:jlm
Enc.

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES
AND AMENDMENTS TO THE EXISTING RULES
PERTAINING TO SEVERAL UNITS OF THE
DEPARTMENT OF ADMINISTRATION

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in Room 83, State Office Building, St. Paul, Minnesota 55155, commencing on July 25, 1978, at 9:30 a.m., and continuing on July 26, 1978, or until such time as all interested persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, State Hearing Examiners Office, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, 612/296-8118, either before the hearing or within 5 days after the close of the hearing upon order of the hearing examiner.

The following new and/or amended rules and repeal of existing rules are being proposed and will be discussed in the order given.

1. Intergovernmental Information Systems Advisory Council rules governing the application, solicitation, review, analysis, and final disposition of grant proposals relating to data processing and systems analysis.

2. Documents Section rules informing the general public of the availability and cost of publications, maps, and other services from the Documents Section, Materials Management Division.

3. Federal Surplus Property Section rules relating to eligibility for and distribution of federal surplus property made available by the federal government for transfer to governmental or non-profit organizations, including establishing certain standards relating to the terms and acceptable financing of such purchases.

4. Office of the State Register rules governing the availability and cost of publications from the Office of the State Register, Materials Management Division, including repeal of existing rules.

5. State Surplus Property Sales Section rules governing the disposition of obsolete, surplus, and recyclable state property, including eligibility for and terms of purchase.

6. Central Motor Pool rules relating to handling insurance claims involving Central Motor Pool vehicles.

7. Plant Management rules governing the parking of motor vehicles in parking facilities owned or operated by the State of Minnesota and controlled by the Commissioner of Administration, relating to the cost and issuance of parking permits for such facilities, relating to the disposition of lost personal property discovered on certain state property, and governing the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. Included is the repeal of previous Parking rules.

8. Publications and General Services rules providing for the certification of and computation of standard and adjusted line rates, relating to the central mail room of the Department of Administration, and relating to resolution of a controversy between a public official and publisher concerning the proper line rate and charge.

9. Real Estate Management rules governing the state's acquisition of real property, the issuance of permits for easements across state lands, the issuance of permits to search for lost or abandoned property upon state lands, and the leasing out of state owned property which is temporarily not needed by the state.

10. Records Management rules governing the records management practices of all state agencies established pursuant to Minn. Stat. § 138.17, including retention, storage, and disposition of state records.

11. Telecommunications rules relating to the application by governmental bodies for sub-lease of TELPAK services.

12. State Building Code rules establishing procedures for appeals of municipal building code interpretations, relating to state surcharge fees, establishing requirements for certification and continuing education of municipal building officials and revocation of such certification, and establishing plan review procedures. Amendments to existing rules relating to manufactured building seals, plan approvals and fees are also being proposed.

13. Procurement rules governing the procurement of materials and services for the state under the competitive bidding requirements and establishing procedures relating to the socially or economically disadvantaged business-small business set-aside program administered by the Procurement Division, Department of Administration. Included is the repeal of existing rules relating to the small business procurement act.

Copies of the proposed rules are available and one free copy may be obtained by writing to the Commissioner's Office, 200 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. Additional copies will be available at the door on the dates of the hearing. A "Statement of Need" explaining why the agency feels the rules are necessary and a "Statement of Evidence" outlining the testimony they will be introducing will be filed with the hearing examiners office at least 25 days prior to the hearing and will be available there for public inspection.

The department's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 15.0412, subd. 3, 16.05, 16.28, 16.75, subd. 7, 16.86, 16.96, and 138.17.

Please be advised that pursuant to Minn. Stat. 10A.01, subd. 11 (1974) any individual engaged for pay or ther consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Date: June 5, 1978

Richard L. Brubacher
Commissioner of Administration

Following the publication of the Notice of Hearing and the proposed rules in the State Register on June 12, 1978, the Department of Administration has deemed it desirable and necessary to withdraw the proposed rules pertaining to Records Management numbered as 2 MCAR §§ 1.5501 - 1.5901. The proposed Records Management rules are withdrawn and will not be presented or discussed at the rules hearing to be held on July 25-26, 1978.

Date June 12, 1978

Richard L. Brubacher
Commissioner of Administration

RECEIVED
JUN 28 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES
AND AMENDMENTS TO THE EXISTING RULES
PERTAINING TO SEVERAL UNITS OF THE
DEPARTMENT OF ADMINISTRATION

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in Room 83, State Office Building, St. Paul, Minnesota 55155, commencing on July 25, 1978, at 9:30 a.m., and continuing on July 26, 1978, or until such time as all interested persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, State Hearing Examiners Office, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, 612/296-8118, either before the hearing or within 5 days after the close of the hearing upon order of the hearing examiner.

The following new and/or amended rules and repeal of existing rules are being proposed and will be discussed in the order given.

1. Intergovernmental Information Systems Advisory Council rules governing the application, solicitation, review, analysis, and final disposition of grant proposals relating to data processing and systems analysis.

2. Documents Section rules informing the general public of the availability and cost of publications, maps, and other services from the Documents Section, Materials Management Division.

3. Federal Surplus Property Section rules relating to eligibility for and distribution of federal surplus property made available by the federal government for transfer to governmental or non-profit organizations, including establishing certain standards relating to the terms and acceptable financing of such purchases.

4. Office of the State Register rules governing the availability and cost of publications from the Office of the State Register, Materials Management Division, including repeal of existing rules.

5. State Surplus Property Sales Section rules governing the disposition of obsolete, surplus, and recyclable state property, including eligibility for and terms of purchase.

6. Central Motor Pool rules relating to handling insurance claims involving Central Motor Pool vehicles.

Agency Exh. "F"

7. Plant Management rules governing the parking of motor vehicles in parking facilities owned or operated by the State of Minnesota and controlled by the Commissioner of Administration, relating to the cost and issuance of parking permits for such facilities, relating to the disposition of lost personal property discovered on certain state property, and governing the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. Included is the repeal of previous Parking rules.

8. Publications and General Services rules providing for the certification of and computation of standard and adjusted line rates, relating to the central mail room of the Department of Administration, and relating to resolution of a controversy between a public official and publisher concerning the proper line rate and charge.

9. Real Estate Management rules governing the state's acquisition of real property, the issuance of permits for easements across state lands, the issuance of permits to search for lost or abandoned property upon state lands, and the leasing out of state owned property which is temporarily not needed by the state.

10. Records Management rules governing the records management practices of all state agencies established pursuant to Minn. Stat. § 138.17, including retention, storage, and disposition of state records.

11. Telecommunications rules relating to the application by governmental bodies for sub-lease of TELPAK services.

12. State Building Code rules establishing procedures for appeals of municipal building code interpretations, relating to state surcharge fees, establishing requirements for certification and continuing education of municipal building officials and revocation of such certification, and establishing plan review procedures. Amendments to existing rules relating to manufactured building seals, plan approvals and fees are also being proposed.

13. Procurement rules governing the procurement of materials and services for the state under the competitive bidding requirements and establishing procedures relating to the socially or economically disadvantaged business-small business set-aside program administered by the Procurement Division, Department of Administration. Included is the repeal of existing rules relating to the small business procurement act.

Copies of the proposed rules are available and one free copy may be obtained by writing to the Commissioner's Office, 200 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. Additional copies will be available at the door on the dates of the hearing. A "Statement of Need" explaining why the agency feels the rules are necessary and a "Statement of Evidence" outlining the testimony they will be introducing will be filed with the hearing examiners office at least 25 days prior to the hearing and will be available there for public inspection.

The department's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 15.0412, subd. 3, 16.05, 16.28, 16.75, subd. 7, 16.86, 16.96, and 138.17.

Please be advised that pursuant to Minn. Stat. 10A.01, subd. 11 (1974) any individual engaged for pay or ther consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Date: June 5, 1978

Richard L. Brubacher
Commissioner of Administration

Following the publication of the Notice of Hearing and the proposed rules in the State Register on June 12, 1978, the Department of Administration has deemed it desirable and necessary to withdraw the proposed rules pertaining to Records Management numbered as 2 MCAR §§ 1.5501 - 1.5901. The proposed Records Management rules are withdrawn and will not be presented or discussed at the rules hearing to be held on July 25-26, 1978.

Date June 12, 1978

Richard L. Brubacher
Commissioner of Administration

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

RECEIVED
JUN 28 1978
OFFICE OF HEARING
EXAMINERS

In the Matter of the Proposed Rules and Amendments to Existing Rules Pertaining to Several Units of the Department of Administration

CERTIFICATE OF DELIVERY OF THE SECRETARY OF STATE LIST

I hereby certify that the attached 485 labels and 12 sheets constitute the complete list of persons, associations, and other interested groups who as of 1:00 o'clock a.m., this 19th day of June, 1978, have requested pursuant to M.S. 1974, Section 15.0412 that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

By: Cheri L. Mattson

Agency Exh "G"

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

RECEIVED
JUN 28 1978
OFFICE OF HEARING
EXAMINERS

In the Matter of the Proposed Rules
and Amendments to Existing Rules
Pertaining to Several Units of the
Department of Administration

AFFIDAVIT OF MAILING

Patricia A. Meinke, being first duly sworn, desposes and says:

That on the 22nd day of June, 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, property enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Patricia A. Meinke
Department of Administration
Commissioner's Office

Subscribed and sworn to before me
this 22nd day of June, 1978.

Linda M. Oelker

LINDA M. OELKER
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires April 20, 1984

Agency Exh "H"

ADDITIONAL NAMES FOR THE GENERAL LIST

Dawson, Jean, MN Government Report, Room B-21, Capitol, St. Paul 55155
Whitlock, Marshall, Room 433, State Office Bldg., St. Paul, MN 55155
Maclin, Alan, Sp.Asst.Atty.General, 720 American Center Bldg., St. Paul 55101

RECEIVED
JUN 28 1978
OFFICE OF HEARING
EXAMINERS

STATE BUILDING CODE DIVISION
ADM. DEPT.

Allegheny Ludlum Steel Corp., 5217 Wayzata Blvd., Mpls 55416

Anderson, Corp., R.A. Dahlin, Bayport 55003

Anderson, Harlyn E., NSP, 825 Rice St., St. Paul 55117

Arch Design Group, 205 S. Clark St., Forest City, Iowa 50436

Arthur G. McKee & Co., 2729 13th Ave. E., Hibbing 55746, Attn: Stuart C. Anderson

Axelson Engineering, Inc., 14407 Excelsior Blvd., PO Box 1059, Minnetonka

Bean, Robert, Bean & Hill, Inc. 2002 London Rd., Duluth 55812

Bergquist, Robert E., Citation Homes, PO Drawer AF, Spirit Lake 51306

Bins, Richard H., 217 100 First Ave., Bldg., Rochester 55901

Bluhm, Gordon H., Code Enforcement Div., 1421 3rd Ave. S.E., Rochester 55901

Bomberg, Frank L., Benada Aluminum of MN, 725 2nd Ave. N., Mpls 55405

Bor-Son Construction, Inc., Ibb Agvald, 1550 E. 78th St., Richfield 55423

Bragonier, James W., 304 E. 2nd St., Northfield 55057

Brennan, Richard B., 511 Ryan Ave. W., Roseville 55113

Buege, Gerald, Lamoille, 55948

Building Inspection Co., Inc., 4620 W. 77th St., Mpls 55435

Buresh, Robert J., 4801 W. 50th St., Edina 55424

Burke, Donald A., 6700 Portland S., Richfield 55423

Buth, Wm., St. Paul BOMA, 330 N. Federal Bldg., St. Paul 55101

Butler Mfg. Co., BMA Tower, Penn Valley Pk., Kansas City, Missouri 64141

Cameron-Sullivan & Assn, Inc., Red Lake Falls, 56750

Cardinal Insulated Glass Co., 6700 Excelsior Blvd., MPls 55428

Carlson, Jim, Exchange Bldg., Winona 55987

Carney & Assoc., Inc., P.O. Box 1237, Mankato 56001

Close Associates, Inc., A. Boies, 3101 E. Franklin Ave., Mpls 55406

Clubb, James P., MPS, 807 NE Broadway, Mpls 55413

Coborn, Bob Jr., Miller Construction, Box 1228, St. Cloud, MN 56301

Dan J. Brutger, Inc., Attn: David F. Gaida, 10-14th Ave. S., St. Cloud 56301

DeBoom, LeRoy H., 3945 Zarthan Ave., St. Louis Park 55416

Dept. Inspection, City Albert Lea, 221 E. Clark St., Albert Lea 56007

Edward Vogt and Associates, Ste 141 Freeway Office, 9100 W. Bloomington Freeway, Mpls

Ellerbe Architects, Inc., One Appletree Square, Bloomington 55420

Engineering Assn., P.C., 1407 12th Ave. S., Grand Forks, N.D. 58201

Erdman, Anthony, Associates, 242 Andrews St., Rochester, NY 14604

Erickson, Glenn A., 445 City Hall, St. Paul 55012

Ernst, Jerry, Wick Homes, Box 30, Fairmont 56031

Foss, Engelstad & Foss, Box 306, Moorhead 56560

Goff, Marie K., 2618 Quincey St. N.E., Mpls 55418

Hansen, J.C. Jr., c/o Celotex Corp., 764 Vandalia, St. Paul 55114

Harris-Billings Co., 4933 Boone Ave N., Mpls 55428

Hetlzer, Jim, Dayton-Hudson Corp. 777 Nicollet Mall, 914 IDS Center, Mpls 55402

Highway Construction, 9150 Central Ave. NE, Mpls 55434

Housing & Redevelopment Authority, 55 E. 5th St., St. Paul 55101

Hove, Donald E., Fire Chief, 1616 Humboldt Ave., West St. Paul 55118

Hydro Air Engineering, Inc., PO Box 7359, St. Louis, MO 63177

Jacobson, Dean, ORD Corp., Box 358, Pelican Rapids, 56572

Jacobson, Judd, Box 382, Owatonna 55060

Johnson, Richard L., Metro Metals, Inc. 4345 Lyndale N., Rm 2, Mpls 55412

Johnson, Ronald W., 929 Washington Ave. S., Mpls 55415

Jones & Haugh Inc., PO Box 648, Albert Lea 56007

Kane, Harry, MN Electrical Assn., Inc. 3100 Humboldt Ave. S., Mpls 55408

Kleinbeck, Alvin, 221 E. Clark St., Albert Lea 56007

Knutson, Development Co., Attn: G.P. Uttley, 17 Wash. Ave. N., Mpls 55401

Lucas, Mrs. Russel, 3264 N. Victoria St., St. Paul 55112

Mac Arthur Co., Attn: R.L. Lockwood, 936 Raymond Avenue, St. Paul 55114

McDonagh, James R., RR 2, Salem Rd., Rochester 55901

McLean, Pat, c/o Clark R. Gibb Co., 1311 W. 25th St., Mpls 55405

Marincel, Steve, United Handicapped Federation, 1951 Univ. Ave, St Paul 55103

Marshfield Homes, Mr. Berg, PO Box 530, 2301 E. 4th St., Marshfield, WI 55449

Mertz, Orville N., MN State Fire Chiefs, 521 S. Bdwy., Rochester, .55901

Meyer, John, Meyer, Borgman, Johnson, 810 Plymouth Bldg, Mpls 55402

Mihelich, Ken, 3M Bldg. 42-2W, Box 33331, St. Paul 55133

Mill-Craft Housing Corp., Box 27A, Tower Rd., Waupaca, WI 54981

Miller, Alvin c/o Hussmann No. Central, 6100 Wayzata Blvd., Mpls 55416

Miller HWB Architects, Inc., Attn: W.J. Berger, Butler Sq. Ste 300, 100 N. 6th S
Mpls 55403

Minn Lathing & Plastering Bur., 796 Raymond Ave., St. Paul 55114

Minn State Bd of Electricity, 1954 Univ. Ave., St. Paul 55104

Mjorud, Al, Armstrong, Korseth, et al, 4901 Olson Hwy, Mpls 55422

Moore, Gary, P.O. Box 21174, Eagan 55122

Nelson, Alfred J., 1312 IDS Bldg., 777 Nicolet Mall, Mpls 55402

Nelson-Zepper, 9150 Central Ave. NE, Blaine 55434

Niebling, Richard L., 7777 Bon Homme Ave., Rm 2108, St. Louis, MO 63105

Northern States Power Company, F.O. Anderson, 414 Nicollet Mall, Mpls 55401

Northwestern Bell Telephone Company, Bldg. Inds. Consulting Serv., 2701 E. 80th St. Attn: G.B. Fletcher, Mpls 54420

Olofson, Arthur W., 927 Soo Line Bldg., Mpls 55402

Otis Elevator, Attn: W.R. Wilson, 2101 Minnehaha Ave., Mpls 55404

Owatonna Builders, 206 W. Rose St., Owatonna 55060

Peil, Eugene, United Sprinkler Co., 1700 65th Ave. N., Mpls 55430

Pemton Inc., Attn: R.W. Anderson, 8200 Humboldt Ave. S., Bloomington 55431

Plumber & Gasfitters Loc.#34, Frank Horak, 418 Auditorium, Ste 205, St. Paul 551

Pollak, Peter, The Aluminum Association, 818 Connecticut Ave. N.W., Washington D.C. 20006

Radel, Blaine, P.O. Box 604, Hopkins 55343

Ramsdell, Gerald G., SMARCA of MN, Inc., 2929 Univ. Ave., S.E., Mpls 55414

R & O Elevator Co., Inc., 6045 Pillsbury Ave.S., Mpls 55419

Regional Comm.#15, Nat'l Automatic Sprinkler & FCA, 325 Roosevelt St., NE, Mpls 55413

Rich, Philip W., 900 Bush Ave., Bldg. 42-2W, 3M Co., St. Paul 55106

Robertson, George M., Jr., City Attorney, 4th & Lafayette, Winona 55987

Ryden, Bruce E., Fire Marshall, 2701 N. Lexington, Roseville 55113

Saxrud, Art, Honeywell, Inc., 7400 Metro Blvd., Mpls 55435

Scarano, Anthony L.,Plastics Pipe Institute,3 Springdale Terrace,Morrisoville,PA 19067

Scheffler, Gustave L., Univ. Helath Serv., UM, Mpls 55455

Schuller, Karl, Metal Bldg., Dealers Assn, 117 N. Broadway, Rochester 55901

Skenzich & Warn, Eveleth Area Vocational-Technical Inst., Eveleth 55734

Sieckert, Frank, 5809 Excelsior Blvd., St. Louis Park 55416

Sievert, Sandra J., Industral Coatings, Inc., Rt 2, Box 63C, Rogers 55374

Stewart, William F., 13 W. MN St., Savage 55378

Stockberger, Fred, 5795 182nd St W, Farmington 55024

Stordahl, Conrad, 6613 Portland Ave. S., Richfield 55422

Summers, Joseph P., 630 Osborn Bldg., St. Paul 55102

Swenson, Harvey G., 5705 Mt Normandale Dr., Bloomington 55437

Tegan, James, Brin Glass Co., 600 Washington Ave. N., Mpls 55401

Tibbits, Robert Lester's, Lester Prairie, 55354

Tilly, Stan, M.L. Gordon Sash & Door Co., 7201 W. Lake St., Mpls. 55426

T.R. Arnold & Associates, Inc., 401 W. Bristol St., Elkhart, Ind. 46514

Underwriters Laboratories Inc., Attn: W.J. Smith, 333 Pfingsten Rd., Northbrook, IL 60062

Warnes, Jack, Chief Bldg., Official City Hall, St. Cloud 56301

Wausau Metals Corporation, Attn: L. Niederhofer, 1415 W. St., Box 1305, Wausau, WI 54401

Wees, Donald J., City Bldg & Safety Dept., 1421 3rd Ave. S.E., Rochester 55901

Weis, J.C., PO Box 319, Rochester 55901

Wherry Const. Co., W. Stephen Wherry, 7324 Cornelia Dr., Edina 55435

Whitney, Granger B., Lancer Const. Co., 54 E. Moreland, W. St. Paul 55118

Wick Agri-Buildings, P.O. Box 38, Mazomanie, Wisconsin 53560

Wick Bldg. Systems Inc., I & S Div. Attn: J.L. Poehlman, P.O. Box 205, Middleton, WI 53562

Wisconsin Bridge & Iron Co., 5023 N. 35th St., Milwaukee, WI 53209

Wolverton Engineering Co., 847 40th Avenue N.E., Columbia Heights, 55421

Young, Spencer L., Mpls. Gas Co., 700 Linden Ave. N., Mpls 55403

Capp Homes, c/o Rene D. Kreutter, R & D Dept., 3355 Hiawatha Ave S, Mpls 55406

Clearwater Forest, Inc., Annandale, 55302

Ernst, Jerry, Wick Homes, P.O. Box 188, Memomenie, Wisconsin 53560

Homera Inc., Tracy Industrial Park, Tracy 56175

Moduline International, Inc., P.O. Box 209, Chehalis, Washington 98532
Attn: Rick Mendlen

Moduline (Minn), Inc., P.O. Box 147, Montevideo 56265 Attn: David Kennedy

Techpower, Inc., 4620 W. 77th, Mpls 55435

ADMINISTRATION

Bastian, Gary W., Senate IRC, 110 State Office Bldg., St. Paul 55155

Hopkins, Bill, 2004 Lyndale Ave South, Mpls 55405 (Const. only)

Jone, David, 2116 Dayton Avenue, St. Paul 55104

McCarthy, Thomas G., Attorney at Law, 207 N. Main, Winthrop 55396

Minn. Council of State Employees No. 6, 555 Wabasha, St. Paul 55101

Popham, Wayne, 4344 IDS Center, Mpls 55402

The Following Names on the General Mailing List can be sent through Interoffice Mail

Anti-Trust Div., Attorney General, 160 State Office Bldg.

Brubacher, Richard, Comm. Adm., 208 Adm. Bldg.

Christiansen, Fredrik, Rm 505, Capitol Square Bldg.

Coleman, Nicholas, 208 State Capitol

Consumer Services Dept. Comm., 5th Floor, Metro Square Bldg.

Develop Disabilities Programs, State Plan, 101 Capitol Square Bldg.

Dispatch Pioneer Press, Press Rm, State Capitol

Ethics Comm., Rm 410, State Office Bldg.

Farseth, Paul, Welfare Dept., 690 N Robert Street, St. Paul

Giel, David, Rm B-28, State Capitol

House Appropriations Comm., Rm 109 State Capitol

Human Rights, 200 Capitol Square Bldg.

Human Services 414 Lafayette Rd., 5th Floor

Leg. Ref. Lib-Z. Dewitt, Rm 111, State Capitol

Levey, Jess, Met. State Univ., Metro Square Bldg., Rm 121

McLellan, Larkin, 215 Adm. Bldg. St. Capitol

Malone, E.I., Comm. Labor & Industry, 444 Lafayette Rd., 5th Floor

Met. Waste Control Comm., 350 Metro Square Bldg.

Metropolitan Council Library, 300 Metro Square

Miller, Michael, Admin. Agencies Div., G19K State Admin. Bldg

Minn Comm for Handicapped, Metro Square

Minn Pollution Control Agency, 1935 W Co Rd B2, Roseville

Minn State Retirement System, 529 Jackson St

Minn Water Resources Bd, Rm 206, 555 Wabasha St.

Mpls Star Press Room, State Capitol

Office of the Governor, 130 State Capitol

St. Paul Bur Hlth Dr P Cox, 555 Cedar St.

Schmidt, H.W. Teachers Retirement, 302 Capitol Square Bldg.

Schutz, Linda, Rm 328 Capitol Bldg.

Senate Coun. Office, Room 480, State Office Bldg.

Senate Finance Comm., 121 State Capitol

Senate Gov. Op. Comm. Rm 303, State Capitol

Senator Robert J. Tennessen, 309 State Capitol

110506 WINDMILL COURT
CHASKA MN
55318

WEEK G V NORTHERN STATES
414 NICOLLET MALL
MPLS MN
55401

WHITING RALPH
7316 BAILEY ROAD
NEWPORT MN
55055

WILEY ENTERPRISES
101 5TH AVE SE
OSSEO MN
55369

WILLETTE MARY
2711 W 47TH STREET
MPLS MN
55410

WOLKERSTORTER THEODORE
676 17TH AVE NW
NEW BRIGHTON MN
55112

WOZNIAK D D
401 FIRST FED BLDG
ST PAUL MN
55101

WEST CENTRAL REG. DEV.
ADM BLDG, COMMUNITY COLL
FERGUS FALLS MN
56537

WHITLOCK A G
ECON LAB OSBORN BLDG
ST PAUL MN
55102

WILCOX J PATRICK
1220 NORTHERN FED BLDG
ST PAUL MN
55102

WM. MITCHEL COLLEGE LAW LI
2100 SUMMIT AVE.
ST. PAUL MN
55105

WILSON R GARY PPG INDUSTR
1 GATEWAY CENTER
PITTSBURGH PA
15222

WIS FEEDER PIG MARKET CO-

FRANCIS CREEK WI

WYANT CLINTON W ATTY

ATKIN MN
56431

ZIMMERMAN & OFFERMAN
CAMBRIDGE STATE HOSP
CAMBRIDGE MN
55008

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

AHOLA DEBRA
616 LINCOLN AVE APT 307
ST PAUL MN
55102

ALBERT,AA CALDER CORP
366 JACKSON ST
ST PAUL MN
55101

ALLERS JOHN
1501 W 80TH ST SUITE210
BLOOMINGTON MN
55431

AMER CAMPING ASSN
3639-21/2 ST N.E.
MPLS MN
55418

ANDERSON DEBRA
1115 E RIVER ROAD
MPLS MN
55414

ANDERSON HERBERT
418 8TH ST. SO.
VIRGINIA MN
55792

ANDERSON MARY
4425 RUTLEDGE AVE
EDINA MN
55436

ANDERSON STANFORD P
14600 MINNETONKA BLVD
MINNETONKA MN
55343

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

ALLIN M KARLS
2333 UNIV AVE SE
MPLS MN
55414

ALLENDORF MARSHALL
220 GRAIN EX 400 S 4TH
MPLS MN
55415

AM INST PROF GEOLOGISTS
2201 PRINCETON AVE
ST PAUL MN
55105

ANCHOR BLOCK COMPANY
PO BOX 3360
ST PAUL MN
55165

ANDERSON HAROLD
BOX 3047
MANKATO MN
56001

ANDERSON JAMES
7703 NORMANDALE RD
MPLS MN
55435

ARNOLD ROBERT MESPA
41 SHERBURNE
ST PAUL MN
55103

ARROWHEAD ECONOMIC OP AGE
CO S BRUSTUN BOX 1066
VIRGINIA MN
55792

ASH GEORGE
3040 OTTAWA STREET
ST LOUIS PARK MN
55416

ASMUSSEN,DENNIS,MPIRG
3036 UNIV AVE SE
MPLS MN
55414

ASSN RESIDENCES FOR RETARDED
459 RICE SUITE 301
ST PAUL MN
55103

BARATTO DIVINE M
1192 BUSH ST
ST PAUL MN
55106

BARRETT FRED
ST LOUIS CO COURT HOUSE
DULUTH MN

BEGALKA D REV
212 N ELK ST
BELLE PLAINE MN
56011

BEMIDJI STATE COLLEGE
PLACEMENT BUR.J.C.BRADY
BEMIDJI MN
56601

BERGSETH THOMAS
1011 NICOLLET MALL
MPLS MN
55403

BEST FLANAGAN ET AL
4040 IDS CENTER
MPLS MN
55402

BLADIN PAPER CO W J LICKE
115 1ST ST SW
GRAND RAPIDS MN
55744

BLOMQUIST BARRY L

NORTH BRANCH MN
55056

BREHL JAMES W
332 HAMM BLDG
ST PAUL MN
55102

BRICK PHILIP D
807 SELLWOOD BLDG
DULUTH MN
55802

BROOKS WILLIAM F JR
854 MIDLAND BK BLDG
MPLS MN
55401

BROWN D M GOODRIDGE PUB S
IND DIST #561
GOODRIDGE MN
56725

BRUNING C.R.DEPT.CLINIC.EXP.
BURTON HALL
MPLS. MN
55455

BUSCH NOEL
SUITE 705 510 MARQUETTE
MPLS MN
55402

BUR.ENGR.IND.DIV. MR.KIBIGER
219 N. 2ND ST.
MPLS. MN

BUR NATL AFFAIRS INC
1231 25TH ST NW
WASHINGTON DC
20037

CAIN RUTH
730 E 38TH ST
MPLS MN
55407

CAIRNS JOHN A
47TH FLR IDS CENTER
MPLS MN
55402

ANTHONY DICK WDSM RADIO
230 E SUPR ST
DULUTH MN
55102

ANTI-TRUST DIV.ATTY GEN.
160 STATE OFF BLDG
ST PAUL MN
55155

ARROWHEAD REG. DEV COMM.
211 W 2ND ST
DULUTH MN
55802

ARROWHEAD REGIONAL DEV COMM
200 ARROWHEAD PLACE
DULUTH MN
55802

ASSOCIATED GEN CONTROF MN
48 E 8TH STREET
ST PAUL MN
55101

ASSN OF MINN COUNTIES
55 SHERBURNE AVE #203
ST PAUL MN
55103

BABCOCK LOCHER NELSON ET AL
118 E MAIN ST
ANOKA MN
55303

BADALICH JOHN P
2025 THOMPSON AVE
SO ST PAUL MN
55075

BARTHOLOW HAROLD E FIRE CHF
2600 109 AVE N W
COON RAPIDS MN
55433

BECK PAT
953 HYACINTH AVE
ST PAUL MN
55106

BENDA GEORGE
RURAL ROUTE 1
ALPHS MN
56111

BERGERUD ALF
300 ROANOKE BLDG
MPLS MN
55402

BEUTEL ROBERT
2200 SILVER LAKE RD
NEW BRIGHTON MN
55112

BINGHAM KE CRIM JUSTICE COUN
351CITY HALL ANNEX
ST PAUL MN
55102

BLOOMINGTON CITY CLERK
2215 W OLD SHAKOPEE RD
BLOOMINGTON MN
55431

BOWMAN & BRUNS ATTN P MASON
1616 PIONEER BLDG
ST PAUL MN
55101

BRIGGS & MORGAN - B F FRIEL
2200 W 1ST NATL BK BLDG
ST PAUL MN
55101

BROEKER JOHN
2850METRO DR. SUITE 504
BLOOMINGTON MN
55420

BROWN H D
4961 KINGSBERRY LANE
MINNETONKA MN
55343

BRUBACHER RICHARD COMM ADM
208 ADM BLDG
ST PAUL MN
55101

BUCHHOLTZ CHARLES
5044 BRENT AVE E
INV GRV HTS MN
55075

BURGER ALBERT
600 DEGREE OF HONOR BLD
ST PAUL MN
55101

CABLE COMM SYST-H SARRAZIN
BOX 777
HECTOR MN
55342

CARRISON DALE K
MANKATO STATE COLLEGE
MANKATO MN
56001

CHAMBER OF COMMERCE
30 SO 1ST AVE EAST
ELY MN
55731

CHILDS J L
4012 LYNN AVE S
MPLS MN
55416

CHRISTIAN SCI COMM ON PUB
1821 UNIV AVE SUITE 271
ST PAUL MN
55104

CITY CLERK
386 CITY HALL
ST PAUL MN
55102

CITIZENS LEAGUE
530 SYNDICATE BLDG
MPLS MN
55402

CLAUSEN PHILLIP
2307 STANDISH ST
ST PAUL MN
55108

CLAWSON CONNIE
HELP CT 317-17TH AV SE
MPLS MN

COLLIN LAURENCE
RT 2
ISANTI MN
55040

COMMUNITY DESIGN CENTER
118 E 26TH ST
MPLS MN
55404

COUNTY ATTYS COUNCIL
40 NO MILTON ST STE 106
ST PAUL MN
55104

CRAVEN NORMAN
10637 THOMAS AVE S
BLOOMINGTON MN
55431

DAHLKE LOIS M
118 S EAGLE ST
BELLE PLAINE MN
56011

DANIELSON RODNEY L
418 AUDITORIUM
ST PAUL MN
55102

DAYTON CHAS SIERRA CLUB
800 MIDLAND BANK BLDG
MPLS MN
55401

DIEHL JOHN
26 KENWOOD PKWY
ST PAUL MN
55105

DISPATCH PIONEER PRESS
PRESS RM STATE CAPITOL
ST PAUL MN
55101

DOW CHEMICAL
47 BLDG
MIDLAND MI
48640

DUNN OLIVER PLUMBERS LOC
708 SO 10TH ST
MPLS MN
55404

E CENTRAL REG. DEV. COMM
COURTHOUSE 18 N VINE ST
MORA MN
55051

EDEVOLD RUTH
PO BOX 248
BEMIDJI MN
56601

EICHTEN DANIEL
3794 HAZEL
WHITE BEAR LK MN
55110

CARLSON CARL L
7516 80TH ST S
COTTAGE GROVE MN
55016

CARLSON VERNE E
BOX 755 CITY HALL
WILLMAR MN
56201

CHAVARRIA ADAM
1325 W 251/2 ST APT 206
MPLS MN
55405

CHERCHES CHRIS CITY MGR
5005 MTKA BLVD
ST LOUIS PARK MN
55416

CHRISTIANSEN FREDRIK
RM 505 CAPITOL SQ BLDG
ST PAUL MN
55155

CHRYSALIS CENTER FOR WOMEN
2104 STEVENS AVE S
MPLS MN
55404

CITY OF ROBBINSDALE
C LARSON 4221 LAKE RD
ROBBINSDALE MN
55422

CLARKSON J.B.
2350 I.D.S. CENTER
MINNEAPOLIS MN
55402

COLEMAN NICHOLAS
208 STATE CAPITOL
ST PAUL MN
55155

COLHAPP TED
1294 VALLEY VIEW ROAD
CHASKA MN
55318

CONCORDIA COLLEGE
DEAN
MOORHEAD MN
56560

CONSUMER SERVICES DEPT COMM
5TH FLR METRO SQ BLDG
ST PAUL MN
55101

CROW WING CO PLANNING & ADV
COURT HOUSE
BRAINERD MN
56401

CUSHMAN J S DAYTON HUDSON
700 NICOLLET MALL
MPLS MN
55402

DAILEY THOMAS ECONOMICS LAB
370 WABASHA ST
ST PAUL MN
55102

DANKERS,KENNETH
1200 WEST FOURTH STREET
RED WING MN
55066

DEVELOP DISABILITIES PROGRAM
STATE PLAN 101 CAP SQ
ST PAUL MN
55155

DICKINSON MRS JOANNE
BOX 1065
MARSHALL MN
56258

DORSEY MARQUART
2400 1ST NATL BANK BLDG
MPLS MN
55402

DOUGLAS BELL ET AL
2212 AM.NATL BK BLDG
ST PAUL MN
55102

DUPONT MIKE
5720 EXCELSIOR BLVD
MPLS MN
55416

DZUGAN KEN ST PAUL PLANNING
421 WABASHA ST
ST PAUL MN
55102

EBELING EDWARD H.
161 W. MAIN
PERHAM MN
56573

ECKLUND WM EELLHABER-LARSON
W 1080 1ST NATL BANK
ST PAUL MN
55101

ELMER EDWIN W
2901 PLEASANT AVE
MPLS MN
55408

EMERICK RICHARD A
1908 IDS CENTER
MPLS MN
55402

ERDMAN ROGER TENNANT CO
701 N LILAC DR
MPLS MN
55441

ERNEST K LEHMANN & ASSOC.
1409 WILLOW ST.
MPLS MN
55403

EVANS CHAS.L. PRENTICE-HALL
ENGELWOOD CLIFFS
NEW JERSEY

EWING MRS WM
42 ASTAR RD
BABBITT MN
55706

FARMERS ELEVATOR ASSN
852 GRAIN EXCH BLDG
MPLS MN
55415

FARRELL FRANK BUR NOR
RM 1180 176 E 5TH ST
ST PAUL MN
55101

FILTER LOREN
BOX 36
BRITT MN
55701

FINLEY JAMES F
920 MINN BLDG
ST PAUL MN
55101

FITZPATRICK LEO
8138 HENSLOWE AVE S
COTTAGE GROVE MN
55016

FLEMING FREDERICK A
1860 HIGHLAND PARKWAY
ST PAUL MN
55116

FORSBERG AGR SERV
518 SUMMIT AVE
NEW ULM MN
56073

FOX W.E. LINDQUIST & VENN
4200 IDSCTR 80 S.8TH ST
MINNEAPOLIS MN
55402

FREDLUND MRS PHYLLIS
RR 4 BOX 37
CANBY MN
56220

FREDRIKSON BYRON ET AL
47TH FLR IDS CENTER M
PLS MN
55402

GALVIN M J JR
W2162 1ST NATL BK BLDG
ST PAUL MN
55101

GEO A HORMEL & CO LAW DEPT
PO BOX 800
AUSTIN MN
55912

GIEL DAVID
RM B-28 STATE CAPITOL
ST PAUL MN
55155

GODIN RALPH J
3824 47TH AVE SO
MPLS MN
55406

GOLDBERG PROF MELVIN
WM MITCHELL COL OF LAW
ST PAUL MN
55105

GRANATH MARVIN -HONEYWELL
2701 4TH AVE SO
MPLS MN
55408

GREATER MET AREA HOSPITAL
5152 CEDAR AVE S
MPLS MN
55417

ELDER DR JAMES B
11140 WASHBURN AVE SO
BLOOMINGTON MN
55431

ELDRED R W ARMOUR & CO
UNION STOCK YARDS
SO ST PAUL MN
55075

ENNIS A F BOISE CASCADE
PO BOX 713
INTL FALLS MN
56649

ENV SERV-GEN RESOURCE CORP
6340 INDUSTRIAL DR
HOPKINS MN
55343

ESSE KENNETH
4801 W 50TH ST
EDINA MN
55424

ETHICS COMM
RM 410 STATE OFF BLDG
ST PAUL MN
55155

FAEGRE & BENSON ATTN LIBR
1300 NW BANK BLDG
MPLS MN
55402

FARSETH PAUL FOOD STAMPS PRO
WELFARE DEPT 690 N ROBT
ST PAUL MN

FELHABER R S
W 1ST NATL BANK BLDG
ST PAUL MN
55101

FINNEGAN J.R.
55 E. 4TH
ST.PAUL MN
55101

FITZGERALD DR BOB
3007 LYNDALE AVE SO
MPLS MN
55408

FLADLAND CLINT MN L&P BUR
795 RAYMOND AVE
ST PAUL MN
55114

FORBES GORDON MINN RRS ASSN
203 HANCVER 480 CEDAR
ST PAUL MN
55101

FRANKLIN ROBERT B MPLS TRIB
426 PORTLAND
MPLS MN
55415

FREDIN CONRAD M
811 FIRST NATL BK BLDG
DULUTH MN
55802

FRIESEN MILLER A
RAHR BD 624 13TH ST S
VIRIGINIA MN
55792

FRISON FRANK NECA
RM 305 200 SO ROBERT
ST PAUL MN
55107

GARDNER HDW - R A JOHNSON
515 WASHINGTON AVE N
MPLS MN
55401

GEBERT K L
220 GRAIN EXCH
MPLS MN
55415

GLEESON MICHAEL
909 SOC SC BLDG U OF M
MPLS MN
55455

GLEN. HILLS HOSP. R. VAN HAUER
3901 GOLDEN VALLEY RD.
MPLS. MN
55422

GOODMAN DF TEL CABLE TV
302 E SUPERIOR
DULUTH MN
55802

GRAHAM THOS H
854 MIDLAND BK BLDG
MPLS MN
55401

GREEN JANET
9773 N SHORE DR
DULUTH MN
55804

GRUMMERT REV DONALD
1435 ADAMS ST
MPLS MN
55413

H B FULLER CO
2400 KASOTA AVE
ST PAUL MN
55108

HANSON WARREN A SKELGAS
PO BOX 1650
TULSA OK
74102

HAROLD J WESTIN CONSTRUCT
45 E 8TH ST
ST PAUL MN
55101

HAYES,THOMAS W
700 SELLWOOD BLG
DULUTH MN
55812

HART PATRICK V
112 E LIBERTY BOX 3271
MANKATO MN
56001

HEAD & TRUHN
1007 SOO LINE BLDG
MPLS MN
55402

HEADWATERS REG DEV. COMM
BOX 584 MENTAL HEALTH
BEMIDJI MN
56601

HEARING EX.OFF. M GREENBERG
1745 UNIV AVE
ST PAUL MN
55104

HEIM PAUL M
3944 IDS CENTER 80 S 8
MPLS MN
55402

HENDRICKSON A WM
100 FREEMAN DRIVE
ST PETER MN
56082

HENDRICKSON MRS VIRGINIA
3324 COUNTRY WOOD DR
BURNSVILLE MN
55337

HOLMES EUSTIS ET AL
4610 IDS CENTER
MPLS MN
55402

HOPKINS WM.B. DIR.MISCCA
3915 GOLDEN VALLEY ROAD
GOLDEN VALLEY MN
55422

HOULE MELVIN
881 W HWY 96
SHOREVIEW MN
55112

HOUSE APPROPRIATIONS COMM
RM 109 STATE CAPITOL
ST PAUL MN
55101

HUSEBYE, CRAIG J.
5036 FRANCE S.
EDINA MN
55410

HUTCHISON R.M. ANOKA CO.C
COURT HOUSE
ANOKA MN
55303

IMAGE
BOX 3215
ST PAUL MN
55165

IMS PAUL

ECHO MN

INS FED OF MINN
902 SOO LINE BLDG
MPLS MN
55402

INTERSTATE POWER RW STEEL
1000 MAIN ST
DUBUQUE IA
52001

GREEN DEL CITY MGR
BLOOMINGTON CITY HALL
BLOOMINGTON MN
55431

GREEN GARY J
41 SHERBURNE AVE
ST PAUL MN
55102

GUSTAFSON DAN-LABOR TEMPLE
312 CENTRAL
MPLS MN
55414

GUSTAFSON WALLACE
BOX 567
WILLMAR MN
56201

HALLBERG LEE & MCCABE
4927 34TH AVE S
MPLS MN
55417

HANFT PHILIP M
1200 ALWORTH BLDG
DULUTH MN
55802

HARRY RICK
RT 1 BOX 138
KETTLE RIVER MN
55757

HAUN DR J W GEN MILLS
PO BOX 1113
MPLS MN
55440

HARTFELDT WILL
434 HAMM BLDG
ST PAUL MN
55102

HAVEN RCBT TWIN TN TREATMENT
1706 UNIV AVE
ST PAUL MN
55104

HEALTH MANPOWER C LARSON
717 DELAWARE ST SE
MPLS MN
55440

HEANEY BILL
30 W SUPERIOR ST
DULUTH MN
55802

HEISENFELT WM
BOX 516
BEMIDJI MN
56601

HELTZER JAMES DAYTON HUDSON
777 NICOLLET MALL
MPLS MN
55402

HINRICHSEN PATRICK
MANKATO FREE PRESS
MANKATO MN
56001

HOLEY GEORGE
1509 SW SIXTH STREET
FARIBAULT MN
55021

HORNER WALDORF - KAZIUKEWICZ
PO BOX 3260
ST PAUL MN
55165

HOLT JOHN
517 4TH ST NW
FARIBUALT MN
55021

HULSTRAND ANDERSON & LARSON
PO BOX 130
WILLMAR MN
56201

HUMAN RIGHTS
200 CAPITOL SQ BLDG
ST PAUL MN
55101

HYLAND DEAN
1501 W 50TH ST
MPLS MN
55419

INGEBRIGTSEN DR K H
23 SE 4TH ST
MPLS MN
55414

INGVALSON VERN MN.FARM BU
1976 WOODDALE BOX 43370
ST PAUL MN
55164

JAIN NIRMAL ENIV PROCESS
1220 GLENWOOD AVE
MPLS MN
55405

JENSEN CARL A
127 E MAIN ST
SLEEPY EYE MN
56085

JENSEN MRS GAYNOLD
111 WEST 107TH ST
MPLS MN
55420

JOHNSON CLARENCE IBEW LU 292
3615 37TH AVE S
MPLS MN
55406

JOHNSON G ROBERT
4344 IDS CENTER
MPLS MN
55402

JOHNSON LANCE J
265 S LAFAYETTE RD
ST PAUL MN
55107

JONES C NORTHSIDE RES RED
1800 OLSON MEMORIAL HWY
MPLS MN
55411

KAVANEY RICHARD
1220 NORTHERN FED BLDG
ST PAUL MN
55102

KEABLE MIKE
909 6TH AVE N
ST CLOUD MN
56301

KLOSTER MARION PEAVEY CO
730 2ND AVE S
MPLS MN
55402

KLUZ STEVEN J
1910 1ST NATL BK BLDG
MPLS MN
55402

KNUTSON R N GRANNIS ETAL
F J SCHULT BLDG
ST ST PAUL MN
55075

KOLLER MR & MRS ERWIN A
1568 DULUTH ST
ST PAUL MN
55108

KROEGER CHARLES
122 NW 7TH STREET
FARIBAULT MN
55021

KRONLOKKEN J E
10048 NORD RD
BLOOMINGTON MN
55437

KVB ENGINEERING INC
600 S CO RD 18
MPLS MN
55426

LANAHAN E F - SIBLEY CO
184 E 6TH ST
ST PAUL MN
55101

LANGVIN DAVID
7500 80TH ST S
COTTAGE GROVE MN
55016

LARSON HANS P DIV HOSP SERV
717 DELAWARE ST SE
MPLS MN
55440

LEAGUE MN MUNIC
300 HANOVER 480 CEDAR
ST PAUL MN
55101

LEVEY JESS MET STATE UNIV
METRO SQ RM 121
ST PAUL MN
55101

LEAVEY THOS
829 22ND AVE SE
MPLS MN
55414

IVERSON DR JOS DEPT ED
ST OLAF COLLEGE
NORTHFIELD MN
55057

IZAAK WALTON MN DIV
111 E FRANKLIN RM-210
MPLS MN
55404

JENOS INC
525 LAKE AVE SO
DULUTH MN
55801

JENSEN ARTHUR,CITY CLK
2215 W OLD SHAKOPEE RD
BLOOMINGTON MN
55431

JOHANSEN BUS SERV INC
19 DAYTON RD
CHAMPLIN MN
55316

JOHNSON & SANDERSON
ST MARYS HOSPITAL
ROCHESTER MN
55901

JOHNSON LEROY
9939 BLUEBIRD ST NW
COON RAPIDS MN
55433

JOHNSON M.D. FRUNDT & FRUNDT

BLUE EARTH MN
56013

KABLE RICHARD W

BETHEL MN
55006

KEENAN RICHARD J
4444 IDS BLDG
MPLS MN
55402

KJERVIK DIANE
4302 POWEL HALL U OF M
MPLS MN

KNOPP TIMOTHY
COLLEGE FORESTRY U OF M
ST PAUL MN
55108

KNUTSON DR KEITH,BIOLOGY DPT
ST CLOUD STATE
ST CLOUD MN
56301

KOPP MRS VERNON
2050 65TH ST E
INVER GR HGHT MN
55075

KRAMER ERNEST W
717 DELAWARE ST SE
MPLS MN
55440

KROON H CLIFTON
210 E WALNUT
MANKATO MN
56001

LABELLE JUANITA MRS
5816 AQUILA AVE NO
NEW HOPE MN
55428

LAKE SUPERIOR INDUSTRIAL BUR
828 FIRST AM. BK. BLDG.
DULUTH MN
55802

LAPP LAZAR LAURIE ET AL
1200 BUILDERS EXCHANGE
MINNEAPOLIS MN
55402

LARSON C L
3800 MINNEHAHA AVE SO
MPLS MN
55406

LEAGUE WOMEN VOTERS OF MINN
555 WABASHA
ST PAUL MN
55102

LEG.REF.LIB-Z. DEWITT
RM 111 STATE CAPITOL
ST PAUL MN
55155

LINDALL & JONATHAN DEVELOP.
VILLAGE ONE CENTER
CHASKA MN
55318

LOCKNER GARY
R R 1 BOX 23
BAUDETTE MN
56623

LYNCH DONALD SIBLEY CO
184 E 6TH ST
ST PAUL MN
55102

MALECKI JAMES
1 SO STATE ST
NEW ULM MN
56073

MALONE E I COMM LABOR & I
444 LAFAYETTE RD 5TH FL
ST PAUL MN
55101

MANTHEY T J PICKANDS MATHER
1100 SUPERIOR AVE
CLEVELAND OH
44114

MASTOR & MATTSON LTD
315 PEAVEY BLDG
MPLS MN
55402

MCCLURG EUNICE
1061 109TH AVE NE
BLAINE MN
55434

MCDONALD PHILIP M
2077 SELBY AVE
ST PAUL MN
55104

MCNEILLY GREG MNDSVIEW ED AS
41 SHERBURNE AVE
ST PAUL MN
55103

MET. WASTE CONTOL COMM.
350 METRO SQ BLG
ST PAUL MN
55101

METROPOLITAN COUNCIL LIBRARY
300 METRO SQUARE
ST PAUL MN
55155

MEYER HERBERT
10824 ZENITH AVE S
BLOOMINGTON MN
55431

MILLER PAUL J PHARMACY SERV
ST MARYS HOSP
ROCHESTER MN
55901

MILLER RICHARD A
1020 PLYMOUTH BLDG
MPLS MN
55402

MINN ASPHALT PAVEMENT ASSN
555 WABASHA RM 209
ST PAUL MN
55102

MINN ASSN COOPERATIVES
55 SHERBURNE AVE
ST PAUL MN
55103

MINN ASSN VOL SOC SERVICE
1821 UNIV SUITE 389
ST PAUL MN
55114

MINN ASSN WATERSHED DIST'

ADA MN
56510

MINN COMMUNITY DEVELOP SERV
512 ROSSMOR BLDG
ST PAUL MN
55101

MINN DEPT HEALTH J C MCKA
717 DELAWARE S E
MPLS MN
55440

MINN GOV ENG COUNCIL
2400 SHERWOOD HILL RD
MINNETONKA MN
55343

MINN HEREFORD-LJ SCHAFER

BUFFALO LAKE MN
55314

LEWIS DR.G.M JR.
ABBOTT 110 E 18TH ST
MPLS MN
55403

LIBBEY LEONARD
BOX 17011 NOKOMIS STA
MPLS MN
55417

LOWE DOUG
2701 N LEXINGTON AVE
ROSEVILLE MN
55113

LUTH SOC SERVICE OF MN
2414 PARK AVE
MPLS MN
55404

MAHCF RICK CARTER
2850 METRO DR SUITE 431
BLOOMINGTON MN
55420

MANKATO STAT STUDENT SENATE
CENTENNIAL STUDENT UN
MANKATO MN
56001

MANKATO STATE STUDENT ASSN
BOX 58 MANKATO COLLEGE
MANKATO MN
56001

MAUL WARREN E
320 S 4TH ST
MPLS MN
55415

MAYO FOUNDATION G CROWELL
200 FIRST AVE NW
ROCHESTER MN
55901

MCFADDEN G H DISPATCH-PRESS
55 E 4TH ST
ST PAUL MN
55101

MCKIBBON MRS SHIRLEY
11 EVERGREEN LN
BABBITT MN
55706

MEIEROTTO, JOAN
1794 SO LEXINGTON
ST PAUL MN
55118

MET TFR MEN ASSN A ROSENTHAL
1821 UNIV AVE
ST PAUL MN
55104

MIDLAND GLASS-HD SPURLING
PO BOX 69
SHAKOPEE MN
55379

MILLER M ADMIN AGENCIES DIV
G19K STATE ADM BLDG
ST PAUL MN
55155

MILLER TOM
2311 PILLSBURY AVE S
MPLS MN
55404

MINN APT ASSN
GRIGGS-MIDWAY BLDG
ST PAUL MN
55104

MINN ASSN ELEC COOPERATIVES
4901 W 77TH ST
MPLS MN
55435

MINN. ASSN. PET RETAILERS
1115 2ND AVE. SO.
MINNEAPOLIS MN
55403

MINN CHAP ASSOC BLDRS-CONTRS
7204 W 27TH ST
MPLS MN
55426

MINN COMM FOR HANDICAPPED
METRO SQ 492 7TH & ROBT
ST PAUL MN
55101

MINNESOTA FARMERS UNION
1717 UNIVERSITY AVE
ST PAUL MN
55104

MINN FOOD RETAILERS ASSN
555 WABASHA
ST PAUL MN
55101

MINN LAND USE COMMITTEE
4344 IDS CENTER
MPLS MN
55402

MINN LP GAS ASSN
7515 WAYZATA BLVD 106
MPLS MN
55426

MINN POLLUTION CONTROL AGCY
1935 W CO RD B2
ROSEVILLE MN
55113

MINN POULTRY & HATCHERY A
BOX 158
MADELIA MN
56062

MINN RETAIL FED INS
131 METRO SP
ST PAUL MN
55101

MINN RETAIL HARDWARE ASSN
3033 EXCELSIOR BLVD 313
MPLS MN
55416

MINN STATE EMP UNION COUNC 6
236 E PLATO BLVD
ST PAUL MN
55107

MINN STATE MEDICAL ASSOC
STE 900 AM NATL BK BLDG
STPAUL MN
55101

MINN TBR PRODUCERS ASSN
200 CHRISTIE BLDG
DULUTH MN
55802

MINN.TURKEY GROWERS ASSN
2383 UNIV AVE
ST PAUL MN
55114

MINN-WISC BOUNDARY AREA COMM
600 2ND ST
HUDSON WI
54016

MN AUTOMOBILE DEALERS ASS
277 UNIV AVE
ST PAUL MN
55103

MN.BD OF NURSING
717 DELAWARE ST SE
MPLS MN
55414

MN ELECTRICAL ASSN
3100 HUMBOLT SO
MPLS MN
55408

MN SOC SERV ASS J HOOD
614 PORTLAND
ST PAUL MN
55102

MN ST PHARMACEUTICAL ASSN
2469 UNIVERSITY AVE
ST PAUL MN
55114

MOFFITT R C
RM 301 M MPLS CITYHALL
MPLS MN
55415

MOOD R BLOOMINGTON HLTH D
10200 PENN SO
BLOOMINGTON MN
55431

MOTOR VEHICLE MFRS ASSN
411 MAIN ST (215)
ST PAUL MN
55102

MPIRG
BOX 45 ST MARYS COLLEGE
WINONA MN
55987

MPLS STAR PRESS ROOM
STATE CAPITOL
ST PAUL MN
55101

MPLS TRIBUNE CITY DESK
425 PORTLAND AVE
MPLS MN
55415

MURPHY PATRICK SSR INC
BOX 986 COURTHOUSE STA
ARLINGTON VA
22216

MURPHY PATRICK DUFFY
1440 SUMMITT AVE
ST PAUL MN
55105

MINN. HOTEL & MTR. ASSN
2001 UNIVERSITY AVE
ST PAUL MN

MINN HWYS MANAGEMENT SERVICE
407 HWY BLDG
ST PAUL MN
55101

MINN.MTR.TRANSP. .J.N.DENN
1821 UNIV.
ST.PAUL MN
55104

MINN PETROLEUM COUNCIL
1020 NORTHERN FED BLDG
ST PAUL MN
55102

MN REP STATE CENTRAL COMM
555 WABASHA AVE
ST PAUL MN
55102

MINN RESTAURANT ASSN
2001 UNIVERSITY AVE.
ST PAUL MN
55104

MINN STATE BAR ASSN
100 MINN FED BLDG
MPLS MN
55402

MINN STATE BD PHARMACY
717 DELAWARE ST SE #351
MPLS MN
55414

MINN STATE RETIREMENT SYSTEM
529 JACKSON ST
ST PAUL MN
55101

MINN TEAMSTERS CREDIT UNION
2021 HENN AVE E
MPLS MN
55413

MINN VETERANS MED ASSN
2175 W HWY 36
ROSEVILLE MN
55113

MINN WATER RESOURCES BD
RM 206 555 WABASHA ST
ST PAUL MN
55102

MN. ASN.C&IND H.D.PETERSON
480 CEDAR ST.
ST.PAUL MN
55101

MN AFL-CIC L.O. LASHOMB
175 AURORA
ST PAUL MN
55103

MN GRAPHIC DESIGNERS ASSO
PO BOX 24272
MPLS MN
55424

MN PUB INT RESEARCH GROUP
3036 UNIV AVE SE
MPLS MN
55414

MN STATE SER BLIND-K NATARDY
1745 UNIVERSITY AVE
ST PAUL MN
55104

MIXA FRANK LK MNTKA CONS DIS
402 E LAKE ST
WAYZATA MN
55391

MORTON BUILDINGS INC
R #1
FOLEY MN
56329

MOSS DR JEROME
125 PEIK 159 PILLSBURY
MPLS MN
55455

MPLS ASSN RETARDED CITIZENS
3100 W LAKE ST
MPLS MN
55416

MPLS CITY ATTORNEY
325M CITY HALL
MPLS MN
55415

MT OLIVET ROLLING ACRES
R 1 BOX 576
EXCELSIOR MN
55331

MURPHY DIANA E
4200 IDS-LINDQUIST VENN
MPLS MN
55402

NATL CAR RENTAL ATT D MITZEL
5501 GREEN VALLEY DR
MPLS MN
55437

NATL COUNCIL JEWISH WOMEN
4330 CEDAR LK RD
MPLS MN
55416

NELSON HOWARD I

LINDSROM MN
55045

NELSON JOHN
4809 180TH ST N
HUGO MN
55038

NO SUB MONTESSORI-S SADDLER
2487 HELEN COURT
NO ST PAUL MN
55109

NORTH CENTRAL ELEC ASSN
PO BOX 202
BATTLE LAKE MN
56515

NW BELL TEL CO LEGAL DEPT
224 S 5TH ST RM 2000
MPLS MN
55402

NW COUNTRY ELEVATOR ASSN
802 GRAIN EXCH BLDG
MPLS MN
55415

O'BRIEN J.DENNIS
1100 1ST NATL.BANK BLDG
MINNEAPOLIS MN
55402

OLOFSON ARTHUR MBO & MAINC
927 SOO LINE BLDG
MPLS MN
55402

OLSON KATHLEEN
192 SEYMOUR AVE SE
MPLS MN
55414

PARKER SANDY
7480 CHANHASSEN ROAD
EXCELSIOR MN
55331

PATTISON ORVIS
BOX 645
WILLMAR MN
56201

PETERSEN DOUG ESIDE NEIGHBOR
HOOD SERV 1929 2ND STNE
MPLS MN
55418

PETERSON MYRON D
ROUTE 2 BOX 99
SACRED HEART MN
56285

PHILLIPS LEGISLATIVE SERVICE
459 RICE ST
ST PAUL MN
55103

PINNETTI NICK M HALEY & A
40 CENTRAL PARK S
NEW YORK NY
10019

PORTER LYLE O

TRACY MN
56175

PORT AUTH CITY OF ST PAUL
330 MINNESOTA BLDG
ST PAUL MN
55101

PRAUSE JOS.C.
2220 105TH AVE.N.W.
COON RAPIDS MN
55433

PROCTOR&GAMBLE L THEOHAR
IVORYDALE TECH CENTER
CINCINNATI OH
45217

RADMAN RICHARD-LABOR TEMP
418 AUDITORIUM
ST PAUL MN
55102

NASS GEO V HENN CO GEN HOSP
5TH AND PORTLAND AVE
MPLS MN
55415

NATL FAMILY INS CO
2147 UNIV AVE
ST PAUL MN
55114

NCEC INC C/O DR DAHLBERG
CONCORDIA COLLEGE
MOORHEAD MN
56560

NEREN MADONNA
376 NEAL AVE S
AFTON MN
55001

NEUMAN RALPH W
RT 2 BOX 125
EMBARRASS MN
55732

NURSING HOME ADMRS BD EXAMRS
RM 340 717 DELAWARE SE
MPLS MN
55414

NURSING HOME RES ADV CO.
111 E FRANKLIN S210
MPLS MN
55404

NW REG. DEV. COMM
425 WOODLAND AVE
CROOKSTON MN
56716

NYQUIST DEAN A
3707 53RD PL N
BROOKLYN CTR MN
55429

O'CONNELL RAY
MN GAS CO 733 MARQ AVE
MPLS MN
55402

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
ST PAUL MN
55101

OTTER TAIL POWER CO.
215 S. CASCADE ST.
FERGUS FALLS MN
56537

PAYNE COL ALVIN

DEGRAFF MN
56233

PAYNE WM B
2400 FIRST NATL BK BLDG
MPLS MN
55402

PFEIFER AND SHULTZ, INC
1433 UTICA AVE S
MPLS MN
55416

PHAR MFGRS ASSN WM D PATTON
1155 15TH ST NW
WASHINGTON DC DC
20005

POPOVICH PETER S
314 MINN BLDG
ST PAUL MN
55101

PORTER DAVID
3002 27 AVE S
MPLS MN
55406

POSS DONALD G
6301 SHINGLE CREEK PKWY
BROOKLYN CTR MN
55430

POYZER ROBT
BOX 675
FERGUS FALLS MN
56357

PULSCHER RBT SPRINGSTED INC
813 OSBORN BLDG
ST PAUL MN
55102

RAUENHORSTCORP-RONALD G KIRK
7900 XERXES S S-2200
MPLS MN
55431

REAGAN MICHAEL
% MINN LEARNING CTR
BRAINERD MN
56401

RED OWL STORES INC
215 E EXCELSIOR AVE
HOPKINS MN
55343

REGION FIVE REG. DEV. COM
102 6TH ST N
STAPLES MN
56479

RENNER R.H. ST PAUL AREA CC
300 OSBORN BLDG.
ST PAUL MN
55102

RENQUIST ARTHUR NSP CO
414 NICOLLET MALL
MPLS MN
55401

RIEKE DAVID
PO BOX 9311
MPLS MN
55440

ROE DAVID
175 AURORA
ST PAUL MN
55103

ROBERTS DAVID E
1260 NW NATL BK BLDG
ST PAUL MN
55101

ROSS ALFRED
6356 WARE RD
LINO LAKES MN
55014

SAN SIMEON DEVELOP CORP
OLD 1ST STATE BK BLDG
PAYNESVILLE MN

SANFORD S M
7000 PORTLAND AVE
RICHFIELD MN
55423

SPRAGUE CHARLOTTE B
AREA HOSPITAL BOX 339
WINDOM MN
56101

ST PAUL BUR HLTH DR P COX
555 CEDAR ST
ST PAUL MN
55101

SCARBOROUGH WILLIAM
DIV.ED. U.M.
MORRIS MN
56267

SCHAEN ETHEL
1745 UNIVERSITY AVE
ST PAUL MN
55104

SCHMIDT LARRY WCCO-TV NEWS
50 S 9TH ST
MPLS MN
55402

SCHMIDT WARREN WELLCOME M
GARDEN CITY
MN
56034

SCHWARTAU NEAL METH HOSP
201 W CENTER ST
ROCHESTER MN
55901

SCHWERMAN EARL JR
1535 8TH AVE SE
ROCHESTER MN
55901

SCHROEDER ALFRED H
2172 CARROLL AVE
ST PAUL MN
55104

SELECTVISION INC FR VALEN
1 DAG HAMMARSKJOLD PL
NEW YORK NY
10017

SENATE GOV OP COMM
RM 303 STATE CAPITOL
ST PAUL MN
55155

SHABATURA EUGENE H
2833 LAKE AVE SO
DULUTH MN
55811

RALPH BURKE ASSOCIATES
5200 W 73RD ST
MPLS MN
55435

RAMSEY CO MEDICAL SOC
908 AM NATL BK BLDG
ST PAUL MN
55101

REARDON MRS HELEN
1125 S E 6TH ST
WILLMAR MN
56201

REID DAVID H
6469 N GRAHAM RD
INDIANAPOLIS IN
46220

REGION NINE DEV. COMM.
709 N FRONT ST
MANKATO MN
56001

REINO O LAINE 3M COMPANY
3M CENTER
ST PAUL MN
55101

RICHARDSON THOS
7851 METRO PKWY S 103
MPLS MN
55420

RICHARDS MONTGOMERY ET AL
1430 RAND TOWER
MPLS MN
55402

ROBBIE JOSEPH
904 CARGILL BLDG NO CTR
MPLS MN
55402

ROBERTS DR ALAN
BOX 297 MAYO U OF M
MPLS MN
55455

ROSS ROY J
CLK TREAS
LITCHFIELD MN
55355

SAX DOVE & STENSON
310 ENDICOTT BLDG
ST PAUL MN
55101

SE MN REG DEV COMM
301 MARQ BK BLDG
ROCHESTER MN
55901

ST PAUL FOOD RETAILERS ASSN
1220 ARCADE
ST PAUL MN
55106

SW REGIONAL DEV COMM
2811 BDWY
SLAYTON MN
56172

SCHLICHT REV ROBT
611 W MAIN ST
BELLE PLAINE MN
56011

SCHMIDT H W TCHRS RETIREMENT
302 CAPITOL SQ BLDG
ST PAUL MN
55101

SCHNEIDER MAHLON
GREEN GIANT
LESUEUR MN
56058

SCHUTZ LINDA
RM 328 CAPITOL BLDG
ST PAUL MN
55155

SCHWINN ROBT.P.
1400 SOO LINE BLDG.
MPLS. MN
55402

SCHNEIDER & NEESER
706 1ST ST SO PO BX 876
WILLMAR MN
56201

SENATE COUNSEL OFFICE
ROOM 480 STATE OFF BLDG
ST PAUL MN
55055

SENATE FINANCE COMMITTEE
ROOM 121 STATE CAPITOL
ST PAUL MN
55155

SILVERMAN JUDITH
8545 W 28TH ST
ST LOUIS PARK MN
55426

SITE ENGINEER INC
12 OLD DEERFIELD RD
WELCH MN
55089

SMITH MICHAEL
128 PLEASANT STREET SE
MPLS MN
55455

SNELL LYN
BOX 314
EDEN VALLEY MN
55329

SODERMAN ANTHONY
1414 FOSHAY TOWER
MPLS MN
55402

STANSFIELD ARLENE LAND O
PO BOX 116
MPLS MN
55440

STD AM LIFE & ANNUITY CO
3801 W 50TH ST
MPLS MN
55410

STEELWORKERS CREDIT UNION
BOX 250
BABBITT MN
55706

SULLIVAN J KIRK
PO BOX 200
BOISE ID
83701

SULLIVAN JEANETTE
COIC SW STATE UNIV
MARSHALL MN
56258

SWANSON BURT E
W-2162 1ST NATL BK BLDG
ST PAUL MN
55101

SWANSON DALE
P O BOX 339
FOREST LAKE MN
55025

TATE VERN 3M CO
3M CENTER 220/6W
ST PAUL MN
55101

TENNESSEN SEN ROBERT J
RM 309 STATE CAPITOL
ST PAUL MN
55165

TWIN CITIES PIPING IND ASSN
2829 UNIV SE SUITE 304
MPLS MN
55414

VANDERVOORT T J MET WASTE
350 METRO SQUARE BLDG
ST PAUL MN
55101

VERRILL JOHN E
DEPT SECONDARY ED UOF M
DULUTH MN
55812

VIITALA, W.C. HONEYWELL
HONEYWELL PLAZA
MPLS MN
55408

VOS LEROY
2137 BURNS AVE
ST PAUL MN
55119

WAMPLER LINUS DIR USW OF AM
609 PROVIDENCE BLDG
DULUTH MN

WANQUIST ALLEN
RM 252 FEDERAL BLDG
ST PAUL MN
55101

SHAW ROBERT M
616 MOBIL OIL BLDG
MPLS MN
55402

SIAS JACK W
BOX 4366-1573 SELBY AVE
ST PAUL MN
55104

SIX EAST REG. DEV. COMM.
311 W 6TH ST
WILLMAR MN
56201

SMERIKA WN.
BOISE CASCADE PAPERS
INTL FALLS MN
56649

SNYDER, R.W. U OF M
RM 248C CLASS OFF BLDG.
ST PAUL MN
55108

SODERBERG HAROLD J
1500 MIDWEST PLAZA BLDG
MPLS MN
55402

STATE & FEDERAL AGENCIES
1101-15TH NW
WASHINGTON DC
20005

STATE BD VETERINARY EXAMINER
C/O DR A C SPANNAUS DVM
WACONIA MN

STOLPESTAD BROWN & SMITH
1550 NW BK BLDG
ST PAUL MN
55101

STUPKA & MOREM
MIDTOWN BLDG
AUSTIN MN
55912

SUMMIT NATL BANK D L MORRILL
205 AURORA AVE
ST PAUL MN
55103

SUSSEL CO.ATTN:TED SCHWENKER
1850 COMO AVE.
ST PAUL MN
55108

SWANSON MORTIMER C
5824 FRANCE AVE S
EDINA MN
55410

THOMPSON HESSIAN ET AL
1500 MIDWEST PLAZA BLDG
MPLS MN
55402

TIMESAVERS INC ATT R S VOLD
5270 HANSON COURT
MPLS MN
55422

UNION STOCK YARDS
ATTN PRES
SO ST PAUL MN
55075

UTLEY JOHN
4610 IDS CENTER
MPLS MN
55402

VAN DRAKE STEPEN R
PO BOX 2134
TRIPOLI LIBYA N
ARAB

VAN EVERA MUNDT ET AL
700 TORREY BLDG
DULUTH MN
55802

VILLAGE OF WOODBURY
2100 RADIO DRIVE
WOODBURY MN
55042

VOSS REV GORDON O
11120 NE 7TH ST
BLAINE MN
55434

WALTERS THOS H
4510 W 77TH ST STE 235
MPLS MN
55435

WALZ SAM CO ADMINISTRATION
ANOKA CTY COURTHOUSE
ANOKA MN
55303

ADM. 1000A

STATE OF MINNESOTA

DEPARTMENT OFFICE OF HEARING EXAMINERS

Office Memorandum

TO : RICHARD L. BRUBACHER
Commissioner
Department of Administration

DATE: May 30, 1978

FROM : DUANE R. HARVES
Chief Hearing Examiner

SUBJECT: INCORPORATION BY REFERENCE

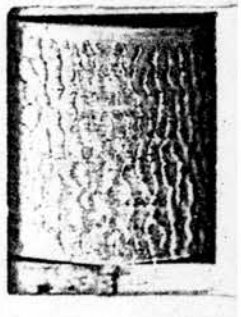
Pursuant to your request of May 25, 1978, attached to this memorandum is the original of the Order of the Chief Hearing Examiner allowing incorporation by reference in your rules of the Federal Property Management Regulation (FPMR) 101-44.207.

DRH:sh
Enc.
cc: Peter C. Erickson

RECEIVED

MAY 30 1978

Dept. of Administration
Office of Commissioner



STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF ADMINISTRATION RELATING TO STANDARDS, GUIDELINES, AND PROCEDURES FOR DETERMINATION OF ELIGIBILITY TO PARTICIPATE IN SURPLUS PERSONAL PROPERTY PROGRAMS.	ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, on May 25, 1978, the Minnesota Department of Administration (hereinafter "Department") by its Commissioner, Richard L. Brubacher, submitted a request to the Chief Hearing Examiner for approval of the incorporation by reference of certain documents in rules to be proposed; and

WHEREAS, pursuant to Minnesota Statutes (1977 Sup.) § 15.0412, Subd. 4, agencies may incorporate by reference provisions of federal law or rule or other materials from sources which the Chief Hearing Examiner determines are conveniently available for viewing, copying and acquisition by interested persons; and

WHEREAS, the Chief Hearing Examiner has reviewed Federal Property Management Regulation (FPMR) 101-44.207 and has found this federal rule to be in excess of 3,000 words and has determined that it would exceed five pages of publication in the State Register; and

WHEREAS, the Department has shown to the Chief Hearing Examiner, and the Chief Hearing Examiner so finds, that the rule is conveniently available for viewing, copying and acquisition by interested persons.

NOW, THEREFORE, IT IS ORDERED that the Department shall have the approval of the Chief Hearing Examiner to incorporate by reference in their proposed rules the above-referenced federal rule.

Dated this 30th day
of May, 1978.

DUANE R. HARVES
Chief Hearing Examiner

Agency Exh "N"

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

RECEIVED
JUN 28 1973
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Rules and Amendments to Existing Rules Pertaining to Several Units of the Department of Administration

STATEMENT OF NEED

These proposed rules, and amendments to existing rules, govern the implementation of the Commissioner of Administration's responsibilities pursuant to several different sections of Minnesota Statutes. The proposed rules have been placed in chapters, each of which refers to a different division of the Department of Administration. The statutory authority for the responsibilities to which these rules apply and the statutory authority for rules promulgation will be addressed in this statement separately for each chapter containing proposed rules. These proposed rules are a response to the responsibilities and requirements imposed by Minn. Stat. § 15.0412, subd. 3, and the Department of Administration's recognition of the need for public input to the manner of operation in several areas of the department in which the Commissioner of Administration has been granted the authority to promulgate rules.

Chapter 5: Intergovernmental Information Systems Advisory Council. Pursuant to Minn. Stat. §§ 16.90 and 16.911, 2 MCAR §§ 1.2501 - 1.2508 govern the processing of grant proposals received by the Intergovernmental Information Systems Advisory Council (IISAC) for possible funding of projects or programs related to data processing and systems analysis. The statutory authority for these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.96.

2 MCAR § 1.2501. This rule reasonably defines the purpose and scope relating to the processing of grant proposals and is needed to clarify for the public the matters to which the rules which follow apply.

2 MCAR § 1.2502. This rule defines the terms used in these rules. The rule is needed in order to add clarity to these rules and to minimize verbiage in the text of the rules.

2 MCAR § 1.2503. This eligibility rule is necessary to reasonably specify the types of agencies from which proposals and applications will be accepted in accordance with Minn. Stat. §§ 16.90, subd. 3. This rule is also needed in order to indicate to the public where additional information regarding possible funding of projects or programs by IISAC is available.

2 MCAR § 1.2504. This rule provides reasonable procedures for submission of proposals and is necessary to describe the content and format of data and information submitted for review and to make known the contact person and address to which proposals and applications are forwarded. These application procedures and the requirements therein are considered necessary for proper identification of the applicant and for processing of the application. It is believed that an applicant could reasonably be expected to provide the information required in the format required.

Agency Exh. "I"

2 MCAR § 1.2505. This rule is necessary in order to provide applicants with reasonable notice of official receipt of a proposal by IISAC and notification of application completeness as well as date of review. This is information which an applicant can reasonably expect to be provided by IISAC.

2 MCAR § 1.2506. Oral presentations may reasonably be necessary to more fully explain applications and proposals to the reviewing committees and the Council in order to clarify questions raised in the evaluation process. This rule is needed to inform potential applicants of this possibility.

2 MCAR § 1.2507. Approval or Disapproval of Application. This rule is necessary to explain the decision making process on grant applications, to indicate the criteria used in these decisions, and to describe the method of notification of final disposition of requests. This rule is necessary in order that potential applicants be aware of the process to which their application will be subjected. The criteria are reasonable in that they assure that grants will be made within budgetary limits, and that the limited funding available is applied to projects with the greatest chance of success, the greatest benefits, and the widest future application.

2 MCAR § 1.2508. This disclaimer is necessary in order to inform potential applicants that the Council is not liable for costs relating to proposal or application development and that submission of an application or proposal does not in and of itself insure funding. This rule is reasonable in that IISAC and the Commissioner of Administration, who are held accountable for legislative appropriations expended for IISAC grants, are not committed to expenditures which they have not authorized and over which they have no control.

Chapter 9 A: Materials Management - Documents. Pursuant to Minn. Stat. §§ 16.02, subd. 17 and 24, 16.026, 16.80 and 16.811, 2 MCAR §§ 1.3001 - 1.3006 inform the general public of procedures and conditions relating to the availability of publications, maps, and other services from the Documents Section of the Department of Administration's Materials Management Division. The statutory authority for these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.3001. This rule is needed to reasonably clarify for the public the matters to which the rules which follow apply. This rule also reasonably defines terms used in these rules which are needed to add clarity and minimize verbiage in the text in the rules.

2 MCAR § 1.3002. This rule is needed to reasonably notify the public how to identify available items. This approach represents the most economical and most effective means by which the public may become informed as to what publications are available while insuring the public ready access to available materials.

2 MCAR § 1.3003. This rule provides needed information on how the public may purchase materials from the Documents Section. This procedure provides an efficient method of payment for public documents and related items; consequently, assuring a high degree of accuracy in order processing. The customer deposit section represents a common and reasonable business practice to satisfy customer requirements for items which are out-of-stock.

2 MCAR § 1.3004. This rule is needed to reasonably inform the citizenry of the State of Minnesota of services other than those routinely offered by the Documents Section. The rule provides the most efficient means for informing the citizenry.

2 MCAR § 1.3005. This rule is needed to inform the public of the factors reasonably considered in the establishment of fees. In operating a revolving fund, it is essential that normal operational expenses be applied in the determination of a fee schedule for materials provided. Also, fee schedules must be subject to change without notice because it would be uneconomical to notify everyone of minor changes resulting from printing cost fluctuations.

2 MCAR § 1.3006. This rule is needed to inform the public of a disclaimer of liability of the Documents Section for materials sold. The rule appropriately and reasonably places liability, since the Documents Section is a mere conduit through which various agencies make materials available.

Chapter 9 B: Federal Surplus Property. Pursuant to Minn. Stat. § § 16.061 - 16.066, 2 MCAR§§ 1.3101 - 1.3109 set forth the procesures and requirements relating to the acquisition and use of federal surplus property by Minnesota governmental or non-profit organizations. The rulemaking authority for these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.3101. This rule reasonably identifies the statutory authority of the Department of Administration relating to federal surplus property and briefly defines the program. The rule is needed in order that the reader of the rules understands the outline of the program to which the rules apply.

2 MCAR § 1.3102. Definitions are provided and needed so that there is a common understanding of both the language used in these rules and certain terms commonly used by persons utilizing Federal Surplus Property. These definitions reasonably achieve this end.

2 MCAR § 1.3103. Eligibility criteria for federal surplus property use are set by federal regulations. By order of the Chief Hearing Examiner, Federal Property Management Regulation 101-44.207 has been incorporated by reference in this rule. The rule being proposed herein reasonably summarizes eligibility standards and is needed to provide potential participants with a preliminary indication as to whether they are qualified to participate. Furthermore, this rule is needed to inform prospective participants how and where to apply for determination of eligibility. The rule is reasonable because it establishes the most economical and convenient method for public access to eligibility information.

2 MCAR § 1.3104. This rule is needed to inform donees of the financial management and service charge factors utilized in the Federal Surplus Property Program. In operating a revolving fund, it is essential and reasonable that normal operational expenses be applied in the determination of service charges for property provided donees. It is consistent with federal regulations and is deemed reasonable and equitable that the special or extraordinary costs for particular items should be borne by the individuals purchasing those items.

2 MCAR § 1.3105. This rule is needed to inform the donees of terms and conditions applicable to donable property. These terms and conditions are reasonable and consistent with basic principles of personal property management and are in accordance with federal regulation.

2 MCAR § 1.3106. This rule is needed to inform the donees of the reasonable factors which we will consider in the distribution of federal surplus property. The criteria used are based on standards being adopted by virtually all states, with the endorsement of the federal agency administering the program nationwide.

2 MCAR § 1.3107. This rule is needed to inform the donees of appropriate procedures governing use and disposition of federal surplus property. Optimum utilization of federal surplus property is provided through these procedures, and the integrity of the statewide property utilization program is ensured by an audit program. For these reasons, the rule is reasonable.

2 MCAR § 1.3108. This rule is needed to inform the donees of required procedures for the sale of obsolete, surplus, and recyclable personal property purchased through the federal surplus property program, which no longer provides any utility value to the Federal Surplus Program. These procedures are necessary to reasonably ensure optimum return in the sale of property no longer needed by donees.

2 MCAR § 1.3109. This rule is needed to inform the donees of the method by which they may assist in determining relative needs and resources of donees. Virtually all states use this type of method for assistance in determining relative needs and resources of donees since it encourages participation by appropriate private and public groups.

Chapter 9 C: Office of the State Register. It is proposed that all existing rules presently promulgated, adopted, and published as "The Office of the State Register Rules of Operation" be repealed. Review of these rules indicated that they consist primarily of internal management procedures which do not directly impact on the rights and procedures available to the public. Considering them to be improperly promulgated as rules, we herein propose their repeal.

Pursuant to Minn. Stat. §§ 15.041 - 15.051, 2 MCAR §§ 1.3201 - 1.3205 govern the availability of publications from the Office of the State Register of the Department of Administration's Materials Management Division. The statutory authority for these rules is provided by Minn. Stat. § 15.0412, subd. 3.

2 MCAR § 1.3201. This rule reasonably identifies the service available to the public as authorized under appropriate sections of Minn. Stat. Chapter 15 and is needed to inform the public of the general scope of available services.

2 MCAR § 1.3202. This rule establishes the most efficient, economical, and reasonable procedure for instructing the public how to purchase publications from the State Register Section. The rule is needed to inform the public of this procedure. The Finality of Sales Section is is needed to reasonably provide for economical subscription services similar to those used in common business practices.

2 MCAR § 1.3203. This rule is needed to provide information on the factors reasonably considered in the establishment of fees. In operating a revolving fund, it is essestion that normal operational expenses be applied in the determination of a fee schedule for materials provided.

2 MCAR § 1.3204. This rule is needed to inform the public of the reasonable disclaimer of liability of the State Register Section for materials published. All material published is prepared by other agencies and these agencies reasonably bear the responsibility for the content of materials provided for publication.

2 MCAR § 1.3205. This rule is needed to provide information to the public on the use of errata listings in the correction of publication,omission in copy,or other errors. This method is a reasonable, economic, and systematic way of informing clientele of errors occurruing in previous publications.

Chapter 9 D: State Surplus Property Sales. Pursuant to Minn. Stat. §§ 16.02, 16.07, 16.08, 16.24, and 16.28, 2 MCAR §§ 1.3301 - 1.3306 govern the disposition of all obsolete, surplus and recyclable state property. Statutory authority for promulgation of these rules is provided by Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.3301. This rule cites the statutory references to the State Surplus Property Sales Program and is needed so that the public may easily refer to these citations. The rule defines the scope of 2 MCAR §§ 1.3301 - 1.3306 in order that the reader understands what is to follow.

2 MCAR § 1.3302. Paragraph A of this rule is needed to put potential purchasers on notice that the state shall make no warranty on property sold. Considering the type and volume of property sold, it would be unreasonable, if not virtually impossible, for the state to extend and monitor the control of warranties for property sold. Moreover, the estimated remaining life expectancy of operable personal property would be impossible to reasonably estimate. For these reasons, the state shall make no warranty on property sold. In order that purchasers are fully aware of this policy and to protect the state in claims against it, the purchaser is required to sign a waiver accepting this condition.

Paragraph B of this rule reasonably summarizes statutory implications for property transfers and is needed to ensure compliance with Minnesota law, and to inform potential property purchasers of the transfer requirements.

2 MCAR § 1.3303. Paragraph A of this rule is needed in order to inform the public of how they may be notified of state auction sales. The process described is reasonable and is consistent with good business practice. Paragraph B establishes the manner in which payments for purchased merchandise may be made. This section is needed to ensure consistent application of terms and requirements and to put the purchasing public on notice that these terms and requirements must be complied with. The terms and requirements are considered reasonable and are consistent with good business practice in protecting the state's interests. Paragraph C provides every licensed auctioneer in the state with the opportunity to provide their auctioning services at state public

auction sales. This section is needed both to inform potential auctioneers of this opportunity and to reasonably ensure a fair choice of auctioneers at the least possible price.

2 MCAR § 1.3304. Paragraph A is necessary to afford the public the opportunity to purchase state surplus property via the sealed-bid process. Paragraph B is needed to inform the potential purchaser of the reasonable conditions of sealed-bid sales. It is reasonable that the state not assume responsibility for variance from estimates of numbers or weight of merchandise since with many commodities it is not feasible to count or weigh the exact amount being sold. Liquidated damages for failure of bidder to enter into contract reasonably prevents speculative bidding and provides necessary assurance to the state the sale will be consumated. By awarding to the highest responsible bidder, the state complies with Minn. Stat. §§ 16.07 and 16.08, and ensures that it receives the highest compensation possible for its surplus property. Paragraph C is needed to inform applicants on sealed-bid mailing lists of the circumstances under which they may reasonably be removed from such lists. This section is a preventative measure to avoid unnecessary administrative costs to the state in conjunction with sealed-bid sales.

2 MCAR § 1.3305. Pursuant to Minn. Stat. § 16.07, subd. 4, sales of surplus property may be conducted through negotiated sales. Paragraph A of this rule is needed to inform the general public of the opportunity to purchase state surplus personal property via the negotiated sales process, and the means by which the public may do so. Paragraph B defines the reasonable conditions for such negotiated sales. It is reasonable to implement such a policy since situations arise where the state is unable to obtain three competitive bids for certain commodities. There are other situations where a negotiated sale is deemed to be in the best interest of the state, including purchase of particular pieces of equipment by political subdivisions of the state. Negotiated sales are conducted generally in situations where there is "one lot - one buyer".

2 MCAR § 1.3306. This rule is necessary to clarify for public employees their eligibility to purchase state surplus property while ensuring integrity in the sales process. This rule is consistent with the requirements of Minn. Stat. § 15.054 (1977). It is considered crucial that this rule be included in this set of rules in order that eligibility for purchase under these rules is clearly explained to a potential purchaser.

Chapter 10: Central Motor Pool. Pursuant to Minn. Stat. § 16.75, 2 MCAR §§ 1.3501 - 1.3502 govern the operation of the Central Motor Pool in the handling of reports and damage claims resulting from vehicle accidents involving Central Motor Pool vehicles. These rules are promulgated pursuant to Minn. Stat. § 15.0412, subd. 3.

2 MCAR § 1.3501. This rule is needed to inform the reader of the purpose and scope of the rules, together with easy reference to the statutory provisions. It also reasonably clarifies the meaning of the "Central Motor Pool" as used in 2 MCAR § 1.3502.

2 MCAR § 1.3502. Few individuals in state employment or other citizens involved in accidents with Central Motor Pool vehicles are familiar with processing of insurance claims. This rule is both needed and reasonable to offer effective mechanisms for assisting each party in making the reports required by law and in receiving prompt settlement. This rule also standardizes the procedure of state government for processing of insurance claims.

Chapter 11: Plant Management. All existing rules published as "Chapter 9: Plant Management Admin. 80: Parking or (sic) Motor Vehicles on Parking Lots" are proposed to be repealed and replaced by a new parking rule. Numerous and major substantive changes in the proposed rules from the existing rules necessitated the repeal of existing rules as opposed to making wholesale amendments to the existing rules. To do otherwise would be unreasonable as it would be confusing to the public.

2 MCAR § 1.4001. Pursuant to Minn. Stat. § 16.72, this rule governs the parking of motor vehicles in parking facilities owned and operated by the State of Minnesota and under the control of the Commissioner of Administration. The rule is promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3, 16.05, and 16.72, subd. 2. While the vast majority of individuals parking in state facilities are state employees, there are numerous instances in which members of the public lease parking stalls from the Department of Administration. It is for this reason that the rule is being proposed.

A. This paragraph is needed to reasonably inform the reader which lots and facilities are under the jurisdiction of this rule.

B. This paragraph is needed to inform the person parking in state parking facilities of practices which are reasonably prohibited. The items listed are all in accordance with Minnesota Statutes and city ordinances. It is regarded as crucial that individuals parking on state facilities be informed of these prohibitions.

C. This paragraph is needed to inform individuals desiring contract parking of the procedures for applying for that parking. All requested information in an application is necessary and reasonable for proper and appropriate processing of the application.

D. This paragraph sets out the reasonable priority order for the granting of permits. It is important that those applying for contract parking understand the order in which their application will be processed. This rule also ensures consistency and equity in the awarding of parking contracts. The initial priority for handicapped persons is provided as a convenience to such persons, it being reasonable to expect that a person without a handicap can more readily walk to futher lots and/or facilities. Provision is also made for applicants with special needs or circumstances such as potentially frequent family emergencies or the necessity for frequent business use of a vehicle during the working day. The second priority category is included to encourage carpooling and thereby further the State of Minnesota's energy conservation program. This is reasonable given the expression of legislative direction in this area, particularly Minn. Stat. § 16.72, subd. 7 (1977). All applicants not qualifying under either of the first two priority groups are served on a first-come-first-served basis, in that this is the most equitable and reasonable distribution of parking contract privileges.

E. This paragraph is needed to inform parking contract holders of the reasonable necessity for displaying parking stickers. The stickers enable security personnel to better and more efficiently control parking lots.

F. This paragraph indicates the procedure and content applied to the setting of fees for parking. The paragraph is necessary in order to inform potential contract parkers of the factors involved in the setting of fees. In operating a revolving fund, it is reasonable and essential that administrative overhead and operating expenses be applied in the determination of a fee schedule. Consideration of the number of carpool passengers is reasonable and consistent with legislative direction as expressed in Minn. Stat. § 16.72, subd. 7 (1977).

G. This paragraph is needed in order that individuals to whom the parking surcharge is applied are aware that they may be exempted from said surcharge. The criteria included to judge exemptions from the surcharge are designed to avoid unfair and unreasonable penalties for those individuals who cannot reasonably and feasibly carpool. The exemption also applies to those individuals unlikely to have access to other people as potential carpool participants. The paragraph provides that an application is necessary on a particular form so that potential applicants know how to go about applying for an exemption. The rule standardizes the procedure and ensures that the division receives the information necessary to process the application. Item 3 is included in order that applicants know the means by which they will be notified of acceptance or denial of their application.

H. This paragraph is needed in order to inform handicapped individuals of the opportunity to receive the handicapped parking permit and priority for parking applications for such individuals. The paragraph provides a reasonable approach which insures that individuals are not discriminated against and that only those that are truely handicapped qualify for special treatment in these rules.

I. This paragraph informs potential users that there is parking available for individuals coming into the Capitol Complex for short periods of time and informs them of the means of obtaining such parking. It reasonably provides for short-term parking in the Capitol Complex.

Paragraph J, K, and L substantially repeat statutory language. Such repetition is regarded as crucial in order that this rule reflect the entire parking procedure, avoiding the necessity of a reader referring back and forth between rule and statute. They are also needed to make a comprehensive understanding of the parking procedure possible.

2 MCAR § 1.4101. Pursuant to Minn. Stat. § 16.022, this rule articulates the manner in which personal property lost on state property will be treated. The rule is needed to inform both employees and the public of where to send personal property which they have discovered on state property and/or where to find personal property which they may have lost on state property. This rule is promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.4201. Pursuant to Minn. Stat. § 16.02, subds. 6 and 6a, this rule governs the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. Statutory authority for promulgation of this rule is contained in Minn. Stat. §§ 15.0412, subd 3, and 16.05. Paragraph A is necessary to explain what is to follow within the rule and to explain to a potential user of the Capitol Complex the procedures by which issuance of permits is governed. The rule has been patterned after the City of Minneapolis parade ordinance. The rule also is needed to insure an orderly and reasonable procedure for use of the Capitol Complex and to insure equal treatment and fairness to all organizations who wish to use the Complex. Section 1 is necessary in order that potential users of the complex know where they may secure a permit. Section 2 indicates that a period of time is necessary for processing of the application for a permit in order that applicants provide the state ample time to prepare for a rally. All application information requested is necessary and reasonable for the processing of the application. Section 3 is necessary to insure that the state is not liable for damages and to provide notice to the potential user of the Complex that potentially severe consequences of their rally must be planned for through the purchase of insurance. Section 4 is necessary to inform potential users that certain uses are not allowed in order that the interests of the state are furthered and to comply with city ordinances and requirements. To allow rallies not conforming to this rule is considered to be unreasonable use of the Capitol Complex.

Paragraph B is needed in order that the state has one responsible contact person to deal with for any one activity. The rule is reasonable in that it avoids the confusion of several different people dealing with the Plant Management Division and security personnel of the state. Possession of the permit during the rally is properly and reasonably required for identification purposes.

Paragraph C is included in order that potential users of the Capitol Complex are aware that they must comply with the criteria and requirements included in this rule.

Paragraph D is necessary to inform the potential user of the Capitol Complex of the consequences should any violation of this rule or applicable state or local law occur.

Chapter 12: Publications and General Services Division. Pursuant to Minn. Stat. §§ 16.02, subd. 16, 16.61, 331.07, 331.08, and 331.09, 2 MCAR § § 1.4501 - 1.4601 provide in part for the certification of and computation of standard and adjusted line rates and relate to the Central Mail Room of the Department of Administration. The statutory authority for the promulgation of these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

2 MCAR § 1.4501. This rule refers to the content of the rules as a whole in order that the reader understand what follows, and cites statutory references so that the public can more easily refer to them. Recitation of statutory language is crucial to the ability of people affected by the rules to comprehend their meaning and effect.

2 MCAR § 1.4502. This rule repeats the statutory language defining the term "standard line". It is crucial to repeat such language to assure clarity and continuity to these rules. This will prevent the unwary reader from failing to see the relationship between a rule and statute and will avoid the necessity for frequent cross-referencing of rule and statute.

2 MCAR § 1.4503. This rule describes the procedures necessary for a newspaper, public official or other interested party to request an evaluation and certification of line rates for legal notices. All information to be included in the request is necessary for computing adjustment evaluations and issuing certifications of standard or adjusted line rates. The evaluation formula reasonably implements standards imposed by statute which allow publishers to use a larger body of type with a variety of line length while receiving the same net average compensation for the matter published.

2 MCAR § 1.4504. Fees for publication of legal notices are established by Minn. Stat. § 331.08. This law sets the maximum amount chargeable for a standard line for the first and subsequent insertions and for what is termed "price and one half" or "double price" composition. Since this section of the law does not define price and one half or double price composition, we therefore refer to Minn. Stat. § 16.61 which requires the State Printer to issue a pamphlet containing description and facsimile copy, and style of composition which shall be a guide for public officials in the publication of legal notices. This pamphlet defines the terms "price and one half" and "double price".

2 MCAR § 1.4505. Public officials are required by law to submit a copy of the printed notice to the Commissioner of Administration for all controversies between publisher and public official as to the measurement of any legal notice published or required by law to be published in newspapers. The Commissioner shall measure such notice and submit certification of the measurement and the amount of fees allowed for the publication of such a notice. In order to comply with statutory requirements, needed procedures are listed in the rule indicating the various types of information needed to satisfy the request of the public official. This rule reasonably implements the Commissioner's statutory authority.

2 MCAR § 1.4601. Handling of federal mail is not generally regulated by state law other than in Minn. Stat. § 16.02, subd. 16, which states that the Commissioner of Administration shall operate a central mailing service. This rule is necessary to define the policy of this department that all handling of federal mail is to be accomplished in accordance with policy and procedures established by the federal government.

Chapter 13: Real Estate Management. The need to adopt 2 MCAR §§ 1.5001 - 1.5301 arises from the need to implement the Commissioner of Administration's responsibilities relating to the acquisition of real property, leasing out of state-owned lands, granting of easements across state lands, and granting of permits to search for lost or abandoned properties on state lands. These rules are promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3 and 16.05.

2 MCAR § 1.5001. This rule is promulgated pursuant to statute to guarantee protection of the rights of all parties involved when the Department of Administration acquires land for this or other state agencies. The language in the rule insures compliance with the statutory requirements, uniformity and efficiency in the acquisition process, fairness and equality for all citizens affected by Department of Administration acquisition of private property, and protection of the State's interest throughout the acquisition process. The rule spells out the procedures undertaken by the State to guarantee that each property owner affected by state acquisition is treated equally and fairly. Moreover, the rule provides that the state will compensate each property owner in the amount of the market value of his property, no more and no less.

Section A of the rule is promulgated to make known the agency within state government to whom requests for the acquisition of property shall be made. It further identifies what information is required in order for the acquisition to be commenced.

Section B(1) of the rule outlines the reasonable steps and procedures to be used by the Real Estate Management Division in having the title to the property properly examined, in this way insuring that the state will indeed be dealing with the party who owns the property. It insures, too, that the land owner will be fully informed of the state's intentions very early in the acquisition process. This section of the rule also requires that a relocation study shall be made to insure obviation of severe difficulties which may be encountered by those persons who must be displaced by the state's acquisition.

Section B(2) requires that a legal description of the property shall be written. The description will be written in a manner which complies with standards of the surveying and engineering profession.

Section B(3) of the rule deals with a necessary appraisal of the property. This section of the rule is necessary to insure that appraisers selected to make such appraisals shall be qualified to make the type of appraisal needed to ascertain the market value of the property to be acquired, and that the appraisal fee shall be commensurate with the degree of difficulty represented by the appraisal task. The rule is reasonable in that selection of appraisers shall be dependent upon the experience and other qualifications of the appraiser(s) for each particular task and that the fees to be paid shall be dependent upon the amount and complexity of the particular appraisal(s).

Section B(4) of the rule requires review of the appraisal or appraisals by the division review staff. Further, it requires certification of that appraisal which is deemed to represent the market value of the property to be acquired.

Section B(5) of the rule requires that instruments of conveyance to be used in the acquisition shall be prepared by the Office of the Attorney General. The rule is deemed necessary and reasonable in that it insures that legal instruments will be prepared by parties who are qualified to prepare such instruments.

Section B(6) of the rule deals with the very important phase of the acquisition, that of submission of an offer to the property owner. The rule requires that a direct purchase offer shall be made to the owner. This is in contrast to a procedure once widely used in which property was acquired in eminent domain proceedings without allowing the owner an opportunity to sell directly to the state. It is deemed mutually advantageous to all concerned to acquire property by purchase where that is possible. This section of the rule requires also that an offer be submitted in person where that is possible. Submission of offers by mail is thus limited to those unusual cases where the owner lives out of state, or, in more unusual cases, where the owner prefers an offer by mail. In all cases, the personal call to the owner shall be accompanied by an offer in writing. This section of the rule further requires that a full explanation be made to the owner, particularly outlining all of the owners options and his eligibility for relocation benefits.

Sections B(7) - (8) of the rule outlines the state's actions where an owner accepts the offer and where he does not accept the offer. Both sections of the rule outline procedures which have long been in use in the acquisition of property, and are deemed necessary and reasonable.

2 MCAR § 1.5101. This rule carries out the Commissioner of Administration's responsibilities pursuant to Minn. Stat. § 16.88. It deals with the procedure to be used in granting of permits to cross state owned land, except those lands expressly exempted. This rule deals primarily with public utility companies, but is not limited to such companies. Information contained in this rule is necessary for individuals or companies interested in securing a permit or easement to be informed of proper procedures.

Section A of the rule identifies the state office to which application shall be submitted.

Section B of the rule establishes the department's responsibilities in granting or denying the application for permit. Denial of permits shall be for cause only, and granting or denying of the application shall be based on the effect of the utility easement on the public's use of the property. The rule requires that an applicant shall be informed in writing whether or not his permit shall be granted, and where it is not granted, the reasons for such denial. The rule is reasonable in that it permits the Commissioner of Administration to deny permits for easements to cross state lands when such easements will clearly be detrimental to the state's interests.

Section C of the rule permits the granting of the permit only after payment by the applicant to the state of the amount deemed necessary based on an appraisal by the Real Estate Management Division. Further, the applicant will be required to sign an instrument indicating willingness to comply with all the terms and conditions of the permit.

Section D deals with those cases in which the easement is clearly a benefit to the state. For example, in those cases where the state has requested the easement, the easement shall be granted without benefit of consideration. Where damage is deemed nominal, but where the easement is clearly not a benefit to the state, the permit shall be granted for One Hundred Dollars ($100.00).

2 MCAR § 1.5201. Pursuant to Minn. Stat. §§ 16.021, 16.022, and 16.023, 2 MCAR § 1.5201 - 1.5205 govern the granting of permits to search upon lands owned by the state for abandoned or lost property and disposition of abandoned or lost property found thereunder. The statutory authority for promulgation of these rules is contained in Minn. Stat. §§ 15.0412, subd. 3, and 16.05. This rule is necessary to inform the public of the scope and purpose of the rules which follow.

2 MCAR § 1.5202. This rule is needed to properly outline those terms and conditions upon which an application for a permit shall be accepted by the department.

Section A of the rule requires that a permittee shall hold the State of Minnesota harmless from all claims arising out of the permittee's activities. It is the purpose of this section of the rule to make clear that the permittee shall be liable for any and all damages arising from his activities, and that the State of Minnesota shall in no way be liable for these activities. At the descretion of the Department of Administration, the permittee may be required to purchase a surety bond to further insure the state's interest.

Section B of the rule requires that, where deemed necessary, the permittee must purchase liability insurance in the amounts as shown in this section of the rule. The amounts are deemed reasonable in that these same amounts are required by statute where a person leases property from the State of Minnesota.

Section C of the rule is necessary and reasonable in that each permittee is entitled to have proper notice that all local, state, and federal rules, and ordinances must be obeyed.

Section D of the rule reiterates in part what Section A and B protect against. However, it is necessary and reasonable at this point in that this section of the rule makes clear that where damages have occurred by the action of the permittee, he shall immediately repair or be responsible for the repair of the damage. Failure by the permittee to immediately make such repairs shall result in cancellation of the permit.

Section E of the rule governs the manner in which the permittee will be allowed to carry on his activities. The rule forbids, for example, such activities as outdoor burning without a permit, etc. Further, this section requires that the permittee shall not use state lands for storage of materials and/or equipment.

Section F of this rule gives the department reasonable control over those areas in which the permittee shall be allowed to conduct his activities. Such control is clearly needed to obviate the possibility that a permittee will carry on search and reclamation activities on land other than that for which the permit is granted.

Section G of the rule limits the amount of time for which a permit shall be granted. This is reasonable in that it allows timely opportunity for both parties (the permittee and the state) to reassess the search and reclamation activities.

Section H makes clear that a permit shall be non-transferable without consent of the Commissioner of Administration. This is deemed reasonable in order to insure that the department will maintain sufficient control of the activities of the permittee.

Section I insures that a permit may not be varied in any way without express consent of the Commissioner of Administration or his authorized designee. This section of the rule is necessary and reasonable to fully protect the state's interest.

Section J of the rule is necessary so that all potential permittees may be on notice that the state may issue a similar or identical permit for the same or overlapping areas of land and water. The rule is reasonable in that it allows the state to grant equal opportunity to potential searchers for lost or abandoned properties. The rule as written also grants sufficient authority to the state to control overcrowding in search and reclamation activities. Each potential permittee, by this rule, is on notice that he or she will probably not be alone in the search for lost or abandoned properties.

Section K of the rule permits the cancellation by either party within thirty days. This section of the rule is reasonable in that it grants equal power of cancellation to both parties where such cancellation is deemed in the best interest of that party.

Section L of the rule deals with ultimate disposition of the lost or abandoned property which is recovered from state lands. The rule requires that lost or abandoned property which has value shall be turned over to the Department of Administration for disposition as provided by statutes. The permittee's share of the proceeds shall be paid by the state to the permittee on the basis of an agreement which shall be made prior to issuance of the permit. The state's share shall be deposited in the general revenue fund.

In those cases where the recovered property has nominal value, and the administration of the disposition will clearly cost the state more than would ultimately be recovered, the Commissioner of Administration or his authorized designee, in his discretion, may decide to allow the permittee to dispose of such properties without turning them over to the Department of Administration for disposition.

2 MCAR § 1.5203. This rule explains to whom applications for permits shall be made. Further, it outlines what information shall be required within the application. The requirements are necessary for property identification of the applicant and for processing of the application. It is believed that an applicant can reasonably be expected to provide the information required.

2 MCAR § 1.5204. This rule establishes the department's actions when and if application for a permit is received. The rule establishes point by point the actions to be taken in the Division of Real Estate Management towards granting of a permit. The rule is necessary and reasonable not only to insure reasonable procedure, but also to inform a potential applicant that such a procedures does exist, and that granting of permits will require a reasonable time after the application is received by the state.

2 MCAR § 1.5205. This rule reasonably requires that all property which is recovered from state lands or waters shall, within thirty days of discovery, be turned over to the Commissioner of Administration. The Department of Administration shall, at its discretion, store the property, whereupon it shall be disposed of as provided in Minn. Stat. § 16.022. The proceeds shall be divided as provided for in the permit. In those cases where the Commissioner, in his discretion, granted the permit on the basis that the recovered property did not need to be turned over to the Department of Administration because of nominal value thereof, this rule is, of course, superfluous and shall not apply.

2 MCAR § 1.5301. Pursuant to Minn. Stat. § 16.02, subd. 14, this rule governs the leasing out of state-owned real property which is temporarily not needed by the state. The statutory authority for promulgation of this rule is located in Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

Section A of the rule informs the public of procedures and other information concerning leasing of surplus lands. It requires that the Division of Real Estate Management establish and maintain a list of names of those parties interested in leasing surplus state-owned land. The list shall reflect what type of property and what area a particular party has expressed interest in. This rule is necessary and reasonable in that it provides necessary information while also providing for equitable treatment for all potential lessees of state-owned surplus property.

Section B of the rule outlines the manner in which bids shall be solicited. The rule is necessary to insure that all interested members of the public will have an equal opportunity to be informed of the availability of surplus lands for lease by the state. This section of the rule is reasonable in that it provides for sufficient notice to the public, and allows discretion to the department in deciding those rare instances where newspaper advertising may be in the best interest of the state.

Chapter 14: Records Management. Following the publication of the Notice of Hearing and the proposed rules in the State Register on June 12, 1978, the Department of Administration has deemed it desirable and necessary to withdraw the proposed rules pertaining to Records Management numbered as 2 MCAR §§ 1.5501 - 1.5901. The proposed Records Management rules are withdrawn and will not be presented or discussed at the rules hearing to be held on July 25-26, 1978. Examination of these rules has revealed that they may be implemented as internal procedures which do not directly impact on the rights of and procedures available to the public, since the only clientele groups to which they apply are state departments and agencies.

Chapter 15: Telecommunications. Pursuant to Minn. Stat. § 16.02, subd. 2a, 2 MCAR §§ 1.6001 - 1.6005 govern the procedures relating to the applications by governmental bodies for sublease of TELPAK services. These rules are promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3, and 16.05.

The Telecommunications Division procures intrastate intercity telephone circuits from the Northwestern Bell Telephone Company in bulk groups. The division also sub-leases individual TELPAK circuits from the federal government through GSA (General Services Administration). In the future, the Telecommunications Division may utilize circuits from other sources.

Intercity circuits are leased in bulk groups because of the great economies of scale possible with such procurements. With the division's current TELPAK network, the average cost is about $0.86 per circuit per mile per month. This is less than one-sixth of the cost of procuring individual circuits as cited above. Since the TELPAK tariff allows doing so, it has been the practice of the Telecommunications Division to sub-lease TELPAK circuits to other governmental bodies, to allow them to also participate in the cost savings gained by using TELPAK. Sub-leasing from the Telecommunications Division is very advantageous to the public interest. It is also advantageous to the Telecommunications Division to sub-lease unused circuits and thus help reduce the net TELPAK cost to the state. These rules reasonably further this sub-leasing process where temporary excess telephone line capacity may exist.

It is thus necessary to adopt rules to certify the procedures whereby governmental bodies may apply for and sub-lease TELPAK from the Telecommunications Division.

2 MCAR § 1.6001. This rule simply describes the scope and purpose of these procedural rules.

2 MCAR § 1.6002. This rule defines terms necessary for the understanding of these rules.

2 MCAR § 1.6003. This rule requires normal information necessary to process and evaluate an application and, if it is approved, to bill for the services provided.

2 MCAR § 1.6004. This rule sets forth the basis for approval or rejection of an application in consideration of the primary function to satisfy the requirements of the state and the secondary function to aid other governmental bodies.

2 MCAR § 1.6005. This rule applies normal business procedures and conditions and cites the basis for determining the fee charged for sub-leased TELPAK.

Chapter 3: State Building Code. The proposed rules and amendments to the existing State Building Code are made pursuant to Minn. Stat. §§ 16.85 and 16.861, subds. 2 and 3, (1976 and Supplement 1977).

Pursuant to Minn. Stat. §§ 15.0412, subd. 3 (1971), and 16.85, the Commissioner is empowered to promulgate rules and may also amend rules as is deemed necessary upon a showing of need for and reasonableness of the rule.

The proposed rules provide procedures necessary for and methods by which any interested party may be informed of and may proceed with matters pertaining to the administration and enforcement of the State Building Code. The rules also establish criteria which define the experience and training necessary to become a certified building official in Minnesota and the conditions necessary to maintain certification.

2 MCAR § 1.10001 Purpose. This rule is necessary to explain the purpose of 2 MCAR §§ 1.10001 - 1.10010.

2 MCAR § 1.10002 Definitions. This rule defines terms contained in the proposed rules. It also provides statutory references for said terms for further clarification. The rule is necessary to add clarity to the proposed rules and to avoid excess verbiage in the proposed rules.

2 MCAR § 1.10003 Code Adoption and Amendments. This rule is necessary for providing information as to the methods available to the public for amending the State Building Code. Written requests are reasonable in that they ensure clarity and accuracy.

2 MCAR § 1.10004 Application for Appeal. This rule is necessary for providing information to the public regarding procedures for filing appeals following local municipalities' decisions pertaining to the State Building Code. Persons appealing a decision can reasonably be expected to have the required information readily available. Recitation of portions of Minn. Stat. § 16.863 is crucial to the ability of the public affected by the rule to comprehend its meaning and effect.

2 MCAR § 1.10005 State Surcharge Fees. This rule is necessary to establish the procedure for the collection of fees by municipalities for remittance to the State of Minnesota.

2 MCAR § 1.10006 State Building Code Information and Assistance. This rule is necessary to establish procedures for obtaining information pertaining to the State Building Code.

2 MCAR § 1.10007 Education and Training. This rule is essential in explaining to whom training shall be provided including conditions and methods of obtaining information pertaining to training programs.

2 MCAR § 1.10008 Building Official Certification. This rule is necessary to establish prerequisites for persons applying to be certified as a building official. The rule establishes two levels of certification and establishes a testing procedure, required continued training, and professional activities to maintain certification and renewal of certification. This rule further defines the appropriate knowledge of construction necessary for certification application as stated in Minn. Stat. § 16.861, subd. 2.

In Minnesota's smaller communities and sparsely populated counties, the construction activity is limited largely to one and two family dwellings and accessory buildings of those dwellings. In such areas, it is not necessary for a building official to be proficient in total code application. However, when more complex structures are built requiring a higher level of expertise a building official with knowledge of total code application would have to be contracted for by the community for the specific job. The division's experience and information obtained at hearings throughout the state have indicated that total code expertise is essential in approximately 5 to 10% of the construction activity in specific geographical areas other than the principal cities throughout the state. In Minnesota's principal cities the construction activities are balanced and a wide variety of construction occurs which necessitates the knowledge of total code application. The certification system will permit a wider availability of personnel throughout the state in a shorter period of time. It will also allow experience and training of the building official for qualification at the higher level while on the job.

Continuing education is essential for practicing building officials to remain current regarding code changes, new construction methods, new construction materials, and to keep abreast of constantly changing state and federal regulations. Training in administration, regulatory writing, budgets, code techniques and procedures is essential. The continuing training and activities are currently available, easily attainable, and minimal in scope.

The renewal of certification every three calendar years predicated on minimal continuing education and professional activities helps to assure more capable building officials over a period of time and assures that municipalities are more fully meeting their responsibilities of providing safe, healthful structures for the citizens of Minnesota through proper code enforcement and administration.

The two levels of certification are necessary to provide personnel for municipalities at a level of expertise required to provide inspectional services based on types and complexity of construction in a given geographical area of the state.

2 MCAR § 1.10009 Removal from Office and Revocation of Certification. This rule is needed to provide and define procedures for removal of certified municipal building officials by the Commissioner of Administration pursuant to Minn. Stat. § 16.861, subd. 5 (1976).

2 MCAR § 1.10010 Plan Review Function. This rule is necessary to define plans required to be reviewed by the State Building Inspector. The rule further defines the documents and contents of documents necessary for submittal to the State Building Inspector.

The proposed amendment to SBC 320, SBC 326 and SBC 335 of the existing State Building Code are necessarily made for purposes of clarification.

Chapter 16: Procurement. All existing rules presently promulgated, adopted and published as "Admin. 91: Eligibility for the Small Business Procurement Act" are proposed to be repealed and to be replaced by 2 MCAR §§ 1.6701 - 1.6704. Review of the adopted rules reveals several instances where they improperly were repetitive of statute; and, as it became clear that a major recodification was necessary, it was determined that it would be appropriate to repeal the rules in total and propose a completely new set of rules.

Pursuant to Minn. Stat. § 16, 2 MCAR §§ 1.6501 - 1.6804 govern the procurement of materials and services for the state under the competitive bidding requirements. These rules are promulgated pursuant to Minn. Stat. §§ 15.0412, subd. 3, 16.05, and 16.28.

2 MCAR § 1.6501. This rule is needed to define the scope of the rules included in this Chapter in order that the reader knows what follows. In paragraph B, certain terms and definitions are provided for uniformity in interpretation, to provide clarity where the terms are used, and to minimize verbiage in the text of the rules.

2 MCAR § 1.6502. In paragraphs A and B, the provisions for advertised bids are stated to emphasize the crucial nature of the portion of Minn. Stat. § 16.07 which relates to this matter. It is crucial to inform the user of the rules as to how the statutes and rules flow together in order to permit overall comprehension of the rules without having to refer constantly to rule and statute interchangeably. Repetition of the statutory language is therefore crucial to the ability of a person affected by the rule to comprehend its meaning and effect.

Paragraph C is needed to inform potential bidders of the procedure by which firms may be placed on the permanent bid list. Because sources of supply must be identified before bids can be solicited, establishing and maintaining a current list of qualified suppliers is a fundamental part of our purchasing program. The bidders list provides a systematic means of reaching the greatest number of qualified vendors. Such a list enhances competition by providing qualified and interested suppliers an opportunity to compete for state business.

Paragraph D is necessary to inform perspective bidders of the means by which they may submit bids. The information on advertised bids also forms the basis for determining the bidders' responsiveness and determining the successful bidders. The rule is further necessary to insure the integrity and equity of the bid process.

2 MCAR § 1.6503. This paragraph is necessary to inform bidders of the consequences of failure of a bidder to enter into a contract, or of failure to properly carry out a contract. This section also provides that a performance bond may be substituted for bid security. It is both necessary and reasonable that this information be provided to all perspective bidders.

Paragraph C is necessary to inform the public of the procedure by which security is returned. The procedure is reasonable in that it allows for administrative processing time while minimizing delay in receipt of bid security by unsuccessful bidders or by successful bidders who have satisfactorily completed a contract. The reader is also made aware that no interest shall be paid on monies held as security. This is reasonable in that the state does not earn interest on said monies.

Paragraph D establishes the procedure by which annual bid and supply bonds may reasonably be used. This procedure has been established for the convenience of both the vendor and the Procurement Division. The paragraph is necessary to inform potential bidders of the opportunity, procedure, and limitations of annual bid and supply bonds. The use of annual bid and supply bonds is reasonable in that it lessens paperwork requirements while adequately protecting the state's interests. Separate bonds are reasonably required for construction projects because annual bonds are conditioned for supply and material requirements only. Construction bonds are conditioned for performance as well. The other limitations are reasonably included in order that the state is properly protected for the reasons outlined in paragraph A above.

2 MCAR § 1.6504. This rule is necessary to establish and protect the equity and fairness of the bid procedure as well as to inform the bidders as to the manner in which their bids will be received and treated. Public bid openings give bidders and the public knowledge of the nature and extent of competition obtained in response to solicitations of bids. Consequently, the bid process reasonably calls for bid openings which can be attended by the general public as well as by bidders. Late bids are reasonably rejected for ease of administration and because experience shows that this eliminates potential disputes concerning the justice of awarding a contract to a bidder who did not follow bid instructions.

The public inspection of bids is an important procedure in maintaining public confidence in bidding. Paragraph B is necessary to inform the public that tabulations are made available for review by any interested party. While public inspection is required by Minn. Stat. § 16.08, substantial recitation of statutory language is crucial to the ability of the public affected by these rules to comprehend all necessary and reasonable components of the procurement procedure.

Paragraph C is needed to inform bidders that the state may reject any or all bids or portions thereof. This paragraph repeats a portion of Minn. Stat. § 16.08. It is crucial to repeat this language in order that the public affected by these rules comprehend all necessary and reasonable compenents of the procurement process.

Paragraph D is necessary to inform perspective bidders that should their sealed bid be rejected, they will be given notice of the rejection and reasons for rejection. This is reasonable in that the perspective bidders understand the reason for not receiving an award in order that their chances for future awards are enhanced.

Paragraph E is needed to inform bidders that informalities and minor deficiencies may be waived. Such waiver may reasonably occur if the best interest of the state would be protected without prejudice to the rights of other bidders.

2 MCAR § 1.6505. This rule cites the statutory provision by which award of contracts shall be made. It is crucial to inform the user of the rule as to how the statutes and rules flow together to permit their overall comprehension without having to refer constantly to rule and statute interchangeably. An award problem arises when a bidder, judged responsible and with the lowest bid price, has taken exception to or deviates from terms and conditions of the bid. The division determines if the bidder's deviation constitutes a material variance which allows the bidder a substantial advantage or benefit not enjoyed by other bidders. This is determined by careful comparison of the bidder's offer with the terms and conditions of the bid. It is both necessary and reasonable that the division determine whether a bidder tenders a response which is in substantial compliance with the terms and specifications of the bid request.

2 MCAR § 1.6506. This rule is necessary to inform perspective bidders of the means by which tied low bids will be resolved. For bids of $500.00 or more, provision is reasonably made for negotiating the breaking of the tie. This procedure is reasonable in that it may lower the cost to the state of goods or services while giving all tied bidders equal opportunity to receive the award. If negotiation is not a viable alternative due to vendor disinterest or inaccessibility, lots will be drawn. For large contracts, vendor representatives are invited to witness the drawing in the interest of fairness and impartiality. For bids of less than $500.00, it is reasonable that tie bids be resolved by drawing lots in order that the state not incur unnecessary expense and delay, while insuring that bid selection is fair and equitable.

If bids are tied between a Minnesota firm and an out-of-state firm, the Minnesota firm may be given preference in accordance with Minn. Stat. § 16.365.

2 MCAR § 1.6507. This rule is necessary so that perspective bidders are aware of the state's contract performance requirements. The provisions for contract performance are deemed reasonable in that they follow accepted business practices. The provisions established by this rule follow closely portions of the Uniform Commercial Code, Minn. Stat. § 336.2. Partial recitation of statutory language is crucial to the ability of the public affected by these rules to comprehend their meaning and effect.

2 MCAR § 1.6508. This rule is necessary to inform bidders who have been awarded a contract of the consequences of failure to perform as specified in the contract. The rule is considered reasonable in that it attempts to protect the state from unnecessary delay and expense due to failure of a vendor to properly carry out a contract. Forfeiture of bid security is reasonable as stated regarding 2 MCAR § 1.6503 above. Removal of responsible bidder status from a vendor who has failed to perform is reasonable in that it protects the state from potential future failures. Further actions by the state as provided by or permitted by law are allowed for since the vendor has failed to carry out a contractual agreement. Paragraph C is needed to inform potential vendors that failure to furnish satisfactory performance security after award of a contract shall be considered failure to perform. This provision is reasonable in that the performance bond requirement acts as part of the terms and conditions of the bid and failure to meet the bond requirements is thus a failure to fulfill a portion of the contract. Paragraph D is needed to inform vendors of the type of action or lack

of action for which they shall be held in default. The provisions are reasonable in that they follow standard commercial practices and/or are included in bid specifications to which the vendor has agreed.

2 MCAR § 1.6509. This rule is necessary in order to inform potential vendors that the state may terminate a contract where deemed necessary. Cancellation of a contract is simply the termination and cessation of obligations of all parties under the contract.

2 MCAR § 1.6510. This rule is necessary to inform potential bidders of how bidder errors will be handled. The sealed competitive bidding process presumes that all bids are submitted without knowledge of the prices being offered by other bidders. When a bidder discovers he has made a mistake after the bid has been submitted, but before it is opened, he will be permitted to make changes or to withdraw the bid, without revealing the amount of the bid. This is reasonable in that all changes made before bids are opened would not threaten the spirit and purpose of competitive bidding. However, once the bids are opened, mistakes are not allowed to be corrected because all bidder's prices are known and corrections might well be made using that knowledge. Bid errors may occur which are obviously unintentional. Our experience has shown that in the few cases where bid errors do occur, the mistake is very obvious. In such cases it is reasonable that withdrawal of such a bid be allowed upon formal request within a reasonable time after the opening of the bids. The rule is reasonable in that it protects the state's interest by limiting such withdrawal to periods of time prior to the state's detrimental reliance on the bid.

2 MCAR § 1.6601. This rule is necessary to inform the public that the Minnesota Association of Rehabilitation Facilities (MARF) is the established clearinghouse for implementation of the sheltered workshop program. Department of Administration dealings and contracts for goods and services are accomplished through the MARF organization as the method of implementation of the cited statute.

2 MCAR § 1.6701. This rule is necessary to identify the scope and purpose of 2 MCAR §§ 1.6701 - 1.6704 in order that the public be informed of the contents of these rules. The rule also cites the statutory references to the small business and small business owned by socially or economically disadvantaged persons set-aside program and is needed so that the public may easily refer to these citations. The rule is needed to clarify any conflicts which may exist between these rules and 2 MCAR §§ 1.6501 - 1.6601.

2 MCAR § 1.6702. This rule is needed to inform the public of the procedure by which one becomes and remains certified as eligible for receiving invitations for set-aside bids. Paragraph A, B, and C are necessary to describe the information to be submitted for self certification and to make known the location to which the information should be forwarded. It is believed that a business can reasonably be expected to provide the information required in the format required. The information requirements are reasonable in that the information is necessary for proper identification of the business and to assure that the business is eligible for participation in the set-aside program.

Paragraph D is reasonable and necessary in order that information on file in the Procurement Division on businesses receiving set-aside preference is kept current.

Paragraph E is necessary to clearly outline procedures and reasons for reasonably rejecting an applicant's self certification.

2 MCAR § 1.6703. This rule is needed to inform the public as to the procedures which will be used for determination of contracts for set-aside. The procedures are reasonable in that they insure equal opportunity for all participants, allow for efficiencies in the procurement operation, and allow compliance with statutory requirements of the set-aside act.

2 MCAR § 1.6704. This rule is needed to inform businesses as to the general terms and conditions applicable to the set-aside program. Paragraphs A through E are needed to inform businesses participating in the set-aside program as to their obligations and rights subsequent to award of bids. These sections allow a reasonable time for a low bidder to consider the consequence of accepting the order or contract and for the Division of Procurement to insure capability of bidder to provide material or service requested. These sections further describe the consequences and action that will be taken if a bidder does not enter into a contract or defaults on a contract. These sections are reasonable in that the set-aside program must be structured to assist the participants as much as possible, but in the process, assure that the state's interests are protected.

Paragraph F is needed to inform the public that bid invitations may be divided in order to facilitate awarding of contracts to businesses in the set-aside program. Such action is allowed by Minn. Stat. § 16.083, subd. 1. This section is reasonable in that it promotes multiple awards to improve opportunity for bidding by small contractors. Many of the suppliers participating in the set-aside program are exceptionally small concerns which will benefit from this extra consideration.

Paragraph G is necessary and reasonable to prevent the abuse of the intent of the set-aside legislation by mere brokering of state contracts through brokers technically qualifying for the program. This provision prevents use of the set-aside program by firms that would not otherwise be eligible.

2 MCAR § 1.6801. This rule defines the purpose and scope of 2 MCAR §§ 1.6801 - 1.6804 in order that the reader understand the contents of these rules. The statutory citation is referenced in order that the reader may easily refer to the statute which provides for state funded partial indemnification. The statutory authority for promulgation of 2 MCAR §§ 1.6801 - 1.6804 is Minn. Stat. § 15.0412, subd. 3.

2 MCAR § 1.6802. This rule provides reasonable procedures for submission of applications. The rule is necessary to describe the content and format of data and information to be submitted for review and to make known the location to which applications should be forwarded. These application procedures and requirements are considered necessary for proper identification of the applicant and for processing of the application. It is believed that an applicant can reasonably be expected to provide the information required in the format required.

2 MCAR § 1.6803. This rule is necessary to inform the public of the factors which will be considered in an eligibility determination and to inform applicants that they will be notified as to acceptance of their application for partial indemnification. The factors to be considered are reasonable in that they insure compliance with statutory requirements relating to procurement and partial indemnification.

2 MCAR § 1.6804. This rule is needed in order to refer the reader to the cited statute and the restrictions and limitations therein.

Date June 28, 1978

Richard L. Brubacher
Commissioner
Department of Administration

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

RECEIVED
JUN 28 1978
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Rules and Amendments to Existing Rules Pertaining to Several Units of the Department of Administration

STATEMENT OF EVIDENCE

Citations to relevant Minnesota Statutes which will be discussed in the rules hearing beginning on July 25, 1978, are referenced in the Statement of Need.

In support of the proposed rules pertaining to Federal Surplus Property, placed in Chapter 9 B and numbered as 2 MCAR §§ 1.3101 - 1.3109, Federal Property Management Regulations may be relied upon.

In support of the proposed rule pertaining to the Central Mail Room, included in Chapter 12 and numbered as 2 MCAR § 1.4601, Title 39 of the U. S. Code may be relied upon.

In support of the proposed rules pertaining to the State Building Code, placed in Chapter 3 and numbered as 2 MCAR §§ 1.10001 - 1.10010, Julie Vikmanis, Manager, Recruiting and Selection Division, Minnesota Department of Personnel, will testify as to the compatibility of the certification and testing procedure established by the proposed rules with relevant Department of Personnel rules and procedures.

In support of the proposed rules pertaining to Procurement, placed in Chapter 16 and numbered as 2 MCAR §§ 1.6501 - 1.6804, the following case law may be relied upon:

Sutton v. City of St. Paul, 234 Minn. 263, 48 N.W. 2nd 436 (1951)
Coller v. City of St. Paul, 223 Minn. 376, 26 N.W. 2nd 835 (1947)
Gale v. City of St. Paul, 255 Minn. 108, 96 N.W. 2nd 377 (1959)
Griswold v. Ramsey County, 242 Minn. 529, 65 N.W. 647 (1954)
Foley Bros., Inc. v. Marshall, 266 Minn. 259, 123 N.W. 2nd 387 (1963)
Duffy v. Village of Princeton, 240 Minn. 9, 60 N.W. 2nd 27, 29
State v. Snively, 175 Minn. 379, 221 N.W. 535 (1928)
Kelling v. Edwards, 116 Minn. 484, 134 N.W. 221 (1912)
J. N. Futia Co., Inc., v. Office of General Services, 39 A.D. 2nd 136, 332 N.Y.S. 2nd 261 (1972)
Mal-Bros. Contracting Co. v. Kohl, 113 N.J. Super. 144, 273 A. 2nd 357 (1971)
Otter Tail Power Co. v. MacKichan, 270 Minn. 262, 133 N.W. 2nd 511 (1965)
Electronics Unlimited, Inc. v. Village of Burnsville, 289 Minn. 118, 182 N.W. 2nd 679 (1971)

Agency Exh "K"

Date June 28, 1978

Richard L. Brubacher

Richard L. Brubacher
Commissioner of Administration

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF ADMINISTRATION

In the Matter of the Proposed Rules
and Amendments to the Existing Rules
Pertaining to Several Units of the
Department of Administration.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 9:30 a.m. on July 25 and 26, 1978, in Room 83 of the State Office Building, St. Paul, Minnesota.

Lee J. Sheehy, Special Assistant Attorney General, appeared as counsel on behalf of the Department of Administration. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. s 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Department of Administration shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his Report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Department of Administration shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On June 15, 1978, the filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On June 12, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 2187.

3. On June 22, 1978, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On June 28, 1978, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Evidence, including the names of witnesses to be called; and
(h) The names of Department personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through Monday, August 14, 1978, for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. §§ 15.0412, subd. 3; 16.05; 16.28; 16.75, subd. 7; 16.86; 16.96; and 138.17.

7. The proposed amendment to Chapter 1 is the addition of a severability clause which is necessary to guard against the possible invalidity of any of the rule provisions.

8. Proposed Chapter 5, Intergovernmental Information Systems Advisory Council, is necessary to implement the funding procedure set out in Minn. Stat. §§ 16.90 and 16.911. At hearing, the Department proposed to amend § 1.2507 B. by deleting the words "availability of funds" as they are unneeded.

9. Proposed Chapter 9 A, Materials Management - Documents, is necessary to inform the general public of procedures to obtain publications, maps and other services from the Documents Section of the Departments Material Management Division. At hearing, the Department proposed the following clarifying amendments:

2 MCAR § 1.3003 B.3. Change the second sentence as follows: If the code number is unknown, the county township, ~~and~~ range, ~~or~~ and otherspecific information that will aid in locating the exact area shall be provided.

2 MCAR § 1.3004. In the third line, after "offered to", insert "state agencies and".

2 MCAR § 1.3005. In the fourth line, delete "postage",.

10. Proposed Chapter 9 B, Federal Surplus Property, is necessary to set forth the procedures and requirements concerning the acquisition and use of federal surplus property by Minnesota governmental or non-profit organizations. Pursuant to an Order of the Chief Hearing Examiner dated May 30, 1978, Federal Property Management Regulation 101-44.207 has been incorporated by reference into this Chapter. At hearing, the Department proposed the following clerical amendments:

2 MCAR § 1.3101. In the fourth line, delete "(1976)".

2 MCAR § 1.3105 A.5. Change the reference 2 MCAR § 1.3104 to "2 MCAR § 1.3108 A".

2 MCAR § 1.3303 A. In the fourth line, delete "(612) 296-6132,".

11. The proposed amendments to Chapter 9 C, Office of the State Register, replace all of the rules presently in effect which deal primarily with internal management procedures. The new set of proposed rules dealing

with the State Register is necessary to set out the availability of publication and the procedures to be followed to obtain them.

Rudy Brynolfson, Assistant Director of the Minnesota Energy Agency, commented on the proposed rules as follows:

> "(1) 1.3202 B.6. and C.3. are identical and therefore redundant.
>
> (2) 1.3202 B.2. and 3. and 1.3203 C.4. essentially have the same information. Yet two subdivisions are used in one case and only one subdivision in the other.
>
> (3) 1.3202 A. and 1.3204 A. - Subdivision "A" should not be used unless there is a second subdivision.
>
> (4) 1.3204 - What is the Register's legal liability arising from printing mistakes made by the Register? Can an incorrectly printed rule be in effect if it has been badly botched by the Register? This actually happened with one set of our rules.
>
> (5) 1.3205 - I don't think "so identified" is very clear.

Stephen Ordahl, manager of the State Register, stated that mistakes in the Register are made by the printer, not by Office staff. Errata listings are printed in subsequent issues.

The Examiner finds that the rule as proposed is both needed and reasonable.

12. Proposed Chapter 9.D., State Surplus Property Sales, is necessary to govern the proper disposition of all obsolete, surplus and recyclable state property. At hearing, the Department proposed the following clerical amendments to the Chapter:

> 2 MCAR § 1.3303 C. In the third and fourth lines, delete ", (612) 296-6132".
>
> 2 MCAR § 1.3304 A. In the fourth line, delete "(612) 296-6132,".
>
> 2 MCAR § 1.3304 B. In the first line, delete "estimate" and add in its place "estimated number".
>
> 2 MCAR § 1.3305 A. In the fifth line, delete ", (612) 296-6132".

Also, the specific citation, "(1977 Supp.)", has been deleted from 2 MCAR § 1.3306 A.

13. Proposed Chapter 10, Central Motor Pool, is necessary to govern the operation of the Motor Pool in handling reports and damage claims resulting from accidents involving Motor Pool vehicles.

14. Proposed Chapter 11, Plant Management, is necessary to set forth the requirements for parking in state operated facilities, reporting personal property lost in state buildings or on state land, and the issuance of permits for public rallies in or on Capitol Complex buildings and grounds. All existing rules entitled "Chapter 9: Plant Management Admin. 80: Parking or (sic) Motor Vehicles on Parking Lots" are proposed to be repealed. At hearing, the Department proposed the following clerical amendments to Chapter 11:

> 2 MCAR § 1.4001 G.3. After the word "sent", insert "in writing".
>
> 2 MCAR § 1.4201. In the third line, change "rules govern" to "rule governs".

2 MCAR § 1.4201 A. In the first line, change "These rules define" to "This rule defines".

2 MCAR § 1.4201 C. After the word "revoked", insert "and shall be forfeited".

2 MCAR § 1.4201 D. In the third line, change "these rules" to "this rule".

Also, "(1977)" has been deleted from the citation in 2 MCAR § 1.4001 G.1.

15. Proposed Chapter 12, Publications and General Services Division, is necessary to enumerate the fees charged for the publication of legal notices and the manner in which controversies concerning those fees is resolved. Statutory language has been duplicated in §§ 1.4501 and 1.4502. The Examiner finds that this duplication is crucial to the ability of people affected by the rules to comprehend their meaning and effect. At hearing, the Department proposed to delete "(1976)" from citations in §§ 1.4501 and 1.4504.

Section 1.4601 states that the Central Mail Section will handle all federal mail in accordance with Title 39 of the U. S. Code. No request for incorporation by reference has as yet been made. However, it should go without saying that federal mail will be handled according to federal law. Consequently, the Examiner finds that § 1.4601 is unneeded and should not be adopted.

16. Proposed Chapter 13, Real Estate Management, is necessary to set forth the Commissioner of Administration's responsibilities concerning the acquisition of real property, leasing state-owned lands, granting easements across state lands, and granting permits to search for lost or abandoned properties on state lands. Paragraph I. of § 1.5202 was inadvertently omitted from the rule as published in the State Register. At hearing, the Department proposed to add the omitted language which reads as follows:

I. Permittee shall not vary the permit without the prior written consent of the Commissioner of designee.

Robert Goff, Director of the Governor's Task Force on Waste and Mismanagement, commented on Chapter 13 as follows:

"As you know, we are in the process of completing a study of state land acquisition. We intend to issue our report on this study sometime this week. Some of the proposed rules for Real Estate Management are in direct contradiction with the recommendations made in our report. They also appear to conflict with the current interdepartmental cooperative agreement between your department and the Department of Natural Resources."

The Department responded to those concerns as follows:

"As regards the Real Estate Management rules on state land acquisition, we have discussed the concerns of Mr. Goff with Michael Priesnitz of his office. Pursuant to that discussion, we propose the following addition to 2 MCAR § 1.5001 A. (p. 2208). Following 'law' in the first line, insert 'or by reorganization order issued pursuant to Minn. Stat. §§ 16.125, 16.13, and 16.135'. This section of the rule is being augmented to recognize those situations wherein land acquisition responsibilities, or various facets thereof, are transferred to other state agencies pursuant to Minn. Stat. §§ 16.125, 16.13, and 16.135. The new language reasonably exempts such situations from the applicability of this rule."

The Examiner finds that proposed Chapter 13, as amended by the Department, is both needed and reasonable.

17. Proposed Chapter 14, Records Management, was withdrawn by the Department at the time of hearing.

18. Proposed Chapter 15, Telecommunications, is necessary to govern the procedures for governmental bodies to apply for the sublease of TELPAK services.

19. Proposed Chapter 3, State Building Code Division, is necessary to set forth methods of administration and enforcement of the State Building Code and establish requirements for certification and continuing education of municipal building officials.

Kenneth Schmitz, Franklin City Administrator, commented that in smaller communities, the only person qualified to be the building official will be the local contractor. Mr. Schmitz also stated that the dual system of classification will impose a hardship on smaller towns. He proposed the following amendments to the rule:

> "For the above reasons, I would like to propose that the following words from Section 1.10008, Subsection B, Number 4 be deleted: 'plus one year experience in subdivision one, two, or three of this section.' A suggested substitution would be the following: 'plus one year apprenticeship working under a certified building official.' This apprentice could then call the certified official to clarify any points that the apprentice is unsure of. Such a proposal would allow smaller towns to select and train an individual who will take the job seriously, have no conflict of interest, and have the ability to administer the program in a realtively inexpensive manner. In addition, this program would make the individual better qualified for one and two family dwelling inspection."

The Department contends that small jurisdictions will be served by qualified building officials employed by counties or other governmental entities.

Charles Gustafson, on behalf of the Minneapolis Department of Inspections, commented that notice of the hearing was inadequate as it was not sent to all certified building officials. The Department stated that notice was mailed and published as required by Chapter 15 and the Rules of the Office of Hearing Examiners. Additionally, one hundred copies of the proposed rules were distributed to the North Star Chapter of Building Officials 30 days prior to hearing.

Both Mr. Gustafson and the Directors of the Minneapolis Department of Inspections commented that the continuing education requirements are unreasonably burdensome. In response, the Department proposed to amend § 1.10008 I.4. as follows:

> 4. Any person not complying with the requirements of this section shall be notified in writing by the State Building Inspector of the noncompliance with this section. The notice shall advise the person that he or she may, within 30 days of the mailing of the notice, appeal in writing to the Commissioner of Administration. If no appeal is requested in such period, it shall be deemed acquiesence by that person of the State Building Inspector's finding.
>
> a. If the Commissioner of Administration finds that circumstances of employment, health, unavailability of training programs or similar circumstances beyond the person's control did not permit compliance with this section, the Commissioner shall

grant a reasonable extension of time in which to comply, or, upon a showing of compelling need, shall waive strict compliance with this section.

At hearing, the Department proposed to amend Chapter 3 as follows to clarify the purpose and intent of the rules:

2 MCAR § 1.10004 Application for appeal.

B.3. municipality information, including name of municipality, building official, and the local appeal board chairman:

2 MCAR § 1.10008

E. The testing shall be by written examination. The written examination shall be given by the State Department of Personnel pursuant to the rules of that department and the following:

E.1. If the applicant fails the written examination or fails to appear, the applicant shall be permitted to retake the examination or be scheduled for a second administration following 30 calendar days after testing results notification.

E.2. If the applicant fails the written examination a second time, or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit application pursuant to Section D of this rule.

F. Delete section F in its entirety.

G. Delete section G in its entirety.

H. Designate H as F.

I. Designate I as G.

G.1. Effective January 1, 1979, each person certified as a state building official, by the certification procedures of the State of Minnesota, shall submit in writing to the State Building Inspector an application for renewal of his certification within 60 days of the last day of the third calendar year period following the last certificate issued. For persons certified by the testing procedure prior to January 1, 1979, the first three-year period shall begin January 1, 1979.

2 MCAR § 1.10010 .Plan Review Function

Second Section D, change to E, and add a new section:

E. The State Building Inspector may contract for plan review as required by this section with any municipality the State Building Inspector determines is properly staffed and qualified to perform the plan review function. No fees shall be paid by the State to any municipality performing said contract function. The municipality shall change its standard plan review fee directly to the applicant for a building permit.

New F. Fees

The Examiner finds that proposed Chapter 3, as amended by the Department, is both needed and reasonable.

20. Proposed Chapter 16, Procurement, is necessary to set forth the requirements for the procurement of materials and services for the state

through competitive bidding. At hearing, the Department proposed the following clerical amendments to Chapter 16:

2 MCAR § 1.6506 C. In the third line, delete "Minn. Stat. s 16.365 shall govern" and insert "preference shall be given to the Minnesota firm".

2 MCAR § 1.6507 H. In the first line, change "need" to "needs".

2 MCAR § 1.6701. Delete "The following rules" and insert "2 MCAR ss 1.6701 - 1.6704".

2 MCAR § 1.6704 A. In the first line, insert a comma after "award" and delete "but".

2 MCAR § 1.6704 G. At the end of the second line, after "more of the", insert "dollar value of the".

2 MCAR § 1.6802 1. After "statement", insert "or equivalent approved by the Director;".

2 MCAR § 1.6803. Delete the portion of the rule beginning with "A determination shall be made. . .".

Also, the Department proposed to delete: (1) the last sentence of § 1.6502 B. as it conflicts with the emergency purchase procedures; and (2) all but the first sentence of § 1.6803 as it is unnecessary.

Beverly Braun commented on behalf of the Department of Economic Development as follows:

"In 2 MCAR 1.6704, Para. B: 'When the Commissioner of Administration finds that the low bidder is unable to perform, the Department of Economic Development shall be notified by the Division of Procurement in accordance with Minnesota Statute 16.084 so that the Deputy Commissioner of Economic Development can assist the small business in attempting to remedy the causes of the inability to perform.' Our concern is that 'Deputy Commissioner' be changed either to 'Commissioner' or 'Department' as it does not seem appropriate to designate one specific individual on our staff to address this problem. In the same paragraph, we would like to encourage the language to read: 'The Department of Economic Development should be notified when there appears to be a problem with the performance on a contract.' There is very little we can do to help a business if we are unaware of a problem until they have either defaulted on a contract or are declaring bankruptcy."

The Department stated that the language used is the statutory criteria for notification. However, the Department agreed that the word "Deputy" should be deleted.

Melvin Aanerud also commented regarding the timing of notification on behalf of the U. S. Small Business Administration. The Examiner finds that the proposed language in § 1.6704 B. reflects what was intended by the legislature. See Minn. Stat. § 16.084.

Nina Rothchild commented on § 1.6702 B. as follows:

"My testimony today is related to the lack of specific standards set for the designation of 'socially or economically disadvantaged persons' in the set-aside program administered by the Procurement Division, Department of Administration.

"My understanding is that, for members of some groups, group membership defines them a priori as socially or economically disadvantaged, whereas for members of other groups -- notably women -- persons must prove on an individual basis that they are socially or economically disadvantaged.

"I believe that the rules should therefore either define standards for disadvantage which persons must meet on a case by case basis, or that the rules should specify which group are by definition socially or economically disadvantaged.

"Since some persons in the past have been adjudged disadvantaged simply by virtue of their group membership, I suggest that the rules be amended to include a second paragraph under 2 MCAR 1.6702 B. as follows:

'Persons who are of minority race, the handicapped, and women shall be considered socially or economically disadvantaged.'"

The Department stated that the statute referenced in the rule provides sufficiently clear standards for a determination of "socially or economically disadvantaged persons." See Minn. Stat. § 16.082, subd. 5.

Charles Loberg, Regional Congress of Construction Employers, and Donald Manguson, Twin Cities Piping Industry Association, both suggested that the word "non-negligent" be deleted from s 1.6510 B. The Department stated that it does not "want vendors or bidders to use negligent errors, or negligence as an excuse or justification for bid withdrawal." § 1.6510 B. states that "a person may withdraw his bid only upon a showing that an obvious unintentional, non-negligent error exists in the bid." The Examiner finds that this language is so confusing as to be unreasonable and may be subject to many different interpretations as to what is obvious, unintentional and not negligent. Use of only the terms "obvious error" would seem to be the clearest standard.

With the exception noted in the above paragraph, the Examiner finds proposed Chapter 16, as amended by the Department, both needed and reasonable.

21. Mr. Ted Pegues testified that the Department of Transportation was consulted regarding promulgation of Chapter 16 pursuant to Minn. Stat. § 574.262, subd. 3.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

C O N C L U S I O N S

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Administration. All other substantive and procedural requirements of statute or rule have been complied with.

2. Pursuant to Minn. Stat. § 15.052, subd. 3 (1976), it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed agency action . . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts."

3. The Examiner concludes that the Department has documented its statutory authority to take the proposed action.

4. The Examiner concludes that the Department has demonstrated the need for and reasonableness of the proposed rules, as amended, with the exceptions noted in Findings 15 and 20, by an affirmative presentation of facts.

Based upon the foregoing Conclusions, the Examiner makes the following:

R E C O M M E N D A T I O N

That the Department of Administration adopt the proposed rules as amended and recommended to be amended in this Report.

Dated this 5 day of October, 1978.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

IN THE MATTER OF THE PROPOSED RULES AND AMENDMENTS TO THE EXISTING RULES PERTAINING TO SEVERAL UNITS OF THE DEPARTMENT OF ADMINISTRATION

APPROVAL OF THE GOVERNOR

Pursuant to Minn. Stat. § 16.05 and 16.28, the attached rules proposed for adoption by the Department of Administration; published at State Register, Volume 2, Number 49, pages 2187-2228, June 12, 1978 (2 S.R. 2187); heard at public hearing on July 25 and 26, 1978; recommended for adoption as amended with recommendations contained in Hearing Examiner Peter C. Erickson's report of October 5, 1978; and numbered as:

2 MCAR §§ 1.3001 - 1.3006	-	Documents
2 MCAR §§ 1.3101 - 1.3109	-	Federal Surplus Property
2 MCAR §§ 1.3301 - 1.3306	-	State Surplus Property Sales
2 MCAR §§ 1.4001, 1.4101, 1.4201	-	Plant Management
2 MCAR §§ 1.4501 - 1.4505	-	Publications and General Services
2 MCAR §§ 1.5001, 1.5201 - 1.5205, 1.5301	-	Real Estate Management
2 MCAR §§ 1.6001 - 1.6005	-	Telecommunications
2 MCAR §§ 1.6501 - 1.6510, 1.6601, 1.6701 - 1.6704	-	Procurement

are hereby approved.

11-28-78
Date

Rudy Perpich
Governor

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES AND AMENDMENTS TO THE EXISTING RULES PERTAINING TO SEVERAL UNITS OF THE DEPARTMENT OF ADMINISTRATION

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter was discussed in public hearing before Hearing Examiner Peter C. Erickson of the State Hearing Examiners Office on the 25th and 26th day of July, 1978, after proper notice required by Minn. Stat. § 15.0412 was published in the State Register and served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all the evidence adduced and upon the records, files and proceedings herein, the Hearing Examiner has made his findings, attached hereto. Upon review of the Hearing Examiner's findings and the evidence and statements submitted by interested parties, I find the following:

The Report of the Hearing Examiner is hereby adopted and incorporated herein by reference as the findings of fact, conclusions and decision of the Department of Administration except as noted below.

Chapter 5 Intergovernmental Information Systems Advisory Council

2 MCAR § 1.2501: Delete the phrase "and the Department". This deletion is necessary to eliminate redundant language. Only the "Commissioner of Administration" is referred to throughout these rules.

Chapter 9 A Materials Management - Documents

2 MCAR § 1.3003: Delete the "1" at the beginning of the second paragraph in section C. This change is necessary in order to comply with proper outline form.

2 MCAR § 1.3005: Deletion of the word "postage" as noted in Hearing Examiner Finding No. 9 and as proposed in an errata sheet provided by the department at the hearing, was included inadvertently. Postage is a consideration in setting of fees and should be included in the rule.

Chapter 9 B Federal Surplus Property

2 MCAR § 1.3101: Delete the "A" at the beginning of the sentence. This change is necessary in order to comply with proper outline form.

Also, the last item in Hearing Examiner Finding No. 10, relative to Federal Surplus Property, applies to State Surplus Property Sales, Chapter 9 D, discussed in Hearing Examiner Finding No. 12.

Chapter 9 C State Register

Delete the "A" from the beginning of 2 MCAR §§ 1.3203, 1.3204, and 1.3205. These changes are necessary to comply with proper outline form.

Chapter 9 D State Surplus Property Sales

2 MCAR § 1.3301: Delete the "A" at the beginning of the rule. This change is necessary in order to comply with proper outline form.

2 MCAR § 1.3303: Delete the phone number in paragraph A as noted in Hearing Examiner Finding No. 10.

Chapter 11 Plant Management

2 MCAR § 1.4001: In clause G.1., delete the "as amended" as well as the "(1977)" noted in Hearing Examiner Finding No. 14. These words are deleted as unnecessary to the understanding of the reference.

Chapter 12 Publications and General Services Division

In 2 MCAR §§ 1.4502 and 1.4504, delete the "A" at the beginning of each rule. This change is necessary in order to comply with proper outline form.

Chapter 13 Real Estate Management

2 MCAR § 1.5202: Delete the last sentence of paragraph A. This statement is deleted as unnecessary and duplicative in the language in Minn. Stat. § 16.021.

Chapter 15 Telecommunications

2 MCAR § 1.6005: In paragraph B, the phrase "In addition to the terms of individual leases," is deleted and the "the" which follows is capitalized. This phrase is deleted since the agreement between the Telecommunications Division and persons leasing TELPAK is not in the form of an individual lease.

Chapter 3 State Building Code Division

The "A" in 2 MCAR §§ 1.10001 and 1.10007 and the "1" in the last paragraph of 2 MCAR § 1.10003 B are deleted. These changes are necessary in order to comply with proper outline form.

2 MCAR § 1.10008: In the new paragraph F.1. (old paragraph H.1.), the reference within clause 1 to "section I" is changed to "section G". In the new paragraph G.3., (old paragraph I.3.) the reference to "section H" is changed to "section F". These changes are in addition to the changes noted in Hearing Examiner Finding No. 19. These changes are necessitated by deletions of earlier sections within this rule, deletions noted in the Hearing Examiner's Report.

Also, in paragraph G.1., "by the testing procedure" in the last line is deleted. This change is necessary to ensure internal consistency within these rules in references to certified persons.

2 MCAR § 1.10010: There are four changes in addition to the items noted in Hearing Examiner Finding No. 19. Delete the "1" in the second paragraph of C., this deletion being necessary to comply with proper outline form.

This rule as proposed included two paragraphs labeled "D". Hearing Examiner Finding No. 19 notes that the department proposed to change the second paragraph to "E". This paragraph should actually be labeled "F" with the new paragraph being labeled "E". This change is necessary to ensure proper outline form.

In the new paragraph E, the word "change" in the last sentence should be "charge". This was a typographical error with "change" making no sense in the context of the sentence.

In the new paragraph F.3., delete "State Building Code III" and insert "2 MCAR §§ 1.10107 and 1.10335." This change is necessary as State Building Code III has been renumbered since the present rule was proposed.

SBC 335: In paragraph D, the "ten" should be changed to "twenty" and the "$10.00" should be changed to "$20.00". Also, the sentence "Replacement seals, one dollar and fifty cents ($1.50) per Seal" should be deleted. These changes are necessary since this rule has been formally amended through a separate and previous rulemaking process.

Based on the findings of the Office of the Attorney General that 2 MCAR 1.10008 D and E relating to Certification of Building Code Officials improperly varies the statutory requirement to provide alternative examination means of achieving certification, those sections have been amended. Specifically, the word "written" is striken to permit all types of examination under the Department of Personnel's rules. Further, language has been added to clarify that the alternative examination means set out in Minn. Stat. § 16.861, Subd. 3, govern the examination process. Finally, the word "examination" is substituted for the word "testing".

Chapter 16 Procurement

2 MCAR § 1.6502: In sub-clause 1.e., the "s" on "openings" should be deleted. This was a typographical error.

Miscellaneous Corrections

Because of typographical and other non-substantive errors discovered in the rules during review by the Office of the Attorney General, the rules are changed as follows:

(i) 1.5001 A - Citation to Minn. Stat. § 16.13 is striken as that statutory provision was repealed in 1978.

(ii) 1.6501 - The "§" is deleted and "chp."

(iii) 1.4201 - The word "period" was changed to "permit" to correct a typographical error.

(iv) 1.10008 B (4-6) and C (1-4) - Strike phrases such as "one, two, three of this section and substitute "(B)(1), (B)(2), or (B)(3) of this rule" to clarify possibly confusing citations.

(v) 1.10009 - Correct typographical errors and omissions by changing "in" to "is" and adding the word "act".

Julie Vikmanis, Manager of Examining and Referral for the State Department of Personnel testified that the Department of Personnel and Administration had consulted concerning the proposed rules, pursuant to Minn. Stat. § 16.861, Subd. 3, and that the Department of Personnel was in concurrence with the proposed rules.

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION

William G. Strusinski
Acting Commissioner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

October 5, 1978

Mr. Lee Sheehy
Special Assistant
Attorney General
Office of the Attorney General
G-19K Administration Building
Saint Paul, Minnesota 55155

RECEIVED
OCT 5 1
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Ms. Sheila Fishman
Special Assistant
Attorney General
Office of the Attorney General
G-19K Administration Building
Saint Paul, Minnesota 55155

Mr. Donald Pates
Director
Building Code Division
Room 408, Metro Square Building
Saint Paul, Minnesota 55101

Re: In the Matter of the Proposed Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration.
Docket No. ADM-78-001-PE.

Dear Ms. Fishman and Messrs. Sheehy and Pates:

Enclosed for your information, please find a copy of my Report in the above-entitled matter.

If you have any questions, or if I can be of any assistance to you, please do not hesitate to contact me.

Sincerely,

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

PCE:sw
Enc.

AN EQUAL OPPORTUNITY EMPLOYER

ADM-78-001-PE

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES AND AMENDMENTS TO THE EXISTING RULES PERTAINING TO SEVERAL UNITS OF THE DEPARTMENT OF ADMINISTRATION.	REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, hearings were held on July 25 and 26, 1978, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Administration on October 5, 1978; and

WHEREAS, the Department of Administration has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Department of Administration has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearings and that the Department of Administration has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Administration has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 11th day
of December, 1978.

DUANE R. HARVES
Chief Hearing Examiner

ADM-78-001-PE

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES AND AMENDMENTS TO THE EXISTING RULES PERTAINING TO SEVERAL UNITS OF THE DEPARTMENT OF ADMINISTRATION.	REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, hearings were held on July 25 and 26, 1978, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Administration on October 5, 1978; and

WHEREAS, the Department of Administration has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Department of Administration has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearings and that the Department of Administration has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Administration has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 11th day
of December, 1978.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES
AND AMENDMENTS TO THE EXISTING RULES
PERTAINING TO SEVERAL UNITS OF THE
DEPARTMENT OF ADMINISTRATION

ORDER ADOPTING RULES

The above-entitled matter was discussed in public hearing before Hearing Examiner Peter C. Erickson of the State of Minnesota Office of Hearing Examiners on the 25th and 26th days of July, 1978, after proper notice required by Minn. Stat. § 15.0412 was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments; having considered all the evidence in the records, files, and proceedings herein, and applicable statutory standards and criteria; and having considered the findings of fact and recommendations of the Hearing Examiner,

NOW THEREFORE, IT IS ORDERED that these rules identified as rules and amendments to the existing rules pertaining to several units of the Department of Administration and as amended as set forth in the findings of fact and conclusions attached herewith, are adopted this 7th day of December, 1978, pursuant to the authority vested in me by Minn. Stat. §§ 15.0412, subd. 3; 16.05; 16.28; 16.75; subd. 7; 16.86; and 16.96.

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION

William G. Strusinski

William G. Strusinski
Temporary Commissioner

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Lee E. Sheehy, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Lee E. Sheehy

Special Assistant Attorney General

DATED: 12-12-78

ADMIN 1000

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Administration

RECEIVED
AUG 14 1978
OFFICE OF HEARING EXAMINERS

TO : Peter Erickson
Office of the Hearing Examiner

DATE: August 11, 1978

FROM : Stephen A. Ordahl, Manager
Office of the State Register

PHONE: 296-0864

SUBJECT: Response to Rudy Brynolfson's letter of July 31, 1978.

I wish to comment on paragraph 4 of the referenced letter. As I stated in my testimony, we are in the position of printing what is submitted to us by state agencies. We do not make any changes to this material except for typographical or grammatical errors which we clear with the agency first. If the agency does not wish us to make changes, we do not. Therefore, if an error appears in the Register, it is the printer, and not our staff who has made the error. When such errors do occur, errata listings as provided in the proposed rule 2 MCAR § 1.3205 are printed in a subsequent issue.

Thank you.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

Office Memorandum

RECEIVED
AUG 14 1978
OFFICE OF HEARING EXAMINERS

DEPARTMENT of Administration
Real Estate Management Division

TO : Peter Erickson, Hearing Examiner
Room 300 - 1745 University Avenue

DATE: 8/11/78

FROM : Marlo W. Hanson, Director

PHONE: 6-6674

SUBJECT: Amendment of Proposed Rules
2MCAR 1.5202 A

The Real Estate Management Division of the Department of Administration hereby serves notice of its intention to change 2 MCAR 1.5202 A to wit:

Delete the last sentence of the section, which sentence reads as follows:

"The state may require purchase by the permittee of a surety bond for these purposes."

We respectfully request that you make this proposed change a matter of record. If further information is desired concerning this matter, please direct your communication to this office, attention Howard Eicher, telephone 296-6674.

MWH:HWE:mb

cc: John Moen
Monty Martin
Lee Sheehy
Bob Nardi

ADMIN 1000 (REV. 4/77)

STATE OF MINNESOTA

DEPARTMENT Waste and Mismanagement

Office Memorandum

TO : Richard Brubacher, Commissioner
Department of Administration

DATE: July 24, 1978

FROM : Robert Goff, Director (RG (cash))
Governor's Task Force on
Waste and Mismanagement

PHONE: 0646

SUBJECT: Proposed Rules for Real Estate Management and Procurement

Thank you for furnishing us with a copy of the proposed rules for your department. We have made a review of these rules and are troubled by the proposals for Real Estate Management and Procurement.

As you know, we are in the process of completing a study of state land acquisition. We intend to issue our report on this study sometime this week. Some of the proposed rules for Real Estate Management are in direct contradiction with the recommendations made in our report. They also appear to conflict with the current interdepartmental cooperative agreement between your department and the Department of Natural Resources.

The proposed rules for procurement contain no provision for obtaining telephone quotations on orders or for making emergency purchases. There are cases where immediate need necessitates making these types of purchases. It would not be possible in these cases to post a notice of solicitation in the Division of Procurement as required in the proposed rules.

We feel that these rules should not be adopted until these areas have been amended. Please let us know immediately how you intend to proceed in this matter.

RECEIVED
JUL 24 1978
Dept. of Administration
Office of Commissioner

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT of Administration

Office Memorandum

RECEIVED
AUG 14 1978
OFFICE OF HEARING EXAMINERS

TO : Peter Erickson
Hearing Examiner

DATE: August 14, 1978

FROM : Monty L. Martin
Assistant To The Commissioner

PHONE: 296-3938

SUBJECT: Additional Information pertaining to the Proposed Rules of the Department of Administration

At our hearing on July 25, 1978, we introduced into the record a memorandum received from Robert Goff entitled "Proposed Rules for Real Estate Management and Procurement". The following comments respond to the concerns expressed in Mr. Goff's memorandum.

As regards the Real Estate Management rules on state land acquisition, we have discussed the concerns of Mr. Goff with Michael Priesnitz of his office. Pursuant to that discussion, we propose the following addition to 2 MCAR § 1.5001 A (p.2208). Following "law" in the first line, insert "or by reorganization order issued pursuant to Minn. Stat. §§ 16.125, 16.13, and 16.135". This section of the rule is being augmented to recognize those situations wherein land acquisition responsibilities, or various facets thereof, are transferred to other state agencies pursuant to Minn. Stat. §§ 16.125, 16.13, and 16.135. The new language reasonably exempts such situations from the applicability of this rule.

As regards Procurement, we have informed Mr. Goff that the Department has existing rules for emergency purchases. Also, at the hearing on July 25 we proposed an amendment to MCAR § 1.6502 B, deleting the last sentence of that paragraph. Chris Kuderka of Mr. Goff's staff has indicated to us that these actions satisfy their concerns.

MM:cg

cc: Vern Bruce
Howard Eicher
Robert Goff
John Moen

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT of Administration

Office Memorandum

TO : Richard A. Wexler
Assistant Attorney General

DATE: December 29, 1978

FROM : Monty Martin
Assistant to the Commissioner

PHONE: 296-3938

Read AAS-Hewitt JAN 4 1979

SUBJECT: Department of Administration Rules

Pursuant to your conversation with Lee Sheehy, the Hearing Register from the Department of Administration hearing of July 25-26, 1978 is attached. Also, I have attached a copy of the letter sent to the nine individuals who indicated that they wished to be notified when the hearing record was submitted to the Attorney General.

MM/nk

Attachments (2)

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
SAINT PAUL 55155

OFFICE OF THE
COMMISSIONER

TEL. NO. 296-3862

December 15, 1978

Re: In the Matter of the Proposed Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration.

Pursuant to your request and in accordance with Minnesota Statutes, Section 15.0412 subdivision 4 and Rule HE 102, PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Attorney General's Office on December 15, 1978, for review as to form and legality of the above-captioned rules within ten (10) days after receipt of the rule by the Attorney General. If you desire to question the legality of the above-captioned rules, you should direct your comments to the Attorney General's Office, G-25 Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota, 55155.

If you are interested in determining what changes if any, were made in the proposed rules after the hearing and before submission to the Attorney General you may contact Monty Martin, 200 Administration Bldg., 50 Sherburne Ave., St. Paul, MN 55155 (612)296-3938.

William G. Strusinski
Temporary Commissioner
Department of Administration

** PLEASE PRINT CLEARLY

HEARING REGISTER

CHECK HERE IF YOU WISH TO BE NOTIFIED BY THE AGENCY WHEN THE HEARING RECORD HAS BEEN SUBMITTED TO THE ATTORNEY GENERAL. ↓

NAME	REPRESENTING	STREET ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NO.
Edna Stenglemaier	Documents Section	140 Cent. Bldg	St Paul	Mn	55155	296-2874
James R. Johnson	Federal Surplus Property	Arden Hills			55112	296-2853
STEPHEN A. ORDAHL	STATE REGISTER	408 ST. PETER ST.	St. Paul	MN	55102	296-0864
Warren E. Woods	State Surplus Property	671 N. Robert St.	St. Paul	Mn.	55101	296-6132
Daniel B. Magraw	Comm'r Office	50 Sherburne Ave	St Paul	MN	55155	296-6852
MONTY L MARTIN	COMM OFFICE - ADMIN	50 SHERBURNE AVE	ST PAUL	MN	55155	296-3938
Lee E. Sheehy	D.O.A.	" " " "	" "	"	" "	296-1288
Glenn H Johnston	Central Motor Pool	610 No Robert St	St Paul	Mn	55101	296-6781
Axel L Peterson	Plant Mgmt.	G-9 Admin Bldg	"	"	55155	296-6401
Hyman H Cohen	Publications & Gen'l Serv.	506 Rice St.	St Paul	Mn	55103	296-3277
Howard W Cohen	Real Estate Mgmt.	G-22 - Admin Bldg	St. Paul	Mn.	55155	296-6674
Herbert W. Meyer	Bloomington	2215 W Old Shakopee Rd	Bloomington	Mn	55431	881-5811 ✓
Roger H Nelson	Telecommunications Div	64 Administration Bldg 50 Sherburne Ave	St. Paul	Mn	55155	296-6544

** PLEASE PRINT CLEARLY

HEARING REGISTER

CHECK HERE IF YOU WISH TO BE NOTIFIED BY THE AGENCY WHEN THE HEARING RECORD HAS BEEN SUBMITTED TO THE ATTORNEY GENERAL. ↓

NAME	REPRESENTING	STREET ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NO.	
Clinton H. Lewis	Telecommunications Div	50 Sherburne Av	St. Paul	MN	55155	296-6428	
DON PATES	DEPT. OF ADMIN. BLDG. CODE DIV.	408 METRO SQUARE BLDG	St Paul	Mn	55101	296-4626	
RICHARD BROOKS	"	"	"	"	"	"	
Charlotte White	Dept. of Econ. Dev.	480 Cedar St.	St. Paul	MN	55101	296-2113	
Norman Cole	Natl Assn Cr. Mgmt	330 Plymouth Bldg	Mpls	Minn	55402	371-3951	
Beverly Braun	Dept. of Economic Devl.	480 Cedar St.	St. Paul	Mn	55101	296-1451	✓c
Glenn Anderson	City of St Paul	445 City Hall	"	"	55102	298-4212	✓c
Charles H. Lafferman	City of Minneapolis	300 Public Health Bldg Mpls		Minn	55112	348-8391	✓c
J. Corrigan	Procurement Div. Adm	112 Adm Bldg	St Paul	Minn	55155	296 2601	—
T. Begnaud	Procurement Svcs	112 Adm Bldg	St Paul	Mn	55155	296 2621	
Mel Manerus	SBA - MBOC	12 So 6th St	Mpls	Mn	55402	725-2010	
JOHN R. HERRERA	MINNESOTA CHIPPEWA TRIBE	P.O. BOX 217 CA	CASS LAKE	MN	56633	(218) 335-2286	✓c
Nina Rothchild	Rep. Linda Berglin	400 SW State Office Bldg.	St. Paul	MN	55155	296-8590	✓c

** PLEASE PRINT CLEARLY

HEARING REGISTER

CHECK HERE IF YOU WISH TO BE NOTIFIED BY THE AGENCY WHEN THE HEARING RECORD HAS BEEN SUBMITTED TO THE ATTORNEY GENERAL.

NAME	REPRESENTING	STREET ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NO.	
Bette Tatge	Travelers Ins. Co	500 IDS Center	Mpls.	Mn.	55402	340-4044	L c
Fran Lauenstein	T.C. Field & Co.	530 No Robert St	St Paul	Mn.		227-8405	L c
Frank Garcia	NECA	200 So. Robert	SP	Mn	55107	224-3377	L c

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

ADM-78-001-PE

JoANN CERVANTEZ, being first duly sworn, hereby deposes and says:

That at the City of Saint Paul, county and state aforementioned, on the 5th day of October, 1978, s he did serve the Report of Hearing Examiner

upon The Department of Administration

by personally handing to Lynn Moriarty

,

said original copy of the Report and the official record.

Subscribed and sworn to before me this 5th day of October, 1978.

Sandra A. Haven

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 29, 1983

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 — 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

December 11, 1978

Mr. Monty Martin
Assistant to the Commissioner
Department of Administration
2nd Floor - Administration Bldg.
St. Paul, Minnesota 55155

Re: Proposed Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration. ADM-78-001-PE

Dear Mr. Martin:

Enclosed please find the documents which you submitted to us for review on the issue of substantial change together with the Report of the Chief Hearing Examiner, pursuant to Minn. Stat. § 15.052, Subd. 3.

The enclosures consist of the following:

1. Report of the Chief Hearing Examiner.
2. Order Adopting Rules.
3. Approval of the Governor.
4. Agency Findings of Fact and Conclusions.
5. Rules as originally proposed.
6. Rules with changes since they were originally proposed.
7. Rules in final form.

Yours very truly,

DUANE R. HARVES
Chief Hearing Examiner

DRH:sh
Encs.

OFFICE OF HEARING EXAMINERS
RULES HEARING AGENDA, GUIDELINES, AND LOBBYIST REQUIREMENTS

The purpose of this hearing is to consider whether the proposed rules should be adopted and given the force of law. The agency must document its statutory authority to take the proposed action, show that it has fulfilled all relevant, substantive and procedural requirements of law or rule and demonstrate the need for and reasonableness of its proposed rules with an affirmative presentation of facts. After the hearing, the Hearing Examiner will submit his Findings of Fact, Conclusions and Recommendations to the agency. After waiting at least five days, the agency will decide whether to adopt, modify or withdraw the proposed rules. During that time, the Examiner's Report will be available to interested persons. If you desire to be notified when the Report is available, please write your name and address on an envelope at the registration desk.

AGENDA

1. Explanation of procedure by the Hearing Examiner

2. Introduction of agency panel

3. Introduction of jurisdictional and procedural documents

4. Presentation by agency

5. Questions and statements from interested persons

If any person is inconvenienced by this agenda, the Hearing Examiner will consider suspending it to accommodate special circumstances.

GUIDELINES

1. Everyone attending the hearing is requested to sign the register. If you wish to address the hearing, you must sign the register.

2. Everyone wishing to express his or her views will have an opportunity to do so. When the Examiner affords you an opportunity to speak, please step to the area designated for statements, spell your name, identify your interest or firm, and speak clearly.

   a. Only one person at a time may address the hearing.
   b. All statements must be verbalized - a nod cannot be recorded.
   c. Technical terms and proper names should be spelled.

3. All persons testifying may be questioned by representatives of the agency and the Examiner. Non-agency persons may consent to questioning by other non-agency persons.

4. Anyone who desires to submit written comments may do so at this hearing or within five working days of the close of the hearing unless the Hearing Examiner, during the hearing, extends the period for receipt of comments to 20 calendar days. Such material should be submitted to:

Office of Hearing Examiners
1745 University Avenue, Room 300
Saint Paul, Minnesota 55104

The materials must be RECEIVED within five days to be considered.

5. Lobbyists are required to register with the Ethical Practices Board. See the requirements on the back of this sheet.

Rev. 1/17/78

LOBBYING REQUIREMENTS
FOR
HEARING ON RULES,
RATE SETTING AND POWER PLANT SITING

An individual appearing at a rules hearing, rate setting or power plant siting hearing is a lobbyist if he or she meets the following criteria:

(a) Is engaged for pay or other consideration, or authorization by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative action or rulemaking, rate setting or power plant siting decisions by communicating or urging others to communicate with public officials; or

(b) spends more than $250.00, not including traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative action or rulemaking, rate setting or power plant siting decisions by communicating or urging others to communicate with public officials;

"Communicating with public officials" includes, but is not limited to testifying at contested case rate setting and power plant siting hearings and rulemaking hearings where the public officials' decisions will be based on the hearing record.

. . .

The following individuals are not lobbyists even if they meet the above criteria

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) News media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action;

(c) Paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or

(d) Stockholder of a family farm corporation as defined in Section 500.24, Subdivision 1, who does not spend over $250.00, excluding travel expenses, in any year in communicating with public officials.

An individual who meets the criteria of the lobbyist definition shall regis ter with the Ethical Practices Board within five days of becoming a lobbyis

Lobbyist registration forms may be obtained by writing the Ethical Practice Board, 41 State Office Building, Saint Paul, Minnesota 55155, or telephonin (612) 296-5615. Please contact the Board if you have any questions concerning lobbying registration and reporting requirements.

ADM-18-001-03

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ADMINISTRATION

Office Memorandum

RECEIVED
MAY 25 1978
OFFICE OF HEARING EXAMINERS

DATE: May 24, 1978

TO : Peter Erickson
Hearing Examiner

FROM : Monty Martin
Assistant to the Commissioner

PHONE: 6-3938

SUBJECT: Initiation of Hearing

In accordance with the rules of the Office of Hearing Examiners, the following are hereby transmitted:

1. A copy of proposed rules for the Department of Administration.

2. A proposed Order for Hearing.

3. A proposed Notice of Hearing.

As we have discussed, we expect the hearing to last two days with provision being made for extention beyond two days if necessary. At various time in the proceedings, we expect up to 25 members of the Department of Administration to appear and anticipate that the total number of persons at the hearing at any one time would not exceed 80.

MM:pm

Agency Exh. "A"

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

RECEIVED
MAY 25 1978
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED RULES AND AMENDMENTS TO THE EXISTING RULES PERTAINING TO SEVERAL UNITS OF THE DEPARTMENT OF ADMINISTRATION

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in Room 83, State Office Building, St. Paul, Minnesota 55155, commencing on July 25, 1978, at 9:30 a.m., and continuing on July 26, 1978, or until such time as all interested persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, State Hearing Examiners Office, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, 612/296-8118, either before the hearing or within 5 days or up to 20 days after the close of the hearing upon order of the hearing examiner.

The following new and/or amended rules and repeal of existing rules are being proposed and will be discussed in the order given.

1. Intergovernmental Information Systems Advisory Council rules governing the application, solicitation, review, analysis, and final disposition of grant proposals relating to data processing and systems analysis.

2. Documents Section rules informing the general public of the availability and cost of publications, maps, and other services from the Documents Section, Materials Management Division.

3. Federal Surplus Property Section rules relating to eligibility for and distribution of federal surplus property made available by the federal government for transfer to governmental or non-profit organizations, including establishing certain standards relating to the terms and acceptable financing of such purchases.

4. Office of the State Register rules governing the availability and cost of publications from the Office of the State Register, Materials Management Division, including repeal of existing rules.

5. State Surplus Property Sales Section rules governing the disposition of obsolete, surplus, and recyclable state property, including eligibility for and terms of purchase.

6. Central Motor Pool rules relating to handling insurance claims involving Central Motor Pool vehicles.

Agency Exh. "B"

7. Plant Management rules governing the parking of motor vehicles in parking facilities owned or operated by the State of Minnesota and controlled by the Commissioner of Administration, relating to the cost and issuance of parking permits for such facilities, relating to the disposition of lost personal property discovered on certain state property, and governing the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. Included is the repeal of previous Parking rules.

8. Publications and General Services rules providing for the certification of and computation of standard and adjusted line rates, relating to the central mail room of the Department of Administration, and relating to resolution of a controversy between a public official and publisher concerning the proper line rate and charge.

9. Real Estate Management rules governing the state's acquisition of real property, the issuance of permits for easements across state lands, the issuance of permits to search for lost or abandoned property upon state lands, and the leasing out of state owned property which is temporarily not needed by the state.

10. Records Management rules governing the records management practices of all state agencies established pursuant to Minn. Stat. § 138.17, including retention, storage, and disposition of state records.

11. Telecommunications rules relating to the application by governmental bodies for sub-lease of TELPAK services.

12. State Building Code rules establishing procedures for appeals of municipal building code interpretations, relating to state surcharge fees, establishing requirements for certification and continuing education of municipal building officials and revocation of such certification, and establishing plan review procedures. Amendments to existing rules relating to manufactured building seals, plan approvals and fees are also being proposed.

13. Procurement rules governing the procurement of materials and services for the state under the competitive bidding requirements and establishing procedures relating to the socially or economically disadvantaged business-small business set-aside program administered by the Procurement Division, Department of Administration. Included is the repeal of existing rules relating to the small business procurement act.

Copies of the proposed rules are available and one free copy may be obtained by writing to the Commissioner's Office, 200 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. Additional copies will be available at the door on the dates of the hearing. A "Statement of Need" explaining why the agency feels the rules are necessary and a "Statement of Evidence" outlining the testimony they will be introducing will be filed with the hearing examiners office at least 25 days prior to the hearing and will be available there for public inspection.

The department's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 15.0412, subd. 3, 16.05, 16.28, 16.75, subd. 7, 16.86, 16.96, and 138.17.

Please be advised that pursuant to Minn. Stat. 10A.01, subd. 11 (1974) any individual engaged for pay or ther consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Date: _____

_____

Richard L. Brubacher
Commissioner of Administration

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ADMINISTRATION

Office Memorandum

TO : Peter Erickson
Hearing Examiner

DATE: June 28, 1978

FROM : Monty Martin
Assistant to the Commissioner

PHONE: 6-3938

SUBJECT: Department of Administration
Rules Hearing

RECEIVED
JUN 28 1978
OFFICE OF HEARING
EXAMINERS

In accordance with HE 103, the following documents pertaining to the hearing which is to begin on July 25, 1978, are officially filed.

1. The Order for Hearing
2. The affidavit of receipt from the Secretary of State's list
3. The Affidavit of Mailing with attached Notice of Hearing
4. The Statement of Need
5. The names of agency personnel who will represent the agency at the hearing
6. The Statement of Evidence

To my knowledge, we have now supplied you with all information needed for the hearing. Please contact me with any questions or requests for additional information.

MM:pm

Agency Exh "D"

RECEIVED
MAY 25 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES
AND AMENDMENTS TO THE EXISTING RULES
PERTAINING TO SEVERAL UNITS OF THE
DEPARTMENT OF ADMINISTRATION

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing in the above-entitled matter will be held in Room 83, State Office Building, St. Paul, Minnesota 55155, commencing on July 25, 1978, at 9:30 a.m., and continuing on July 26, 1978, or until such time as all interested persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Date: _____

_____
Richard L. Brubacher
Commissioner of Administration

Agency Exh "C"

Department of Administration personnel who will represent the department at the rule hearing beginning July 25, 1978.

Richard A. Brooks	Building Code Division
Vern S. Bruce	Procurement Division
Hyman H. Cohen	Publications Division
James J. Corrigan	Procurement Division
Charles E. Coskran	Commissioner's Office
Albert P. Dorich	Real Estate Management Division
Howard W. Eicher	Real Estate Management Division
Clarence Ernst	Plant Management Division
Sheila F. Fishman	Special Assistant Attorney General
Marlo W. Hanson	Real Estate Management Division
Sivert Hendrickson	Building Code Division
James R. Johnson	Materials Management Division, Federal Surplus Property
Glenn H. Johnston	Central Motor Pool
Paul Krenick	Materials Management Division, Surplus Property
Clinton H. Lomis	Telecommunications Division
Daniel B. Magraw	Commissioner's Office
Monty L. Martin	Commissioner's Office
Robert D. McNeil	Central Motor Pool
J. Michael Miles	Assistant Attorney General
John C. Moen	Commissioner's Office
Robert R. Nardi	Special Assistant Attorney General
Roger H. Nelson	Telecommunications Division
Stephen A. Ordahl	Materials Management Division, State Register
Donald Pates	Building Code Division
Theodore R. Pegues	Procurement Division
Axel Peterson	Plant Management Division
Roger I. Sell	IISAC
Lee E. Sheehy	Special Assistant Attorney General
Eda Staudenmaier	Materials Management Division, Documents Section
Larry L. Volmer	Materials Management Division
Warren E. Woods	Materials Management Division, Surplus Property
Eugene A. Wrobel	Materials Management Division

Date June 28, 1978

Richard J Brubacher

Richard L. Brubacher
Commissioner of Administration

Agency Exh "J"

ERRATA

to the proposed rules and amendments to the existing rules pertaining to several units of the Department of Administration as published in the State Register on June 12, 1978.

p. 2190 2 MCAR § 1.2507 B. Delete the following: ", availability of funds,".

p. 2190 2 MCAR § 1.3003 B (3). Change the second sentence as follows: If the code number is unknown, the county, township, ~~and~~ range, ~~or~~ and other specific information that will aid in locating the exact area shall be provided.

p. 2191 2 MCAR § 1.3004. In the third line, after "offered to", insert "state agencies and".

p. 2191 2 MCAR § 1.3005. In the fourth line, delete "postage".

p. 2191 2 MCAR § 1.3101. In the fourth line, delete "(1976)".

p. 2192 2 MCAR § 1.3105 A (5). Change the reference 2 MCAR § 1.3104 to "2 MCAR § 1.3108 A".

p. 2200 2 MCAR § 1.3303 A. In the fourth line, delete "(612) 296-6132,".

p. 2201 2 MCAR § 1.3303 C. In the third and fourth lines, delete ", (612) 296-6132".

p. 2201 2 MCAR § 1.3304 A. In the fourth line, delete "(612) 296-6132,".

p. 2201 2 MCAR § 1.3304 B. In the first line, delete "estimate" and add in its place "estimated number".

p. 2201 2 MCAR § 1.3305 A. In the fifth line, delete ", (612) 296-6132".

p. 2204 2 MCAR § 1.4001 G (3). After the word "sent", insert "in writing".

p. 2205 2 MCAR § 1.4201. In the third line, change "rules govern" to "rule governs".

p. 2205 2 MCAR § 1.4201 A. In the first line, change "These rules define" to "This rule defines".

p. 2206 2 MCAR § 1.4201 C. After the word "revoked", insert "and shall be forfeited".

Agency Exh "L"

p. 2206 2 MCAR § 1.4201 D. In the third line, change "these rules" to "this rule".

p. 2225 2 MCAR § 1.6506 C. In the third line, delete "Minn. Stat. § 16.365 shall govern" and insert "preference shall be given to the Minnesota firm".

p. 2225 2 MCAR § 1.6507 H. In the first line, change "need" to "needs".

p. 2226 2 MCAR § 1.6701. Delete "The following rules" and insert "2 MCAR §§ 1.6701 - 1.6704".

p. 2227 2 MCAR § 1.6704 A. In the first line, insert a comma after "award" and delete "but".

p. 2228 2 MCAR § 1.6704 G. At the end of the second line, after "more of the", insert "dollar value of the".

p. 2228 2 MCAR § 1.6802 (1). After "statement", insert "or equivalent approved by the Director;".

p. 2228 2 MCAR § 1.6803. Delete the portion of the rule beginning with "A determination shall be made...".

ERRATA

(Relating to State Building Code Division)

2MCAR § 1.10004 Application for appeal.

B. 3. municipality information, including name of municipality, building official, and the local appeal board chairman:

2MCAR § 1.10008

E. The testing shall be by written examination. The written examination shall be given by the State Department of Personnel pursuant to the rules of that department and the following:

E. 1. If the applicant fails the written examination or fails to appear, the applicant shall be permitted to retake the examination or be scheduled for a second administration following 30 calendar days after testing results notification.

E. 2. If the applicant fails the written examination a second time, or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit application pursuant to Section D of this rule.

F. Delete section F in its entirety.

G. Delete section G in its entirety.

H. Designate H as F.

I. Designate I as G.

G. 1. Effective January 1, 1979, each person certified as a state building official, by the certification procedures of the State of Minnesota, shall submit in writing to the State Building Inspector an application for renewal of his certification within 60 days of the last day of the third calendar year period following the last certificate issued. For persons certified by the testing procedure prior to January 1, 1979, the first three year period shall begin January 1, 1979.

2MCAR § 1.10010 Plan Review Function

Second Section D change to E and add a new section:

E. The State Building Inspector may contract for plan review as required by this section with any municipality the State Building Inspector determines is properly staffed and qualified to perform the plan review function. No fees shall be paid by the State to any municipality performing said contract function. The municipality shall change its standard plan review fee directly to the applicant for a building permit.

New F. Fees

Agency Exh. "M"

The following paragraph was inadvertently omitted from the Department of Administration proposed rules as published in the State Register on June 12, 1978. This item was addressed in the department testimony presented on July 25, 1978.

p. 2209

2 MCAR § 1.5202, Subd. I:

I. Permittee shall not vary the permit without the prior written consent of the Commissioner or designee.

Agency Exh. "O"

RECEIVED
AUG 7 1978
OFFICE OF HEARING EXAMINERS

minneapolis
city of lakes

DEPARTMENT OF INSPECTIONS
SOL J. JACOBS, DIRECTOR
300 PUBLIC HEALTH CENTER 348-7822
MINNEAPOLIS, MINNESOTA 55415

August 4, 1978

Mr. Peter Erickson
Office of Hearing Examiners
1745 University Avenue
St. Paul, MN 55104

Dear Mr. Erickson:

Regarding the Public Hearing held July 25, 1978, concerning proposed rules for the Department of Administration relating to certification of Building Officials. We have been informed by staff persons of the Building Code Division that one of the purposes behind the proposed rules for continuing certification was to assist State Building Officials in their efforts to attend more educational meetings. Actually, the proposed rules give a local government a very easy tool to remove a Building Official simply by not granting him permission to attend North Star Chapter meetings and schools set up by the State Building Code Division.

We here in the Department of Inspections, City of Minneapolis, certainly believe in on-going education but do not believe that the requirements for maintenance of certification have been very well thought out in the proposed rules. Many of our staff persons have completed most of the Building Inspection Technology courses in the past and the proposed rules do not appear to give them any credit for this conscientious effort. The proposed rules evidently do not recognize a college degree in engineering or architecture or certification that has been given by the International Conference of Building Officials. We also believe that Building Officials actually engaged in the enforcement of the State Building Code on a day to day basis certainly are in a continuing education process and some effort should be made to recognize this.



EQUAL OPPORTUNITY EMPLOYER

The proposed rules evidently recognize regional meetings of Building Officials and yet within a Department as large as ours we have regular monthly meetings of our Building Inspectors which are attended by approximately 14 persons, are educational in nature, and should certainly receive some recognition in the continuing certification program.

Our reading of the proposed rules would indicate that there is no attempt to require education or training for Building Officials who were grandfathered into their positions. We would suggest that the Building Code Division go back to the State Legislature and attempt to obtain enabling legislation so these persons whose qualifications have never been evaluated would be brought into the scope of the recertification program.

The administration of the Department of Inspections, City of Minneapolis, is very dissatisfied with the rules relating to maintenance of certification and would recommend that the Building Code Division be instructed to reconsider the certification program and, with the cooperation of the North Star Chapter, attempt to formulate some reasonable rules relating to continued certification. We do not believe the rules, as proposed, are reasonable and would also like the Attorney General to be consulted to determine if the State Statutes actually authorize the Building Code Division to remove certification as proposed in the new rules.

In reference to 2MCAR 1.10010, Plan Review Function, on August 1 we received an errata relating to the proposed rules and that errata indicates that the following language would be incorporated into the plan review function:

"E. The State Building Inspector may contract for plan review as required by this section with any municipality the State Building Inspector determines is properly staffed and qualified to perform the plan review function. No fees shall be paid by the State to any municipality performing said contract function. The municipality shall charge its standard plan review fee directly to the applicant for a building permit."

With the inclusion of the above paragraph, we have no objection to the plan review function as set out in the proposed rules and would, in fact, support them.

Sincerely,

Sol J. Jacobs
Director of Inspections

Donald G. Olson
Deputy Director

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
SAINT PAUL

BUILDING CODE
DIVISION

408 METRO SQUARE
7TH AND ROBERT STS.
ST. PAUL, MN 55101

RECEIVED
AUG 11 1978
OFFICE OF HEARING
EXAMINERS

August 3, 1978

Peter Erickson
Hearing Examiner
1745 University Avenue
St. Paul, MN 55104

RE: Building Code Division's Response to Comments Filed by Mr. Schmitz City Administrator, City of Franklin, Minnesota, at the Department of Administration's Procedural Rules Hearing Regarding Proposed Rule 2MCAR1.10008, Maintenance of Certification.

Dear Mr. Erickson:

Mr. Schmitz is concerned that the prerequisites for certification are too stringent, particularly for small cities.

We do not share Mr. Schmitz's concern. Small jurisdictions will be served by a combined or large entity having personnel qualified to perform. Small jurisdictions may have a non-certified person working under a certified person of a combined entity or a county certified building official who is responsible for the small city construction control.

A certified building official is a profession requiring considerable knowledge and expertise in codes and construction. He is responsible for public safety in structures and minimum structural health, life and fire safety must be properly administered.

The prerequisites are minimum for certification testing. Once certified the building official is required to take minimum additional training to become and remain proficient in his profession.

For additional comment, please refer to our response to Item 4 in our letter to you concerning Mr. Gustafson's testimony dated August 3, 1978.

Yours very truly,

BUILDING CODE DIVISION

Richard A. Brooks
Assistant Director

RAB/d

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

Office Memorandum

RECEIVED
AUG 14 1978
OFFICE OF HEARING EXAMINERS

DEPARTMENT Administration - Procurement

TO : Peter Erickson
Hearings Examiner
State of Minnesota
1745 University Ave., Room 300
St. Paul, Minnesota 55104

DATE: August 14, 1978

FROM : J. J. Corrigan
Assistant Director of Procurement

PHONE: 296-2601

SUBJECT: Reply to Hearing Record Comments

Comments of Charles Loberg:

(1) 2 MCAR 1.6503, Subdivision C
Our wording allows for return of checks to unsuccessful bidders 5 days after award of contract. Our rule makes allowance for protracted awards or award disputes which often prolong the contract award beyond a 30 day period.

(2) 2 MCAR 1.6504, Subdivision C
Section pertains to rejection of bids only, not award. Use of 30 days as an absolute criteria is unrealistic. Some bids require more time to evaluate and award. There is also the situation of protracted awards as the above response to 2 MCAR 1.6503, Subdivision C indicates.

(3) 2 MCAR 1.6507, Subdivision H
Already corrected in the record.

(4) 2 MCAR 1.6510, Subdivision D
We do not want vendors or bidders to use negligent errors, or negligence as an excuse or justification for a bid withdrawal. We do not want to get into the contention of potential bid manipulation under a situation that a bid error was intentional or negligent.

(5) 2 MCAR 1.6703, Subdivision B
No objection, probably not relevant however.

(6) 2 MCAR 1.6703, Subdivision B, Item 6
No suggestion as to how it should be rewritten. We believe that it is clear enough.

(7) 2 MCAR 1.6704, Subdivision G
We believe the qualification protects the intent to avoid the mere brokering of such contracts and believe the sentence is needed and is reasonable.

Comments of Nina Rothchild

The Department of Administration believes the definition of socially and economically disadvantaged in the statute provides sufficiently clear standards upon which the Department can review each application for eligibility for the set-a-side program.

Secondly, the due process rights of all individuals are protected by the courts. The Department feels at this point in time that an insertion of a formal administrative appellate process would only add a burdensome and unnecessary bureaucratic step in the process.

Peter Erickson, Hearing Examiner August 14, 1978

Comments of Beverly Braun

M.S. 16.084 refers to when a small business "...is unable to perform under a set-aside contract ..." which mandates that a failure to perform is the criteria to be used. However, we are in agreement with the Department of Economic Development, that when a failure to perform arises, under the set-aside program, to inform them of such problems when they occur.

Comments of Donald F. Monguson

On the non-negligence issue, see response to Charles Loberg, Item (4).

JJC:fd
cc: V. S. Bruce

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
SAINT PAUL

BUILDING CODE
DIVISION

408 METRO SQUARE
7TH AND ROBERT STS.
ST. PAUL, MN 55101

RECEIVED
AUG 11 1978
OFFICE OF HEARING
EXAMINERS

August 11, 1978

Peter Erickson
Hearing Examiner
1745 University Avenue
St. Paul, MN 55104

RE: Building Code Division's Response to Comments Filed by Charles Gustafson at the Department of Administration's Procedural Rules Hearing Regarding Proposed Rule 2MCAR1.10008, Maintenance of Certification.

Dear Mr. Erickson:

The Building Code Division makes the following response to items 1 through 5 of Mr. Gustafson's testimony:

Item 1. Notice of Hearing. Notice of the July 25, 1978 hearing was given as prescribed by Minnesota Statutes.

Additionally, 30 days prior to the hearing, Richard Brooks, Assistant Director, Building Code Division, distributed 100 copies of the Division's proposed rules to the North Star Chapter of Building Officials (statewide membership) and explained the proposed rules and their application to certified building officials.

Item 2. The errata sheet was submitted and properly admitted to the hearing record. The word "testing" was changed to "certification" in the second line of G.1, thereby applying the requirement to all building officials that are certified regardless of the method of certification.

Item 3. (a) Continuing education of a building official is essential in order to maintain the competence and knowledge required for certification. The Division's Statement of Need explains the necessary reasons for this requirement.

(b) If Mr. Gustafson's viewpoint were followed it would become a vital concern of the Division that it would become impossible to maintain an adequate level of competence at the municipal level and impossible to achieve the purpose of the provision for continuing education as a condition of re-certification.

(c) To offset some of Mr. Gustafson's concerns, the Division proposes to amend 2MCAR Section 1.10008 G.4 as follows:

4. Any person not complyling with the requirements of this section shall be notified in writing by the State Building Inspector of the noncompliance with this section. The notice shall advise the person that he or she may, within 30 days of the mailing of the notice, appeal in writing to the Commissioner of Administration. If no appeal is requested in such period it shall be deemed acquiesance by that person of the State Building Inspector's finding.

   a. If the Commissioner of Administration finds that circumstances of employment, health, unavailability of training programs or similar circumstances beyond the person's control did not permit compliance with this section, the Commissioner shall grant a reasonable extension of time in which to comply, or, upon a showing of compelling need, shall waive strict compliance with this section.

(d) The existing G.5 permits any person to retest every 3 years instead of the continuing education achievement.

Item 4 We challenge Mr. Gustafson's standing in contesting the proposed rule since he is not required to be certified; he only desires to be certified.

Only the administrative building official (one) is required by statute to be certified for any jurisdiction which may be of any size or combination of municipalities, i.e. 3 counties and all cities in the 3 counties could be an inspection entity and only the chief building official would be required to be certified, his 21 inspectors would not be required to be certified. We are of the opinion that the proposed rule is essential, it is reasonable and minimal in scope and permits options to individuals.

Item 5 Point Credits. Mr. Gustafson has selected the most limited methods to make an extreme point, he has totally ignored the numerous methods and options available in the rule. F.4, a through i, the continuing education methods are reasonable and easily obtainable if planned by a certified person to take advantage of the alternatives.

Yours Very truly,

BUILDING CODE DIVISION

Richard A. Brooks
Assistant Director

RAB/d

July 21, 1978

Mr. Richard L. Brubacher
Commissioner of Administration
State of Minnesota

Gustafson

Re: 2MCAR1.10008 para H
Maintenance of certification

I represent the building inspection section of the Minneapolis Department of Inspections. I also represent six state certified building officials.

We are infavor of recertification of certified building officials. We ask that you give consideration to the following five points before adopting any part of these proposed rules.

1. Notice of these hearings were not given to all certified persons affected by these rules. I personally spoke with 4 other certified building officials that had not received any notice yet they could lose their certifications due to these rules.

2. The rules are blatently unfair as they are not imposed on all certified persons. These rules can revoke the certification of a person that has met the state's standards yet they are not imposed on those officials that were "grandfathered in" and have met no standards of any kind.

3. The choice of re-certification is taken away from the certified person and given to the employer and the state code division. Under the proposed rules attendence is mandatory at two building officials' institutes and 4 one-day code division schools in each 3-year period. These functions take place during normal business hours and our attendence is at the whim of our employer. Many of our budgets don't allow us to attend as often as required by these rules. Many of us cannot attend even on our own time, because of the pressures of our work loads. A building official that does a better job than local politics dictate could lose his certification and consequently his job because of this mandatory attendence rule. It is mandatory to attend 4 one-day code division schools, yet this rule allows the state code division not to offer the schools if ample personnel and funding isn't available.

4. I.C.B.O. certifications and recertifications have been omitted from the point system. The rules give a point value for local ICBO chapter meeting and ICBO training sessions yet they give no points for ICBO certification or recertification. It is our feeling that any building official working in any code enforcement position and currently certified or recertified by ICBO has met much higher standards than the state requires. This higher standard required by ICBO under their recertification program should be valued in excess of the 18 points needed for state re-certification.

5. Point credits are not given for other than Building Inspection technology courses at state colleges under the proposed rules. Many of us have completed all of the offered B.I.T. courses and would have to re-take the courses under these rules to get credit for them. Those of us who followed the code division's recommendations and took these courses are being penalized by having to take them again, in order to receive any points. The A.A. degree in building inspections covers a lot of other courses to graduate and equal credits should be given for those courses. According to these rules in order to not repeat B.I.T. courses we would get our points from attending 24 North Star meetings and two mandatory three-day building officials institutes and four mandatory one-day code division sponsored schools. This would mean that over a 3-year period we would have to spend 34 days away from our jobs to retain our certifications. For many of us it would mean giving up eleven days of our earned vacation each year to just keep our certifications.

CITY OF FRANKLIN

FRANKLIN, MINNESOTA 55333
Phone (507)557-2259

RECEIVED
JUL 20 1978
OFFICE OF HEARING EXAMINERS

July 17, 1978

Peter Erickson
State Hearing Examiners Office
Room 300
1745 University Avenue
St. Paul, Minnesota 55104

Dear Mr. Erickson:

I am writing regarding your proposed rules changes as published in the State Register (2 S.R. 2217-8). I am writing specifically about Section 1.10008, subsections A and B, Building official certification for class I of the proposed dichotomy.

I am City Administrator for two small towns --- Franklin and Fairfax, Minnesota. Both these towns will be forced to hire a certified building official by January 1979. (Fairfax now has a grandfathered official who wishes to quit soon.) It was hoped that the rumored dual classification would save small towns the trouble and expense of hiring a professional person to inspect new construction in their towns. It was hoped that the experience prerequisites would be minimal enabling smaller towns to hire and train someone of their choice.

The problem is this. In most smaller towns the number of people who meet the requirements for Class I cerification probably number between ten and twenty people. Of these qualified, most work for the local construction firm and the rest may or may not accept the job of local building inspector. If the prerequisites remain as high as they are presently proposed, smaller towns will for the above reason be forced to circumvent at least the spirit of the law by simply appointing thelocal contractor as the local building official. It will be the City's only choice as the local contractor is probably the only qualified person (according to proposed rules) in the locality. It goes without saying that to have the local contractor inspecting his or his competitor's work is a joke. It is a certainty that the benefits of a building inspection program would not be realized in rural Minnesota.

Another problem is that civil leaders in small towns generally resist the imposition of rules and regulations on the operation of their town government. In small towns conformity is the rule. Peer pressure gets far better results than any amount of rules and regulations ever could. A contractor does not make a mistake twice or word gets around that his firm is unreliable.

When civil leaders see that the only difference between Class I and Class II is at minimum two years experience, they may balk. When they see that the difference is two years experience between the inspector ofa house in Franklin or Fairfax and the inspector of a sky scraper in Duluth, a hospital in Rochester, or an apartment in Willmar, these same local leaders will certainly not be enthusiastic in enforcing an imposed code.

When smaller towns heard about the proposed dual classification for certifying inspectors, they were more enthusiastic about enforcing the code. Many towns planned to hire and train an inspector part-time for one and two family dwellings which are about ninety percent of all construction in smaller towns and to contract with the County or a nearby larger town to inspect all other construction. But the high prerequisites make this alternative of no use to the smaller towns. The Cities of Frankin and Fairfax have only one other alternative other than hiring the local contractor. That alternative is to contract with the County to provide inspections. But such an enforcement system would only cause delays and added expenses as the County Seat is a 47 mile roundtrip from Franklin and a 63 mile roundtrip from Fairfax.

For the above reasons, I would like to propose that the following words from Sectionl.10008, Subsection B, Number 4 be deleted: "plus one year experience in subdivision one, two, or three of this section." A suggested substitution would be the following: "plus one year apprenticeship working under a certified building official." This apprentice could then call the certified official to clarify any points that the apprentice is unsure of. Such a proposal would allow smaller towns to select and train an individual who will take the job seriously, have no conflict of interest, and have the ability to administer the program in a relatively inexpensive manner. In addition, this program would make the individual better qualified for one and two family dwelling inspection.

In summery, I would like to point out that unless the experience prerequisites are reduced or made more flexible, smaller towns will be forced to circumvent at least the spirit of the law. I do not say this as a threat but merely to point out a fact. I thank you for this opportunity to speak my piece and I hope that this oversight is rectified.

Sincerely,

Kenneth T. Schmitz

Kenneth T. Schmitz
City Administrator

Minnesota
DEPARTMENT OF ECONOMIC DEVELOPMENT
480 CEDAR STREET
ST. PAUL, MINNESOTA 55101

RECEIVED
AUG 7 1978
OFFICE OF HEARING EXAMINERS

August 4, 1978

Mr. Peter Erickson
Hearing Examiner
State of Minnesota
1745 University Avenue, Room 300
St. Paul, Minnesota 55104

Dear Mr. Erickson:

This letter is in response to your request that I submit to you a written copy of my testimony given at the hearing on Department of Administration Procurement Rules held July 25, 1978. To the best of my recollection, my testimony was as follows.

My name is Beverly Braun. I am with the Minnesota Department of Economic Development, 480 Cedar Street, Saint Paul, Minnesota, 55101. I speak to you today on behalf of the Minnesota Department of Economic Development which has responsibility under Ch. 383 for promoting the set-aside program, and as a representative of an ad hoc committee Commissioner Dayton organized which is composed of representatives of various state agencies and whose concern is to increase participation in the set-aside program. Specifically, the things I would like to address are:

In 2MCAR 1.6704, Para. B: "When the Commissioner of Administration finds that the low bidder is unable to perform, the Department of Economic Development shall be notified by the Division of Procurement in accordance with Minnesota statute 16.084 so that the Deputy Commissioner of Economic Development can assist the small business in attempting to remedy the causes of the inability to perform." Our concern is that "Deputy Commissioner" be changed either to "Commissioner" or "Department" as it does not seem appropriate to designate one specific individual on our staff to address this problem. In the same paragraph, we would like to encourage the language to read: "The Department of Economic Development should be notified when there appears to be a problem with the performance on a contract." There is very little we can do to help a business if we are unaware of a problem until they have either defaulted on a contract or are declaring bankruptcy.

In addition, the ad hoc committee I represent asked me to ask representatives of the Department of Administration two questions regarding matters that are

discussed in these rules. In 2MCAR 1.6703(B), Para. 1: "First attempt at purchase shall be made from a small business owned by a socially or economically disadvantaged person. When feasible, competitive bids shall be obtained; if not, price may be negotiated." Our question is: How frequently has price negotiation been practiced? (answer from Pegues) Our other question was regarding 2MCAR 1.6704, Para. F: "The Commissioner of Administration may divide bid invitations by dollar amounts, units of production or duration of contract to facilitate awarding contracts to businesses in the set-aside program. Our question is: How frequently is that practiced? (answer from Pegues)

I would like to express my appreciation for being able to speak with you today regarding our concerns and interests in the rules for the set-aside program.

If you have any further questions regarding my testimony, feel free to contact me at the department (296-1451).

Sincerely,

Beverly Braun

Beverly Braun
Director
Division of Small Business

BB:jk

MINNESOTA ENERGY AGENCY
980 AMERICAN CENTER BUILDING
150 EAST KELLOGG BOULEVARD
ST. PAUL, MINNESOTA 55101
612-296-5120

RECEIVED
AUG 2 1978
OFFICE OF HEARING EXAMINERS

July 31, 1978

Peter Erickson
State Hearing Examiners Office
1745 University Ave., Room 300
St. Paul, Minnesota 55104

Dear Mr. Erickson:

Regarding the State Register rules (2S.R.2199-2200), the following comments were prepared by David Jacobson, Manager of the Energy Agency's Certificate of Need Program, who has had extensive experience with the State Register.

1) 1.3202 B 6 and C 3 are identical and therefore redundant.

2) 1.3202 B 2 and 3 and 1.3203 C 4 essentially have the same information. Yet two subdivisions are used in one case and only one subdivision in the other.

3) 1.3202 A and 1.3204 A - Subdivision "A" should not be used unless there is a second subdivision.

4) 1.3204 - What is the Register's legal liability arising from printing mistakes made by the Register? Can an incorrectly printed rule be in effect if it has been badly botched by the Register? This actually happened with one set of our rules.

5) 1.3205 - I don't think "so identified" is very clear.

Sincerely,

RBrynolfson

Rudy Brynolfson
Assistant Director

RB:sas

AN EQUAL OPPORTUNITY EMPLOYER

U. S. GOVERNMENT
SMALL BUSINESS ADMINISTRATION
PLYMOUTH BUILDING
12 SOUTH SIXTH STREET
MINNEAPOLIS, MINNESOTA 55402

RECEIVED
JUL 31 1978
OFFICE OF HEARING
EXAMINERS

July 28, 1978

Mr. Peter Erickson, Hearing Examiner
State of Minnesota, Room 300
1745 University
St. Paul, Minnesota 55104

Dear Mr. Erickson:

Re: Department of Administration
Rules to MCAR 1-6704

In hearing 25 July 1978, Mr. Sheehey, attorney for the Department of Administration, said that this reference rule was taken from the law as far as wording is concerned. However, the law says that the Department of Economic Development will be notified at the time that the Commissioner of Administration determines that a small business is unable to perform; whereas, the rules say that the Department of Economic Development will be notified when the Commissioner of Administration determines that a low bidder is unable to perform.

I believe the former, the language in the law, requires the Department of Administration to notify the Department of Economic Development of problems with businesses within this program, which may or may not have won contractual awards. The latter, the language of the rules, waits with this notification until the low bidder cannot perform on a specific contractual obligation. Although it is understood that the Department of Economic Development may not be able to remedy the situation which makes a small business unable to perform, the more time that can be given to the Department of Economic Development to work with that company is advantageous. To wait until the contractor has bid on a contractual obligation, has won the bid, and then is unable to perform, is normally far too late to provide the kind of help to that small business that it requires.

I concur with Ms. Braun, representing the Department of Economic Development, that the provision ought to read, "The Commissioner of Economic Development should be notified when there appears to be a problem with the performance of a contractor". Except for this one change on when it is most advantageous to get assistance for the small businessman, I concur with the rules drafted by the Department of Administration and presented by Mr. Ted Peguse.

Procedurally, I disagree with their reluctance to use the provision of both the law and the rule, which allows them to negotiate contracts with economically and socially disadvantaged businessmen. But, when and if this administrative decision is changed, the rules at least are adequate.

Sincerely,



Melvin B. Aanerud
Business Development Specialist
Small Business Administration
and
Chairman
Minority Business Opportunity Committee

July 25, 1978

Testimony of Nina Rothchild, Executive Director, Council on the Economic Status of Women, 400 SW State Office Building, St. Paul, MN 55155 (speaking on her own behalf), and in behalf of Representative Linda Berglin, Council chair.

My testimony today is related to the lack of specific standards set for the designation of "socially or economically disadvantaged persons" in the set-aside program administered by the Procurement Division, Department of Administration.

My understanding is that, for members of some groups, group membership defines them a priori as socially or economically disadvantaged, whereas for members of other groups -- notably women -- persons must prove on an individual basis that they are socially or economically disadvantaged.

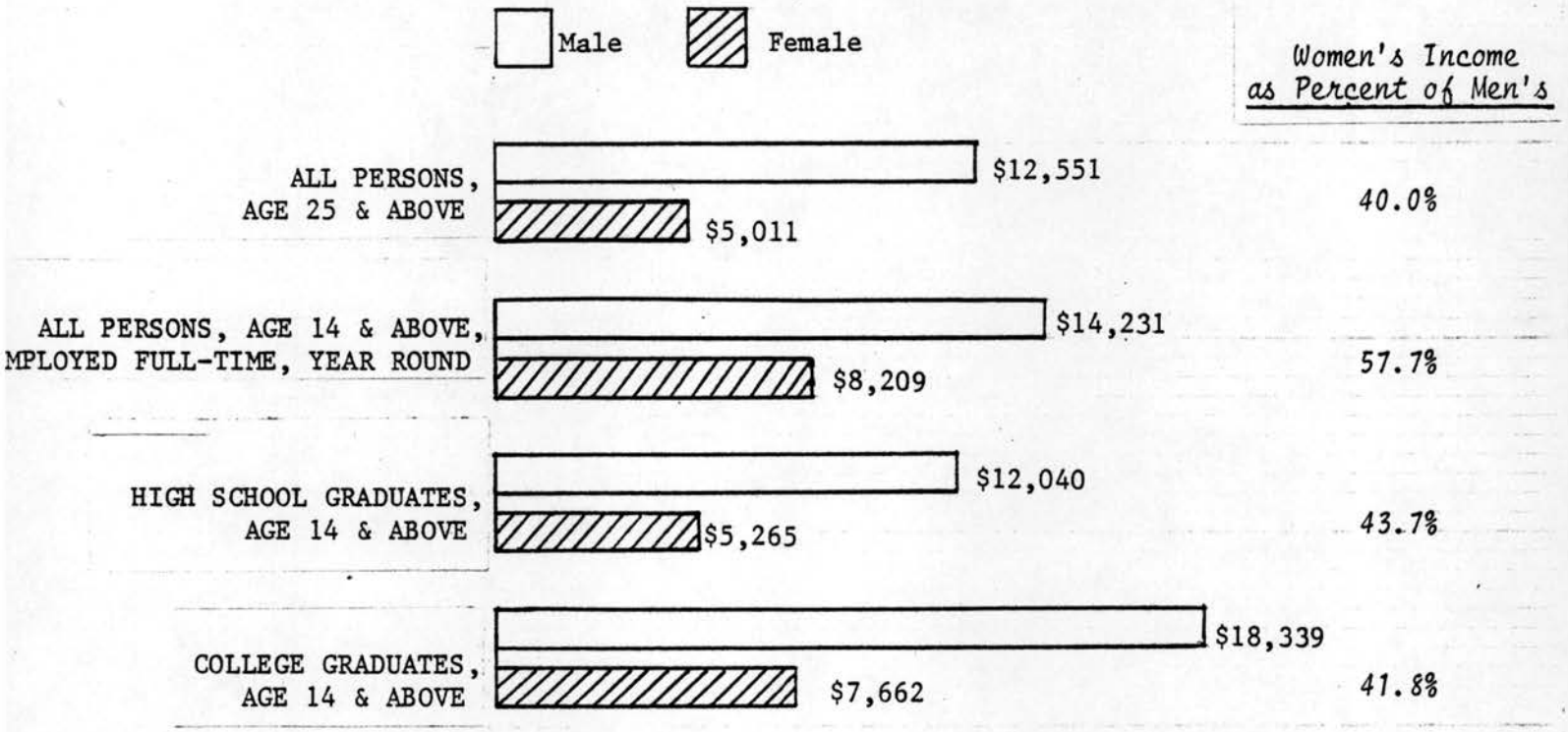
I believe that the rules should therefore either define standards for disadvantage which persons must meet on a case by case basis, or that the rules should specify which groups are by definition socially or economically disadvantaged.

Since some persons in the past have been adjudged disadvantaged simply by virtue of their group membership, I suggest that the rules be amended to include a second paragraph under 2 MCAR 1.6702 (B) as follows:

> "Persons who are of minority race, the handicapped, and women shall be considered socially or economically disadvantaged."

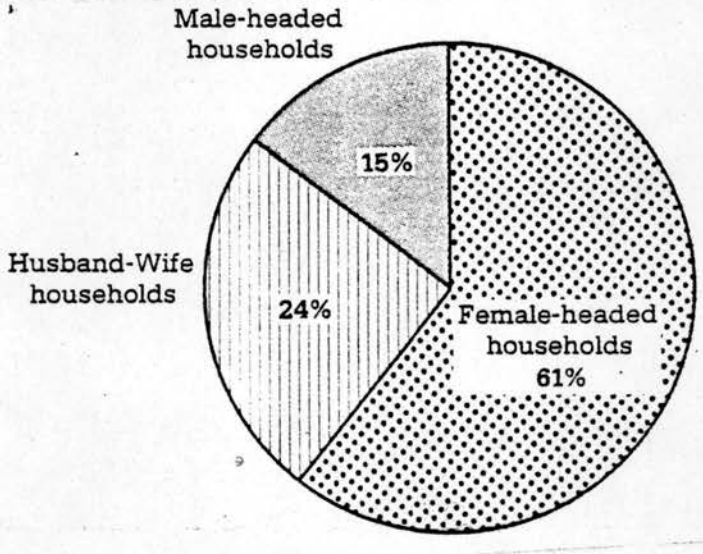
In support of the inclusion of women as socially or economically disadvantaged, attached are some recent statistics related to the economic status of women in Minnesota.

AVERAGE INCOME BY SEX, MINNESOTA 1976



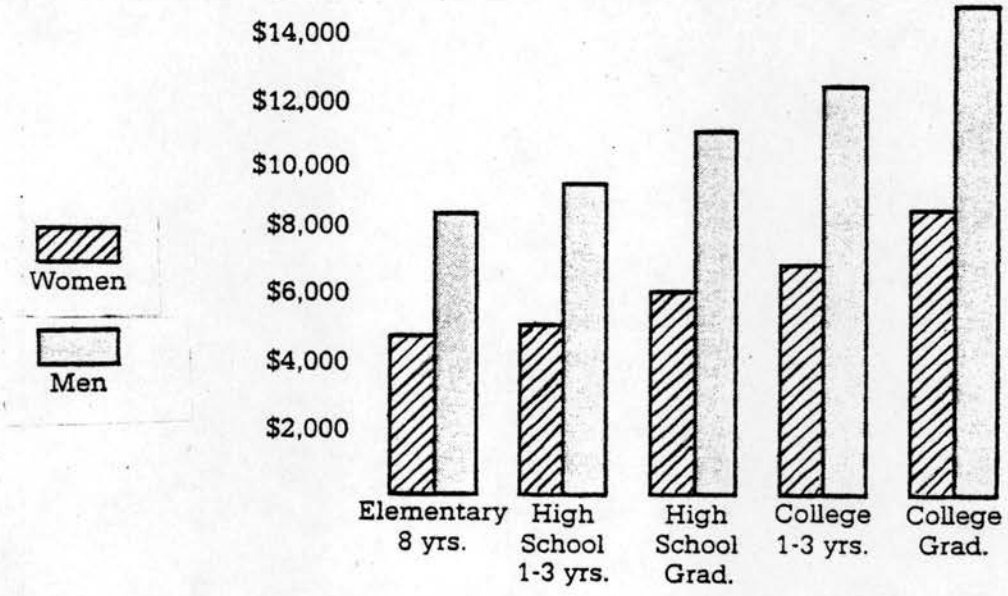
Source: U.S. Bureau of the Census

MINNESOTA HOUSEHOLDS WITH INCOME UNDER $5,000 PER YEAR, 1975



Source: U.S. Bureau of the Census

MEDIAN INCOME OF FULL-TIME, YEAR-ROUND WORKERS BY SEX AND YEARS OF SCHOOL COMPLETED, U.S. 1972

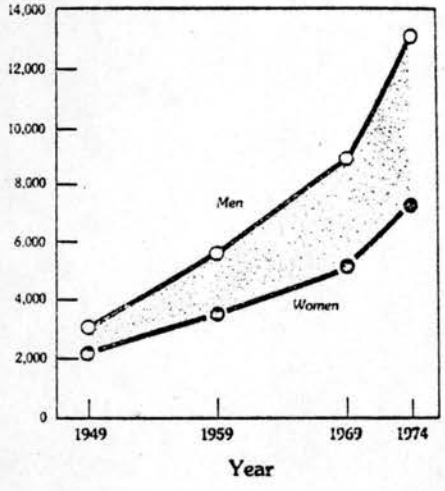


Highest level of education attained, U.S. 1972

Source: Women's Bureau, U.S. Department of Labor

o o o o o o o o o o o

MEDIAN EARNINGS OF FULL-TIME, YEAR-ROUND WORKERS (IN DOLLARS)



Source: U.S. Bureau of the Census
U.S. Department of Labor
(1974 estimated)

Minneapolis Tribune
Sun., May 28, 1978

Women lag in business

By Tom Wicker
New York Times Service

New York
In the real world of the marketplace, are women "socioeconomically disadvantaged" just because they're women?

The question is not simple. At first glance, a middle-class white woman with a Ph.D. seems hardly to qualify as "socioeconomically disadvantaged." Yet, one such woman, the owner of a small consulting business specializing in technical research, recently sued the federal Small Business Administration for inclusion in a program designed for minority entrepreneurs; she argued that she was disadvantaged as a woman trying to get a foothold in a complex field traditionally dominated by men. The SBA settled out of court and admitted her to the program.

Just last week, the SBA announced a $322,000 contract with American Woman's Economic Development Corporation, which trains female business entrepreneurs. Beatrice Fitzpatrick, the corporation's executive director, said women "have a lot of talent, but are just inexperienced in the marketplace, which can make the difference between success and failure."

These are classic arguments for assisting minorities and disadvantaged persons — a marketplace dominated by white males; the resulting lack of experience or opportunity for others. And women have filed with the SBA hundreds of complaints strikingly similar to those of blacks and Hispanics — that white-male bankers deny them loans or make more credit available to males, that white-male SBA counselors are insensitive to women's special business problems and needs, and the like.

Women thus have a strong case for inclusion in the kinds of special-assistance programs the government sponsors for ethnic and racial minorities. But the problem is that the minority groups at whom those programs have traditionally been aimed regard them as already too small, too grudging, too bound in red tape.

Eugene Baker, the president of the National Association of Black Manufacturers, recently said that the federal government had provided neither sufficient financial assistance to black businesses nor adequate leadership to expand black enterprise. He said the White House had promised to triple such aid, but that he had been disappointed in the results so far.

Baker, formerly a small businessman himself, did not mention women, but most recipients of minority assistance have been males. And it's obvious that if more women are included in these programs, either the programs will have to be considerably expanded or the slice of the relatively small pie now available to male entrepreneurs from traditional minority groups will be diminished.

Under its so-called "8(a)" program, through which the SBA supposedly channels federal procurement contracts to minority businesses, $555 million was certified by the agency in fiscal year 1977; about $42 million, or 8 percent, went to women's businesses. In the same year, the SBA approved about $1.1 billion in "equal opportunity" loans; just under 10 percent, about $95 million, went to women.

In 1976, the SBA directed $460 million in procurement contracts for Alaska pipeline construction to "minority" businesses under the 8(a) program, but in fact $90 million, or a fourth of these contracts, went to female-owned firms. Many more millions in such contracts are supposed to be made available to minorities in the current $6-billion railway-revitalization progran; presumably women will again share in the benefits.

Yet, the SBA still does not officially extend to women its definition of "socioeconomically disadvantaged." And Sen. Sam Nunn of Georgia, a member of the Senate Small Business Committee, has proposed that women become officially eligible for 8(a) contracts — but only if they prove that they are socially and economically disadvantaged. Blacks, in contrast, would not have to provide such proof of hardship.

The issue has reached the White House in the form of recommendations from the Task Force on Women Business Owners, chaired by Anne Wexler, now a White House staff assistant. This report naturally stresses the views and needs of women, but it might serve to point up the larger problems of "minority" enterprise.

The most recent comprehensive data show, for example, that in 1972 women owned only 4.6 percent of the 400,000 small businesses in America; these firms accounted for only three-tenths of 1 percent of the total annual receipts of all American businesses. Minority groups then owned 4.4 percent of all small businesses, with total receipts only about twice that of the women-owned firms. The figures for both categories no doubt have improved by now, but Baker pointed out that if the current total recipts of minority businesses were doubled, they still would be only about 1.4 percent of the national total.

So the real point is not just that women should have a slice of the "minority" pie, but that for all who have been too long barred from the marketplace by skin or by sex, the pie ought to be bigger and juicier.

Minneapolis Tribune Sun., April 30, 1978



Geri Joseph
Contributing Editor

It should not have been a surprise. For months now, several of us have remarked on the conspicuous outcropping of shops and offices owned by women. At my nearest neighborhood shopping center, they own at least eight businesses; a ninth has done so well that the husband quit his accounting firm to become his wife's partner.

Still, it was a surprise to see more than 300 women — a majority in their 20s and 30s — turn out for a recent business-ownership conference in Minneapolis. Many already own a business; others had come to listen to expert advice about what it takes — personally and financially — to be a successful business entrepreneur. The meeting itself was proof that in increasing numbers women are taking a look at business opportunities, and their interest, at last, is getting a serious response.

The conference was one of a first-ever series sponsored by the federal office of the Small Business Administration (SBA) in cooperation with local organizations. More than 15,000 women have attended these meetings around the country. In the past, SBA was not noted for its even-handed helpfulness to women. As a matter of fact, in 1976, members of a Senate select committee on small business took the agency to task for its lack of assistance to women and for the scarcity of women in key SBA jobs.

Sen. Javits complained that there was not a single woman in 40 policy-making positions. Testimony from an officer of the new and growing National Association of Women Business Owners took a different tack. She was angry at the "marketing advice" an SBA representative had given her. He had prescribed that she "sleep around" with influential men.

Attitudes like his and outright discrimination are among obstacles women have encountered. They have been held back, too, by traditional views that women's place is not in university business schools. Typing, bookkeeping, shorthand, yes; professional business education, no. "Financial planning for my generation," said a speaker in Minneapolis, "meant get married."

Would-be businesswomen also experience problems small businessmen share: lack of adequate capital, inadequate management and technical assistance and a scarcity of marketing and procurement opportunities and guidance — all areas in which the SBA could have been helpful over the years.

In 1976, the Census Bureau put together from 1972 figures the first statistical picture of women-owned businesses. It was an eye-opener:

- Only 4.6 percent of all American businesses — about 400,000 — were owned by women. They generated less than one-half of 1 percent of all revenues earned by American businesses; 71 percent were concentrated in retail and non-professional services trade.

- Only 13 percent had paid employees. The typical female business entrepreneur had fewer than five employees and grossed less than $51,000 although the average American firm grossed more than $750,000.

But that was yesterday. As the Minneapolis gathering made clear, things are changing. The SBA has begun to put women in top positions, including Patricia Cloherty, the young, deputy administrator who reportedly told staff of one local SBA office: "Open up your minds, fellas." In addition to that straight talk, SBA set a goal of $100 million in guaranteed bank loans to women for each quarter of 1978. These loans added up to $91 million for the first three months of this year, a 10-percent increase over the average quarter in 1977.

More help may be coming. Last August, President Carter appointed an Interagency Task Force on Women Business Owners. Its report is due in the next few weeks and is expected to include recommendations for changes in federal laws and regulations as well as in government programs and practices.

A big part of the responsibility for making the most of whatever changes come along will rest, of course, with women. Several speakers stressed the need for more assertiveness and self confidence — deficiencies that come up repeatedly in discussions of new opportunities for women. Cloherty said that women often have an "aversion to making profits and think it is dirty to price up." Clearly, that aversion will have to be exorcised if women are to make it in a competitive business world.

One speaker reminded listeners that many businesswomen also are wives, mothers, cooks, chauffeurs, social secretaries, etc. "Be sure you can manage all those parts," she said. There were rueful smiles and murmurs. The smiles turned to appreciative laughter when another speaker told of a successful, Washington businesswoman who persuaded her mother-in-law to run her household for a fee and then described herself as "the first woman with a wife."

Not many women will be that lucky. Nevertheless, if the Minneapolis meeting is any harbinger, women in significant numbers are getting ready to march through the opening doors of the business world.

July 26, 1978

Supplementary testimony by Nina Rothchild, Executive Director, Council on the Economic Status of Women, 400 SW State Office Building, St. Paul MN 55155, on behalf of herself and on behalf of Representative Linda Berglin, Council chair.

In light of the Department of Administration's response to my original testimony, I wish to submit additional comments as follows:

My understanding is that the purpose of administrative rules is to interpret and clarify statutes and to provide criteria by which the law will be applied. Minnesota Statutes 16.082, Subd. 5, states:

> "Socially or economically disadvantaged person" means a person who has been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantage. This disadvantage may arise from cultural, social or economic circumstances or background, physical location if the person resides or is employed in an area declared as a labor surplus area by the United States Department of Commerce, or other similar cause."

Clearly this is a very general definition, and the purpose of 2 MCAR 1.6702 should be to make explicit how that definition will be applied in specific cases. The proposed rules, however, do not provide any additional guidelines, but simply refer back to the general language of the statute. I am therefore left with such questions as

-- If I am to certify that I am economically or socially disadvantaged, what criteria do I use?

-- When the Procurement Division reviews my application, what criteria will they use?

-- If my self-certification is denied, what basis for appeal do I have? In fact, is there an appeals process at all?

It seems to me that the proposed rules, therefore, do nothing to clarify the rather vague wording of the statute nor do they provide applicants for self-certification with any provision for due process.

I believe that the rules should address these questions and issues and that they should provide a clear and explicit definition of "socially or economically disadvantaged persons." While the application of the Bakke decision may or may not be applicable here, I would suggest that a possible set of guidelines would be that a "socially or economically disadvantaged person" is a member of a class of persons whose 1)average money income for individual members of the class falls below the average money income of all persons in Minnesota; or 2) class is disproportionately represented among those who fall below the federally-defined poverty level.

Alternatively, if class membership is not to be used as the criteria, then specific individual income limits should be specified in the rules. My preference, however, would be to designate the class membership as I believe it best serves the interests of simplicity.

Phone: 612/854-7157

REGIONAL CONGRESS OF CONSTRUCTION EMPLOYERS
SUITE 211 • 8030 CEDAR AVENUE SOUTH, BLOOMINGTON, MINNESOTA 55420

CHARLES C. LOBERG
EXECUTIVE DIRECTOR

July 24, 1978

RECEIVED
JUL 25 1978
OFFICE OF HEARING EXAMINERS

Mr. Peter Erickson
State Hearing Examiners Office
Room 300
1745 University Avenue
St. Paul, Minnesota 55104

Dear Mr. Erickson:

On behalf of 34 Construction Industry trade associations constituting the RCCE, I submit the following suggestion concerning the Proposed Rules, Dept. of Administration, 2 MCAR 1.6503 - 1.6704.

(1) 2 MCAR 1.6503 Subdivision C - Bid Security
Suggested addition: "Awards shall be made as soon as possible after the bid opening. In no event shall checks of unsuccessful bidders be held more than 30 days after bid opening."

(2) 2 MCAR 1.6504 Subdivision C - Opening of Bids
Suggested addition: "Awards shall be made as soon as possible after the bid opening. A bid shall be accepted or rejected within 30 days of the bid opening."

(3) 2 MCAR 1.6507 Subdivision H - Contract Performance
Correct grammar - "needs" or "does" in place of need or do.

(4) 2 MCAR 1.6510 Subdivision D - Bidder Errors
Suggest you strike the work "non-negligent."

(5) 2 MCAR 1.6703 Subdivision B - Establishment of Set-Aside
Suggested addition: After the words set-aside contracts, add "by the Director of Procurement" and continue the proposed text.

(6) 2 MCAR 1.6703 Subdivision B item 6
Suggest this paragraph be rewritten

(7) 2 MCAR 1.6704 Subdivision G
Suggest striking the last sentence.

Thank you for your consideration.

Sincerely,
Charles C Loberg
Charles Loberg

Twin Cities Piping Industry Association

UNIVERSITY PARK PLAZA—SUITE 304, 2829 UNIVERSITY AVE. S.E., MINNEAPOLIS, MINNESOTA 55414, TEL. (612) 378-7600
DONALD F. MANGUSON, Executive Vice-President
MATTHEW P. WINKEL, Assistant Vice-President

RECEIVED
JUL 21 1978
OFFICE OF HEARING EXAMINERS

July 19, 1978

Peter Erickson
State Hearing Examiners Office
Room 300
1745 University Avenue
St. Paul, MN 55104

Dear Mr. Erickson:

RE: 2MCAR 1.6510 B

The following is a statement concerning Proposed Rules, Department of Administration, Section B under 2 MCAR P 1650 on page 2226 of the State Register of June 12, 1978.

Section "B" states; "Subsequent to the opening of sealed bids, a person may withdraw his bid only upon showing that an obvious unintentional, non-negligent error exists in the bid."

We request that the word "non-negligent" be deleted.

In the past, contractors have been allowed to withdraw bids for mistakes of fact such as:

Clerical errors
Erroneous assumptions about the existence of the subject matter of the contract
Faulty addition, multiplication, etc.
Misreading of blueprints
Omission of items
Transposition of numbers
Misunderstanding as to location or extent of work demanded
(See Lubell, "Unilateral Palpable and Inpalpable Mistakes in Construction Contracts - 16 Minn. L. Rev. 137 (1931)).

President DOUGLAS HAYES
Vice-President SHELDON STEWART
Secretary ROBERT DOODY
Treasurer G. RICHARD PALEN
Board of Directors
KENNETH BERGHORST
GERALD EGAN
KENNETH ENRIGHT
JOHN MATTHEWS
WILLIAM J. RASCHER
LAWRENCE WENZEL

We submit that under the wording in Section "B", that the state could probably claim some element of negligence in each of the above cases and therefor refuse to allow the contractor to withdraw. This is inequitable as there is probably some degree of negligence in most of the above mistakes of fact.

In summary, we feel Section "B" gives the contractor the right to withdraw and the word "non-negligent" then takes away that right.

Cordially,

Donald F. Manguson
Executive Vice President.

DFM/plk

July 21, 1978

Mr. Richard L. Brubacher
Commissioner of Administration
State of Minnesota

Re: 2MCAR1.10008 para H
Maintenance of certification

I represent the building inspection section of the Minneapolis Department of Inspections. I also represent six state certified building officials.

We are infavor of recertification of certified building officials. We ask that you give consideration to the following five points before adopting any part of these proposed rules.

1. Notice of these hearings were not given to all certified persons affected by these rules. I personally spoke with 4 other certified building officials that had not received any notice yet they could lose their certifications due to these rules.

2. The rules are blatently unfair as they are not imposed on all certified persons. These rules can revoke the certification of a person that has met the state's standards yet they are not imposed on those officials that were "grandfathered in" and have met no standards of any kind.

3. The choice of re-certification is taken away from the certified person and given to the employer and the state code division. Under the proposed rules attendence is mandatory at two building officials' institutes and 4 one-day code division schools in each 3-year period. These functions take place during normal business hours and our attendence is at the whim of our employer. Many of our budgets don't allow us to attend as often as required by these rules. Many of us cannot attend even on our own time, because of the pressures of our work loads. A building official that does a better job than local politics dictate could lose his certification and consequently his job because of this mandatory attendence rule. It is mandatory to attend 4 one-day code division schools, yet this rule allows the state code division not to offer the schools if ample personnel and funding isn't available.

4. I.C.B.O. certifications and recertifications have been omitted from the point system. The rules give a point value for local ICBO chapter meeting and ICBO training sessions yet they give no points for ICBO certification or recertification. It is our feeling that any building official working in any code enforcement position and currently certified or recertified by ICBO has met much higher standards than the state requires. This higher standard required by ICBO under their recertification program should be valued in excess of the 18 points needed for state re-certification.

5. Point credits are not given for other than Building Inspection technology courses at state colleges under the proposed rules. Many of us have completed all of the offered B.I.T. courses and would have to re-take the courses under these rules to get credit for them. Those of us who followed the code division's recommendations and took these courses are being penalized by having to take them again, in order to receive any points. The A.A. degree in building inspections covers a lot of other courses to graduate and equal credits should be given for those courses. According to these rules in order to not repeat B.I.T. courses we would get our points from attending 24 North Star meetings and two mandatory three-day building officials institutes and four mandatory one-day code division sponsored schools. This would mean that over a 3-year period we would have to spend 34 days away from our jobs to retain our certifications. For many of us it would mean giving up eleven days of our earned vacation each year to just keep our certifications.

(Relating to State Building Code Division)

2MCAR § 1.10004 Application for appeal.

B. 3. municipality information, including name of municipality, building official, and the local appeal board chairman:

2MCAR § 1.10008

E. The testing shall be by written examination. The written examination shall be given by the State Department of Personnel pursuant to the rules of that department and the following:

E. 1. If the applicant fails the written examination or fails to appear, the applicant shall be permitted to retake the examination or be scheduled for a second administration following 30 calendar days after testing results notification.

E. 2. If the applicant fails the written examination a second time, or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit application pursuant to Section D of this rule.

F. Delete section F in its entirety.

G. Delete section G in its entirety.

H. Designate H as F.

I. Designate I as G.

G. 1. Effective January 1, 1979, each person certified as a state building official, by the certification procedures of the State of Minnesota, shall submit in writing to the State Building Inspector an application for renewal of his certification within 60 days of the last day of the third calendar year period following the last certificate issued. For persons certified by the testing procedure prior to January 1, 1979, the first three year period shall begin January 1, 1979.

2MCAR § 1.10010 Plan Review Function

Second Section D change to E and add a new section:

E. The State Building Inspector may contract for plan review as required by this section with any municipality the State Building Inspector determines is properly staffed and qualified to perform the plan review function. No fees shall be paid by the State to any municipality performing said contract function. The municipality shall change its standard plan review fee directly to the applicant for a building permit.

New F. Fees

TENTATIVE* HEARING SCHEDULE

July 25	Chapter 1 – Severab. Hty 2MCAR 1.0001	
9:30 a.m.	IISAC - Chpt 5, 2MCAR 1.2501-2508	Dan Magraw, Roger Sell
9:45 a.m.	Documents - Chpt 9A, 2MCAR 1.3001-1.3006	Eda Staudenmaier, Gene Wrobel
10:00 a.m.	Fed. Surplus Property Chpt 9B, 2MCAR 1.3101-1.3109	Jim Johnson, Gene Wrobel
10:30 a.m.	State Register Chpt 9C 2MCAR 1.3201-1.3205	Steve Ordahl, Gene Wrobel
10:45 a.m.	State Surplus Property Chpt 9D, 2MCAR 1.3301-1.3306	Warren Woods, Paul Krenick
11:00 a.m.	Motor Pool Chpt 10 2MCAR 1.3501-1.3502	Glenn Johnston, Bob McNeil
11:15 a.m.	Plant Management Chpt 11 2MCAR 1.4001-1.4201	Roger Quam ~~Axel Peterson~~, Clarence Ernst
11:45 a.m.	Publications Chpt 12 2MCAR 1.4501-1.4601	Hy Cohen
12:00 a.m.	Lunch	
1:00 p.m.	Real Estate Management Chpt 13, 2MCAR 1.5001-1.5301	Howard Eicher, Marlo Hanson, Al Dorich
-	Records Management —	Withdrawn
1:30 p.m.	Telecommunications Chpt 15, 2MCAR 1.6001-1.6005	Roger Nelson, Clint Lomis
1:45 p.m.	Building Code Chpt 3, 2MCAR 1.10001-1.10010 SBC 320, 326, 335	Dick Brooks, Don Pates, Sivert Hendrickson
2:30 p.m.	Procurement Chpt 16, 2MCAR 1.6501-1.6804	Bud Bruce, Jim Corrigan, Ted Pegues
4:00 p.m.	Close for day: continue on July 26 if necessary.	

* The timetable listed is an estimate only, we do not know how long each segment will take. You should plan to arrive 15 minutes early in case the segment before your's terminates quickly. Earlier arrival may also give you a better feel for how the hearing process works. Please be close to your phone both before and after your scheduled time. We will call to give you any changes - (delays or speedups).

ERRATA

to the proposed rules and amendments to the existing rules pertaining to several units of the Department of Administration as published in the State Register on June 12, 1978.

p. 2190 2 MCAR § 1.2507 B. Delete the following: ", availability of funds,".

p. 2190 2 MCAR § 1.3003 B (3). Change the second sentence as follows: If the code number is unknown, the county, township, ~~and~~ range, ~~or~~ and other specific information that will aid in locating the exact area shall be provided.

p. 2191 2 MCAR § 1.3004. In the third line, after "offered to", insert "state agencies and".

p. 2191 2 MCAR § 1.3005. In the fourth line, delete "postage".

p. 2191 2 MCAR § 1.3101. In the fourth line, delete "(1976)".

p. 2192 2 MCAR § 1.3105 A (5). Change the reference 2 MCAR § 1.3104 to "2 MCAR § 1.3108 A".

p. 2200 2 MCAR § 1.3303 A. In the fourth line, delete "(612) 296-6132,".

p. 2201 2 MCAR § 1.3303 C. In the third and fourth lines, delete ", (612) 296-6132".

p. 2201 2 MCAR § 1.3304 A. In the fourth line, delete "(612) 296-6132,".

p. 2201 2 MCAR § 1.3304 B. In the first line, delete "estimate" and add in its place "estimated number".

p. 2201 2 MCAR § 1.3305 A. In the fifth line, delete ", (612) 296-6132".

p. 2204 2 MCAR § 1.4001 G (3). After the word "sent", insert "in writing".

p. 2205 2 MCAR § 1.4201. In the third line, change "rules govern" to "rule governs".

p. 2205 2 MCAR § 1.4201 A. In the first line, change "These rules define" to "This rule defines".

p. 2206 2 MCAR § 1.4201 C. After the word "revoked", insert "and shall be forfeited".

p. 2206 2 MCAR § 1.4201 D. In the third line, change "these rules" to "this rule".

p. 2225 2 MCAR § 1.6506 C. In the third line, delete "Minn. Stat. § 16.365 shall govern" and insert "preference shall be given to the Minnesota firm".

p. 2225 2 MCAR § 1.6507 H. In the first line, change "need" to "needs".

p. 2226 2 MCAR § 1.6701. Delete "The following rules" and insert "2 MCAR §§ 1.6701 - 1.6704".

p. 2227 2 MCAR § 1.6704 A. In the first line, insert a comma after "award" and delete "but".

p. 2228 2 MCAR § 1.6704 G. At the end of the second line, after "more of the", insert "dollar value of the".

p. 2228 2 MCAR § 1.6802 (1). After "statement", insert "or equivalent approved by the Director;".

p. 2228 2 MCAR § 1.6803. Delete the portion of the rule beginning with "A determination shall be made...".

DEPARTMENT OF ADMINISTRATION

RULES PERTAINING TO SEVERAL UNITS

OF THE

DEPARTMENT OF ADMINISTRATION

Table of Contents

Chapter 1 General

Chapter 2 Reserved for Future Use

Chapter 3 State Building Code

Chapter 4 Reserved for Future Use

Chapter 5 Intergovernmental Information Systems Advisory Council

Chapter 6-8 Reserved for Future Use

Chapter 9 Materials Management

Chapter 10 Central Motor Pool

Chapter 11 Plant Management

Chapter 12 Publications and General Services

Chapter 13 Real Estate Management

Chapter 14 Records Management

Chapter 15 Telecommunications

Chapter 16 Procurement

Chapter 1: General

2 MCAR 1.0001 Severability

If any provision of these rules is held invalid, such invalidity shall not affect any other provisions of the rules which can be given effect without the invalid provision, and to this end, the provisions of these rules are declared to be severable.

Chapter 5: Intergovernmental Information Systems Advisory Council

2 MCAR 1.2501

Purpose and Scope. Pursuant to Minn. Stat. §§ 16.90 and 16.911, these rules govern the application, solicitation, review, analysis, and final disposition of grant proposals received by the Intergovernmental Information Systems Advisory Council for possible funding of projects or programs under the auspices of the Commissioner of Administration relating to data processing and systems analysis proposals.

2 MCAR 1.2502

Definitions. For the purposes of 2 MCAR 1.2501 - 1.2508, the following terms have the meanings given:

A. "Commissioner" means Commissioner of Administration.

B. "IISAC" or "Council" means the Intergovernmental Information Systems Advisory Council.

C. "Executive Director" or "Director" means the Executive Director of IISAC.

2 MCAR 1.2503

Eligibility. All Minnesota governmental entities and/or organizations composed of groups of such entities are eligible to submit applications for project grants to IISAC. Information as to the availability of funding and conditions of funding may be obtained from the Executive Director, Intergovernmental Information Systems Advisory Council, 300 Hanover Building, 480 Cedar Street, St. Paul, Minnesota 55101.

2 MCAR 1.2504

Directions for Submission of Proposal

A. Applications shall be submitted in writing to the Executive Director, Intergovernmental Information Systems Advisory Council, 300 Hanover Building, 480 Cedar Street, St. Paul, Minnesota 55101 in accordance with the following procedures.

1. All proposals shall be typed on letter sized paper (8½ x 11).

2. Pages shall be numbered for ease of reference.

3. Twenty five copies of each proposal shall be submitted with the application.

4. The proposals shall follow the proposal format as described in paragraph B of this rule.

5. All proposals shall identify the name, title, address, and telephone number of the person who will represent the eligible agency on matters regarding the proposal content.

6. No standard forms are required.

7. The Commissioner or Executive Director may require other information relevant to processing an application.

B. Proposal Format:

1. A cover sheet stating:

   a. Title of the proposal.

   b. The agency submitting the proposal.

   c. Names, address, and telephone number of agency and project director.

2. A narrative section describing the overall background of the organization, its mission, goals, objectives, whom it services, and its relationship to state agencies and political subdivisions.

3. A section containing a clear, concise explanation of the purpose of the proposal.

4. A section containing a narrative which details and expands on the purpose of the proposal.

5. A section itemizing tasks to be performed and deliverable products resulting from the proposal.

6. A budget section itemizing expenses and showing matching contributions if applicable.

7. A section containing a time schedule relating to the tasks to be accomplished and deliverable products.

8. A section containing pertinent enclosures and endorsements relating to support of the application.

2 MCAR 1.2505

Acknowledgement of Receipt. All applicants shall be notified of formal receipt of applications. Such notification shall include:

1. Date of distribution to Council members.

2. Date of Council meeting at which the application will be reviewed.

3. Notification of completeness of application or requests for additional information.

2 MCAR 1.2506

Oral Presentations. Oral presentations or testimony may be requested by the Council to clarify or further explain portions of the proposal. Such presentations or testimony shall be requested in writing by the Director.

2 MCAR 1.2507

Approval or Disapproval of Applications. Council approval or disapproval of recommendations for funding shall be made by a majority vote of those members present at a regular meeting of the Council. The recommendations shall be based on a consideration of the following factors:

1. Available funding.

2. Potential technological advancements.

3. Cost-benefit relationship.

4. Transferability of anticipated technological advancements to other potential users.

5. Applicant's experience and expertise in the field of data processing and systems analysis.

6. Applicant's financial need.

Recommendations shall be forwarded to the Commissioner for his or her approval. The Commissioner's approval shall be contingent upon his or her consideration of the above factors, and the determination that the proposal is consistent with state information systems priorities. The Commissioner shall notify the Council which shall in turn notify all applicants as to action taken on applications.

2 MCAR 1.2508

Disclaimer. The submission of a proposal or application to the Intergovernmental Information Systems Advisory Council does not commit the Council to fund the proposal or to pay for any cost incurred by the applicant in the development or presentation of the proposal.

Chapter 9A: MATERIALS MANAGEMENT - DOCUMENTS

2 MCAR 1.3001

Authority and Scope: These rules are promulgated pursuant to Minn. Stat. §§ 16.02, subd. 17 and 24, 16.026, 16.80 and 16.811, to inform the general public of the availability of publications, maps and other services from the Documents Section, Materials Management Division, Department of Administration. All references to "Commissioner" refer to the Commissioner of Administration. All references to "Documents Section" refer to the Documents Section, Department of Administration, 140 Centennial Bldg. 658 Cedar St., St. Paul, Minnesota 55155.

2 MCAR 1.3002

Publications and Maps Availability

A. Authorization of Publications. All publications and maps authorized by the commissioner shall be made available to the general public for fees set pursuant to 2 MCAR § 1.3005.

   1. Information about publications or maps currently available may be obtained by writing the Documents Section at the above-noted address or by calling the Documents Section and requesting a catalog or map index.

B. Catalogs of Publications and Maps. The Documents Section shall publish a catalog of Minnesota State publications and indices of maps at intervals deemed necessary by the commissioner, to keep the public reasonably informed of all materials currently available from the Documents Section.

   1. Catalogs shall list current publications, their prices and code numbers including but not limited to the following publications: statutes, directories,

conservation books, miscellaneious reports, teaching guides, and adopted rules of state agencies.

2. Indices for lake and fire plan maps list the name and code number of the lake, township and range for fire plan maps, and the prices for each.

3. Catalogs and indices are available from the Documents Section. There shall be no charge for catalogs and indices.

2 MCAR 1.3003

How to Purchase Available Materials

A. Over-The-Counter Sales. Any person may purchase any publication or map offered for sale from the section by paying the prescribed fee, plus sales tax, at the office of the Documents Section at the above-noted address during regular business hours.

B. Mail Order Instructions. Mail orders shall be sent to Documents Section, Room 140 Centennial Bldg., 658 Cedar St., St. Paul, Minnesota 55155. No forms are required.

1. Mail orders shall include a check or money order for the exact amount of purchase, including sales tax where applicable. If tax exemption is claimed, the tax exempt number shall be given.

2. Mail orders shall include the full title of the publication and code number, if possible.

3. Mail orders for lake maps shall include name of the lake and, where known, the code number. If the code number is unknown the county, township, range, and other specific information that will aid in locating the exact area shall be provided. All orders for fire plan maps shall be placed by listing township and range numbers of the area. A free index containing information including township and range numbers may be obtained from the Documents Section at the address contained in paragraph B above.

4. Mail orders shall include the full name and address, including the zip code, of the person to whom the order is to be sent.

C. Customer Deposit. Payment received for publications or maps that are temporarily out of stock or in short supply shall be held in "Customer Deposit". The customer shall be notified of the customer deposit number, and the item(s) will be shipped when available. The customer may request a refund of the amount held for each customer in the customer deposit on receipt of the notification. Requests for refund or inquiries regarding customer deposits shall be made to the Documents Section at the address contained in paragraph B above.

-i- Unused money in customer deposit shall be refunded at the end of each quarter of the fiscal year unless the customer requests it to be held for future use.

2 MCAR 1.3004

Other Services Offered. Subscription services, photo-copying, white printer reproductions, and other related services shall be offered to state agencies and the general public upon authorization by the commissioner.

2 MCAR 1.3005

Fees. Fees for services shall be prescribed by the commissioner unless otherwise authorized by law or rule and shall take into consideration the following factors: cost of publication, storage, handling, postage, and the operating expenses of the Documents Section. Fee schedules shown in catalogs and indices are subject to change without notice.

2 MCAR 1.3006

Disclaimer of Liability. The Documents Section of the Department of Administration shall assume no responsibility for or liability arising from contents of publications or maps distributed, produced, or otherwise made available under its auspices. Any concern or conflict arising from contents shall be referred to the state agency from which the copy for the publication or map emanated.

2 MCAR § 1.3101

Authority and Scope

The Federal Surplus Property Section of the Materials Management Division, Department of Administration, was created and operates pursuant to Minn. Stat. §§ 16.061 - 16.066 . The Federal Surplus Property Surplus Property Section maintains a distribution center for federal surplus property made available by the federal government, or any department or agency thereof, for transfer to governmental or non-profit organizations for any purpose authorized by federal and state law and in accordance with any rules and regulations promulgated thereunder.

2 MCAR 1.3102

Definitions. As used in 2 MCAR §§ 1.3101-1.3109, the following terms shall have the meaning given them.

A. "Acquisition Cost" means original purchase price of property paid by the Federal Government.

B. "Donee" means public agency or non-governmental organization qualified or authorized to acquire federal surplus property as provided in 2 MCAR § 1.3103.

C. "FPMR" means Federal Property Management Regulations.

D. "FSP Activity" means the Minnesota Federal Surplus Property Section, 5420 Highway 8, Arden Hills, Minnesota 55112.

E. "Utilization Restriction" means restrictions on the use and disposition of federal surplus property, including required use for one or more public purposes and non-disposal restrictions for stated period of time, as required pursuant to federal and state law, and rules and regulations promulgated pursuant thereto.

F. "Federal Surplus Property Utilization and Sale Coordinator" means FSP Activity person designated to audit the utilization of federal surplus property acquired by donees and to co-ordinate sales of property that has no further utility value.

G. "General Services Administration" means the federal agency responsible for the transfer of Federal Surplus Personal Property.

2 MCAR 1.3103

Eligibility

A. Standards and guidelines for the determination of eligibility are established pursuant to the requirements of FPMR 101-44.207. Eligibility to acquire federal surplus property may include public agencies involved in carrying out or promoting for the residents of a given political area one or more public purposes, including, but not limited to, conservation, economic development, education, parks and recreation, public health, and public safety; or to non-profit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child

care centers, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, museums attended by the public, and libraries serving free all residents of a community, district, state, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, for purposes of education or health, including research for any such purpose. Interested participants shall request on forms obtainable for the FSP Activity, a determination of eligibility from the FSP Activity at the address listed in 2 MCAR § 1.3102, D.

B. The FSP Activity within a reasonable period of time of receipt of request shall make a written determination of eligibility pursuant to federal and state laws and rules, and such determination shall be sent to the applicant.

2 MCAR 1.3104

Financing and Service Charge

A. A revolving fund, established pursuant to Minn. Stat. § 16.064, shall finance the acquisition, storage and distribution of surplus federal property. The fund shall be maintained by the collection of service and handling charges.

B. Service charges shall be assessed at a rate taking into consideration costs involved in acquiring, storing, and distributing surplus property as required by Minn. Stat. § 16.064. Factors considered in determining service charges shall be original acquisition costs, present value, screening cost, quantity, condition, desirability of property, transportation

cost, loading and unloading cost, packing and crating, administrative cost, repair and rehabilitation, utilization and compliance, and delivery to donees when required.

C. When special or extraordinary costs occur, such costs will be added to the service charge. Costs which shall be added are as follows:

1. Rehabilitated property - Direct costs for rehabilitating property shall be added to the service charge.

2. Overseas property - Additional direct costs for returning the property may be added to the service charge.

3. Long-haul property - Charges for major items with unusual costs may be added to the service charge.

4. Special handling - An additional charge may be made for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.

5. Screening - Extraordinary costs incurred in screening property may be added.

D. Where direct transfer of property to eligible donee is made, the service charge may be reduced taking into consideration savings made because of direct shipment to donee or other savings in the above-listed cost categories.

E. In the event the program is terminated, assets shall be converted to cash in accordance with these rules and all funds not used to pay outstanding obligations of the FSP Activity shall revert to the general fund of the State of Minnesota.

2 MCAR 1.3105

Terms and Conditions on Donable Property

A. The following general conditions, in conjunction with conditions imposed by the terms of an individual sale of items, are imposed by the State of Minnesota and are applicable to items with a unit acquisition cost of $2,000 or more:

1. There shall be a period of utilization restriction which shall expire after the property has been used for the purpose for which acquired for a period of 4 years, except that all State of Minnesota agencies shall be required to manage federal surplus property in accordance with statewide inventory management programs.

2. From the date it receives the property, the donee shall not sell, trade, lease, lend, bail, cannibalize, encumber or otherwise dispose of such property or remove it permanently for use outside the State, without prior written approval of the FSP Activity, until expiration of all utilization restrictions.

3. If at any time from the date it receives the property until expiration of utilization restrictions, any of the property is no longer suitable, useable, or further needed by the donee, the donee shall promptly notify, in writing, the FSP Activity and shall be directed, in writing, by the FSP Activity to return the property to the FSP Activity, release the property to another donee or another State Agency, sell or otherwise dispose of the property.

4. In the event that any property acquired through the FSP Activity is sold, traded, leased, loaned, bailed, cannibalized, encumbered or otherwise disposed of contrary to State or federal law or regulation, relating but not limited to the General Services Administration special handling or use regulations, the donee shall pay the FSP Activity the proceeds of the disposal or the fair market value or the fair rental value of the property at the time of such disposal as determined by the FSP Activity. "Fair Market Value" and "Fair Rental Value" as used herein shall mean the value of obtaining a like item in the local industrial, retail, or other market.

5. The proceeds from any authorized sale or transfer shall be reimbursed pursuant to 2 MCAR § 1.3108A.

B. The following conditions are imposed by the State of Minnesota, applicable to items with a unit acquisition cost of less than $2,000:

1. Appropriate inventory controls shall be established by each donee to ensure optimum property utilization and control in conformance with Federal and State law and rule.

2. Except as listed in 2a, property with acquisition cost of less than $2,000 which is no longer needed or suitable for use in the federal surplus program may be sold or junked by the donee possessing such property, consistent with any laws and internal policies and procedures governing such disposition. Donees shall be authorized to retain all revenues derived from such sale of surplus property, assuming that all aforementioned criteria have been met.

   a. Consistent with Federal statutory requirements, all property must be placed in use within one year and be used for one year after being placed in use. Donees in violation of this requirement shall return such property to the FSP Activity.

C. Failure to comply with all terms, conditions and provisions of State and federal law and regulation may subject donee to removal from FSP eligibility.

2 MCAR 1.3106

Fair and Equitable Distribution

A. Factors considered in the distribution of property are based on relative needs, relative resources and ability to utilize the property and include the following:

1. Relative needs--In considering requests of potential recipients, the criteria for determining the relative needs shall be:

a. Size and type of program conducted.

b. Contemplated use and frequency of use.

c. Economic condition of agency, activity or institution.

d. Critical or urgent need.

e. Geographical location (urban, suburban or rural).

f. Interest and expression of need on the part of the donee in the property available.

2. Relative resources--In considering requests of potential recipients, the criteria for determining relative resources shall be:

a. Funding source and availability (grants, donations, taxes, etc.).

b. Equipment availability.

3. Ability to utilize--In considering requests of potential recipients, the criteria for evaluating ability to utilize property shall be:

a. Length of time of contemplated usage.

b. Date by which item can be put in use.

c. Availability of funds to repair or maintain property in use.

d. Ability of the donee to select and remove property from the distribution center or Federal activity on a timely basis.

e. Type and quantity of property received by the donee to date.

B. The FSP Activity shall operate a distribution center to serve the eligible donees in the distribution of available property. Any donee may submit, in writing, a list of major items needed by the donee, such as vehicles, construction equipment, materials handling equipment, machine tools, generators, air compressors, business machines, boats, aircraft, large electronic and scientific type items. FSP employees shall be guided by these requests in their search for and selection of property. This equipment shall be distributed as outlined in Section A above. Donee shall be notified by telephone by the FSP Activity when a listed major item is acquired.

C. Small miscellaneous items, less than $20.00 per item in value, will be available on the "Help Yourself Plan", with quantity limited to any one donee depending upon the total quantity on hand.

D. Federal surplus property bulletins listing property available for distribution shall be mailed to all donees registered pursuant to 2 MCAR § 1.3103.

E. The FSP Activity shall recommend to General Services Administration the certification of donee screeners, as qualified and needed.
The FSP Activity will, insofar as practical, economical, and equitable select that property requested by the donees, and the FSP Activity will arrange for direct pickup or shipment of the property to the donee if requested to do so.

F. Donees which suffer or experience a local disaster and/or major loss of property due to fire, flood, tornado, etc., may apply for a temporary priority for all requested items of property by telephoning the FSP Activity or writing the FSP Activity at the address noted in 2 MCAR § 1.3102, D. Special efforts shall be made to locate and distribute needed property to such donees.

2 MCAR 1.3107

Compliance, Utilization, and Disposition

A. In order to obtain optimum federal surplus property utilization within Minnesota, obsolete and surplus property

liability and utilization procedures have been established for statewide application. In order to ensure the integrity of the statewide property utilization program, donee field audits shall be periodically conducted by the FSP Activity of the Materials Management Division. All donees shall cooperate with auditors and all audit requests or be subject to removal from FSP eligibility.

B. When property becomes obsolete or surplus to a donee's needs, it shall be reported to the FSP Activity on forms provided by the FSP Activity, as required in 2 MCAR § 1.3108, A.

C. Property reported as obsolete or surplus by donee on forms provided by the FSP Activity shall be evaluated by the Federal Surplus Property Utilization and Sales Coordinator to determine the most feasible means of disposition. If the property is considered to have further utility value within the utilization restriction period, this information shall be circulated to all donees via the Federal Surplus Property **Bulletin**, published periodically, and made available pursuant to 2 MCAR § 1.3106, D.

2 MCAR 1.3108

Property Sales

A. General

1. All obsolete, surplus and recyclable personal property, which no longer provides any utility value to the Federal Surplus Property program, shall be sold. Local sale of personal property may be authorized, in writing, by the FSP Activity or sales shall be conducted centrally by

the State Surplus Property Sales Section pursuant to 2 MCAR §§ 1.3301 - 1.3306.

2. Personal Property Sales may be transacted via the sealed bid process, public auction or on a negotiated basis. All local personal property sales shall be authorized, in writing, by the FSP Activity, Division of Materials Management. Application forms for local sale shall be provided by the FSP Activity.

3. The FSP Activity shall determine the maximum amount of reimbursement allowed the donee selling the property pursuant to 2 MCAR § 1.3105, A5. Any revenue from such sale in excess of the authorized reimbursement amount, shall be submitted to the FSP Activity, accompanied by a copy of the forms required by the FSP Activity for reporting disposition results, a buyer acknowledged (signed) copy of the sales receipt, and a copy of the donee deposit form. Reimbursement to donee shall be on a prorated basis for the following expenses:

   a. Service charge paid to the FSP Activity;
   b. Transportation charges paid by the donee in initially acquiring the property;
   c. Initial costs of repair required to make the items useable; and
   d. Administrative costs incurred in the sale or transfer of such property.

B. Sealed Bid Sales

1. Locally authorized bid sales may be used by all donees in the sealed bid sale of Federal Surplus Property when authorized, in writing, by the FSP Activity pursuant to 2 MCAR § 1.3108 A1.

2. Whenever practicable, at least three competitive bids shall be solicited in the sale of Federal Surplus personal property via the sealed bid process.

3. Sealed bid sales which are not authorized locally shall be processed by the FSP Activity pursuant to 2 MCAR § 1.3304.

4. Any employee directly involved in the sales process shall not be eligible to purchase surplus property for which they have specific responsibility.

C. Auction Sales

1. The FSP Activity shall coordinate all Federal Surplus personal property auction sales for all donees of the State.

2. When a donee has reported property, pursuant to 2 MCAR § 1.3108 A1, to the FSP Activity, which cannot be transferred to another donee, the FSP Activity shall determine the most effective means of disposal. If an auction sale is warranted, the auction sale shall be processed pursuant to 2 MCAR §§ 1.3303.

D. Negotiated Sales

1. Pursuant to Minn. Stat. § 16.07, Subd. 4, sale of Federal Surplus personal property estimated to be $5,000 or less may be made either upon competitive bids or in the open market. All negotiated sales shall receive prior approval, in writing, from the FSP Activity.

2. Whenever practicable, at lease three competitive bids shall be solicited in the sale of Federal surplus personal property via the negotiated process.

3. No employee of any donee organization may purchase Federal Surplus property via the negotiated sale process.

4. The disposition of all negotiated sales shall be reported to the FSP Activity on the form provided by the FSP Activity, accompanied by a buyer acknowledged (signed) sales receipt and a copy of the donee deposit form.

5. A copy of the buyer acknowledged signed sales receipt shall be maintained in the donee(s) files for seven years from the date the sales transaction was consummated.

A. The FSP Activity shall consult with advisory bodies and public and private groups which can assist in determining relative needs and resources.

B. A private or public body wishing to be a party to the above consultation, shall, in writing, contact the FSP Activity Manager, 5420 Highway 8, Arden Hills, Minnesota 55112.

Chapter 9 C: Office of the State Register

RGSTR 1 - RGSTR 100 are repealed in their entirety.

2 MCAR 1.3201

Scope and Purpose. These rules are promulgated pursuant to Minn. Stat. §§ 15.041 - 15.051 and govern the availability of publications from the Office of the State Register, Materials Management Division, Department of Administration. The Office of the State Register publishes and offers for sale the following:

1. The "State Register"
2. The "Minnesota Guidebook to State Agency Services"
3. The "Minnesota Code of Agency Rules (MCAR)"

2 MCAR 1.3202

Availability of the State Register Publications.

A. Publications of the Office of the State Register are available from the Office of the State Register, Hamm Building, 408 St. Peter Street, Suite 415, St. Paul, Minnesota 55101. All purchases from the Office of the State Register shall be prepaid and may be obtained as described below.

B. State Register.

1. The State Register is distributed weekly on Monday to the public when published, either as a part of an annual subscription or in single copies for a fee set pursuant to 2 MCAR § 1.3203.

2. Mail orders for annual subscriptions shall be accompanied by the order form found on the back page of each issue of the State Register or on an order card available from the Office of the State Register and shall be accompanied by full payment.

3. Checks shall be made payable to the "Minnesota State Treasurer".

4. Single issue orders shall be accompanied by full payment.

5. Over-the-counter sales are available at the Office of the State Register at the address noted in section A above.

6. Subscribers to the State Register shall receive a Minnesota Guidebook without additional charge.

C. Minnesota Guidebook to State Agency Services

1. The Guidebook is made available to the public either as part of the annual State Register subscription or in response to requests from non-subscribers. The Guidebook is also available at retail bookstores throughout the state. Retail bookstores interested in distributing the Guidebook may contact the Office of the State Register at the address noted in section A above.

2. Mail orders for the Guidebook shall be made on the order form found in the back page of each issue of the State Register. The order form is also available by phone or written request from the Office of the State Register.

3. Subscribers to the State Register shall receive a Guidebook without additional charge.

4. Orders for the Guidebook shall be accompanied by full payment. Checks shall be made payable to the "Minnesota State Treasurer".

D. Minnesota Code of Agency Rules (MCAR).

1. The MCAR, consisting of a multi volume set of permanent rules of state agencies, is made available to the public for a fee set pursuant to 2 MCAR § 1.3203. A quarterly update service is available for an additional fee.

2. All orders shall be placed in writing or in person at the Office of the State Register at the address noted in section A above.

E. Finality of Sales

All purchases from the Office of the State Register shall be final.

2 MCAR 1.3203

Fees

Fees for services shall be prescribed by the Commissioner of

Administration and approved by the Commissioner of Finance unless otherwise authorized by law or rule and shall be based upon the following factors: cost of publication, storage, handling, postage and operating expenses of the Office of the State Register. Fees may differ for quantity purchases.

2 MCAR 1.3204

Disclaimer of Liability.

The Office of the State Register of the Department of Administration shall assume no responsibility for or liability arising from the contents of publications distributed, printed, or otherwise available under it auspices. Any conflict arising from contents shall be referred to the state agency from which the copy or information for the publication emanated.

2 MCAR 1.3205

Errata Listings.

Ommission or other errors in copy shall be corrected by errata listings so identified in subsequent issues.

Chapter 9D: STATE SURPLUS PROPERTY SALES

2 MCAR 1.3301

Authority and Scope.

Pursuant to Minn. Stat. §§ 16.02, 16.07, 16.08, 16.24 and 16.28, the State Surplus Property Sales Section, Division of Materials Management, Department of Administration, is responsible for managing a statewide surplus property sales program in order to ensure the effective ultimate disposition of all surplus personal property. These rules govern the disposition of all such obsolete, surplus and recyclable state property. Sales are conducted via public auction, sealed bid or negotiation, as set forth below.

2 MCAR 1.3302

General Terms and Requirements of Purchase.

A. Waiver of Warranty: The State of Minnesota shall make no warranty as to the fitness, merchantability or other condition of any item sold pursuant to these rules. The purchaser bidding shall agree to purchase said items, conditions "as is - where is." This waiver includes, but is not limited to a waiver of any purchaser's claim pursuant to Minn. Stat. §§ 336.2-312 through 336.2-315.

B. Transfer Requirements and Costs: The purchaser shall assume all cost of title transfer and required vehicle registration fees, if any. Items shall not be removed from the premises until the full purchase price and sales tax have been paid, insurance information provided (insurance company and policy number or binder) and the required license plates are attached to the vehicles, where applicable.

2 MCAR 1.3303

Auction Sales: Pursuant to Minn. Stat. § 16.07, subd. 10, surplus personal property may be sold by auction as follows:

A. Notification of Auctions: Persons wishing to be notified of state public auction sales shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, giving their name and complete address. All interested persons shall be placed on an auction mailing list and shall receive bulletins of all public auctions held by the state. State auctions shall also be advertised in news-media at least seven (7) days prior to the sale. News media used may include the Minneapolis and St. Paul papers and/or local papers in the immediate vicinity of the sale.

B. Auction Terms and Requirements: The full amount of the bid price shall be paid at the time of sale for each item selling for less than $500.00. A minimum of ten percent (10%) of the bid price shall be paid at the time of the sale for each item selling for $500.00. or more. All personal checks shall be accepted for the full amount or the ten percent (10%) down on the day of the sale. A successful bidder shall pay any balance due on the sale, including sales tax, within five (5) days from the date of the sale. Such balance due payments shall be in the form of cash, money order, certified check, or bank draft, made payable to the "Minnesota State Treasurer". Full payment shall be received prior to release of merchandise. Failure on the part of the purchaser to remit the balance due on the amount of the bid within five (5) days shall constitute forfeiture of the amount paid at the time of the sale.

C. Application for Auctioneers. All Auctioneers interested in providing their services to the state shall submit their name and address to the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101.
Sealed bid invitations for auctioneering services shall be mailed to all interested persons for each scheduled auction. Contracts for auctioneering services shall be awarded to a qualified, licensed Auctioneer based on the bid requirements, and the lowest percentage fee of each sale's proceeds. In the event of tied commission fee bids, Auctioneer shall be chosen on the basis of a draw or by bid negotiation.

2 MCAR 1.3304

Sealed Bid Sales: Pursuant to Minn. Stat. §§ 16.02 subd. 18; 16.07, subd. 2 and 4; 16.08 and 16.24, surplus personal property may be sold by sealed bid as follows:

A. Notification of Sealed Bid Sales: Persons interested in bidding on the purchase of state surplus personal property shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, giving their name and complete address.
All interested persons shall be required to indicate the types of property they desire to purchase and shall then be placed on mailing lists by commodity group(s).
Applicants shall be advised by sealed bid invitation of all applicable commodities for sale in their respective commodity groups.

B. Conditions for Sealed Bid Sales: The estimated number or weight of the items listed for sale is for the general guidance

of bidders and the state shall assume no responsibility for any variance therefrom. In accordance with the bid requirements, certified checks, cashier's checks, or money orders of successful bidders submitted with the bid, may constitute liquidated damages for failure of bidder to enter into contract. Sealed Bid Sales shall be awarded to the highest responsible bidder.

C. Removal from Mailing Lists: Applicants on sealed bid mailing lists who have not bid for the purchase of state surplus property for a period of two or more years may be removed from all applicable mailing lists. Applicants shall be reinstated upon written request.

2 MCAR 1.3305

Negotiated Sales: Pursuant to Minn. Stat. § 16.07, subd. 4, surplus property sales estimated to be $5,000 or less may be made either upon competitive bids or in the open market.

A. Notification of Negotiated Sales: Persons wishing to be notified of a proposed negotiated sale of specific state surplus personal property shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101.

B. Conditions for Negotiated Sales: If the state is unable to secure sealed-bids for the sale of property or it is deemed to be in the best interest of the state, sales may be negotiated with persons who have indicated an interest in the purchase of a specific commodity. So far as practi-

cable, the sales shall be based on at least three competitive bids, shall be permanently recorded and awarded to the highest responsible bidder. The full amount of the purchase price shall be paid at the time of sale. All personal checks shall be accepted for the full amount of sale.

2 MCAR 1.3306

Public Employee Purchase of State Surplus Property.

A. Pursuant to Minn. Stat. § 15.054 , employees of the state and its political subdivisions are permitted to purchase state surplus personal property including one motor vehicle within each 12 month period via public auction or sealed bid process.

B. Public employees directly involved in the sales process shall not be eligible to purchase state surplus personal property for which they have specific disposition responsibility.

Chapter 10: CENTRAL MOTOR POOL

2 MCAR 1.3501

Scope of Purpose: The purpose of these rules is to define the procedures of the Department of Administration, Central Motor Pool Division, relating to handling insurance claims involving Central Motor Pool vehicles pursuant to Minn. Stat. § 16.75. All references to "Central Motor Pool Division" below mean Central Motor Pool Division, Department of Administration, 610 N. Robert Street, St. Paul, Minnesota 55101.

2 MCAR 1.3502

Insurance Claim Procedures.

A. When a Central Motor Pool vehicle is involved in an accident, the driver of the state vehicle shall complete an accident report on form DPS 32001. This report is to be completed within 3 days of the accident and sent to the Central Motor Pool Division, 610 N. Robert Street, St. Paul, Minnesota 55101. The Central Motor Pool Division shall complete the portion of the form entitled "Insurance".

B. For accidents involving personal injury, death, or total property damage of $300 or more, the Central Motor Pool Division shall forward the accident report to the Department of Public Safety within ten (10) days of the accident, as required by law. A copy of the accident report shall be retained by the Central Motor Pool Division.

C. Notification of the accident, including a copy of the accident report, shall be sent to the state's insurance company by the Central Motor Pool Division. Contact with third parties to discuss settlement for injury or property damage may be initiated by the state's insurer. The Central Motor Pool Division shall direct any persons wishing to file a claim against the state to the proper agency for consideration of such a claim.

D. If it is evident that the other driver was at fault, a claim may be filed with his/her insurance company by the Central Motor Pool Division. A copy of the official repair estimate shall be included. The repair estimate shall be supplied by the body repair shop having the contract for repair of state vehicles or by other responsible body repair shops as approved by the Director of the Central Motor Pool Division.

E. When a check is received covering the damage done to the Central Motor Pool vehicle, a release shall be signed, and the check deposited in the Central Motor Pool revolving fund.

Chapter 11: Plant Management

Admin 80: "Parking of Motor Vehicles on Parking Lots" is repealed in its entirety.

2 MCAR 1.4001

Parking

Pursuant to Minn. Stat. § 16.72, subd. 2, this rule governs the parking of motor vehicles in parking facilities owned or operated by the State of Minnesota and under the control of the Commissioner of Administration.

A. Lots and Facilities: Parking lots or facilities governed by these rules are located within the Capitol Complex, the City of St. Paul, and the City of Minneapolis, and include the following:

1. Outdoor lots within the Capitol Complex; at the Economic Security Building, 309 - 2nd Avenue South, Minneapolis; 1246 University Avenue, St. Paul; and at the State Department of Health Building, 717 Delaware Avenue Southeast, Minneapolis.

2. Indoor parking facilities located in the Department of Transportation Building in the Capitol Complex; the Economic Security Building, 390 North Robert Street; 1246 University Avenue, St. Paul; and the

State Department of Health Building, 717 Delaware Avenue Southeast, Minneapolis.

3. Ramp parking facilities located in the State Administration Building and adjacent to the Centennial Building, both in the Capitol Complex.

4. Street parking facilities located on Aurora Street between Cedar Avenue and Park Avenue.

B. Prohibited Parking. All parking of motor vehicles is prohibited across driveway entrances; upon sidewalks; along yellow painted curbing; within 15 feet of fire hydrants; within 20 feet of crosswalks or intersections; in stalls assigned to other persons, unless permission is granted by such persons; in driveways; and in restricted zones of lots, ramps, or other posted areas.

C. Application for Parking. Applications for contract parking shall be made in writing to the Director of the Plant Management Division located at Room G-9, State Administration Building, St. Paul, Minnesota 55155. The application shall bear the written signature of the person applying and contain the following information: employing agency, telephone number at place of work, type of vehicle (compact or regular), motor vehicle license number, and all other relevant information requested by the Director. Additional information may be required, including the name of each passenger, if carpooling, the employing agency of each passenger, and location if other than in the Capitol Complex. If a desired facility is requested, the facility shall be

identified. The applicant shall not submit payment with the application.

D. Permits shall be granted to applicants in the following priority order:

1. Applicants qualifying for a handicapped parking permit per 2 MCAR § 1.4001 H or demonstrating special needs or circumstances arising from position, nature of work, and/or travel requirements.

2. Applicants with riders with the applicant with the highest number of riders first, the applicant with the second highest number of riders second, etc.

3. All other applicants on a first come-first served basis.

E. Stickers. All authorized parking contract recipients shall be issued a sticker of proper identifying color. Stickers shall be displayed on the reverse side of the rearview mirror.

F. Fees for parking shall be set by the Commissioner of Administration with the approval of the Commissioner of Finance and shall be based on consideration of, but not limited to, the following factors:

1. Administrative overhead and operating cost;

2. Surcharge required pursuant to M.S. 16.72, subd. 7; and,

3. Number of car pool passengers if

G. Exemptions from Parking Surcharge.

1. Pursuant to Minn. Stat. § 16.72, subdivision 7, the following are exempt from surcharge:

   (A) Parking contract holders whose work shift is other than the customary daytime work hours, including those individuals employed on rotating shifts.

   (B) Parking contract holders whose work activity does not conform to the customary hours or patterns of work so as to preclude the opportunity to participate in a car pool.

2. Application. Any person wishing to apply for exemption from the surcharge, shall apply in writing on the forms provided to the Division of Plant Management, Department of Administration.

3. Notice of approval or denial for the exemption of the surcharge shall be sent in writing to the applicant.

H. Handicapped. To receive a handicapped parking permit, a written application shall be submitted to the Director of the Plant Management Division at the above-noted address stating the circumstances and extent of the handicap. Certification of handicapped eligibility pursuant to Minn. Stat. § 169.345 shall be deemed sufficient showing to authorize vehicles bearing proper identification of such certification to use handicapped designated parking facilities in the Capitol Complex and other facilities. Upon receipt of an application from a non-certified person, the Director shall instruct the applicant to contact the nurse in the Transportation or Centennial Building for verification of the disability. A written recommendation from the nurse is required stating the estimated length of time required to accommodate the disability. Handicapped parking shall be available on a first come-first served basis. Regular parking rates shall apply.

I. Special Temporary Permits. For departments or agencies having individuals or groups visiting the Capitol Complex for meetings or hearings, temporary reserved hooded meter parking may, if available, be obtained upon request to the Director of the Plant Management Division, for which a per day per unit fee shall be paid by the requesting organization. The amount of the fee shall be set by the Commissioner of Administration and approved by the Commissioner of Finance.

J. Violations. Pursuant to Minn. Stat. § 16.72, subd. 3 and 4, when any motor vehicle is parked in violation of these rules

a traffic warning or summons ticket shall be issued to the vehicle or person(s) deemed as the violator(s).

K. Removal and Impounding. Any vehicle parked upon any parking lot or facility owned or operated by the State, not in conformity with the aforementioned rules, State law, or local ordinances, may be declared a public nuisance and removed or impounded as set forth in Minn. Stat. § 16.72, subd. 3. The cost of such removal or impounding shall be a lien against the motor vehicle until paid.

L. Legislative Parking Resolutions. Pursuant to Minn. Stat. § 16.72, subd. 6, these rules shall not affect regulation of parking of certain vehicles as provided by resolution of the legislative bodies during legislative sessions.

2 MCAR 1.4101

Personal Property Lost on State Property.

A. Pursuant to Minn. Stat. § 16.022, personal property found in the Capitol Complex or other buildings under the custodial control of the Commissioner of Administration shall be sent to the Plant Management Division, Department of Administration, Room G-9, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. Each article shall be labeled indicating the date, the place where the article was found, and the name and telephone number of the finder.

B. Any person wishing to recover any personal property which may have been lost in the Capitol Complex or other buildings under

the custodial control of the Commissioner of Administration shall contact the Plant Management Division at the above-noted address, giving a description of the lost property, the approximate time, and the location where it may have been lost.

C. Articles sent to the Plant Management Division shall be disposed of in accordance with Minn. Stat. § 16.0231.

2 MCAR 1.4201

Permits for Public Rallies in the Capitol Complex.

Pursuant to Minn. Stat. § 16.02, subds. 6 and 6a, the following rule governs the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. "Public rallies" for the purpose of this rule means parades, gatherings, solicitations, concerts, speeches or rotunda ceremonies, and other such related uses of the buildings, grounds, and state-owned streets in the Capitol Complex.

A. This rule defines the permissible time, place, duration, and manner of the use of the Capitol Complex grounds, including the rotunda, sidewalks, Capitol Building steps and state-owned streets for public rallies, so as not to unreasonably interfere with the rights of others to the use of such public areas, to assure access to driveways and building entrances, to assure traffic movement in such a manner so as to not deprive the public and state employees of police and fire protection, and to assure the public of safe use and enjoyment of such public places.

1. Any person, firm, partnership, association, corporation,

company, or organization shall secure a permit from the Director of Plant Management Division, Department of Administration, Room G-9, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, to conduct a rally on the Capitol Complex grounds prior to announcing or conducting such public rally.

2. Any such person seeking a permit for a public rally shall submit, not less than seven (7) working days prior to the proposed date of the event, a written application identifying the person, firm, partnership, assocation, corporation, company or organization; mailing address and telephone number; date; time; and name, address, and the telephone number of the contact person who shall be responsible for the public rally; and all other relevant information requested by the Director of the Plant Management Division. The Director, where compelling reasons are shown therefore, and if staff and time are available to make arrangements necessary to protect the public interest, shall have the authority to consider any application hereunder which is filed less than seven (7) working days before the date such rally is proposed to be conducted.

3. Proof of Workers Compensation and public liability insurance shall be submitted when required by Director.

4. Upon consideration of the request for the permit, and after written agreement is reached between the parties involved regarding security, police protection, liability for damages, and cleanup of the areas, the Director of Plant Management shall approve the permit application

unless any of the following is found to exist:

a. The conduct of the rally will substantially interrupt the safe and orderly movement of other traffic contiguous to its route or location.

b. The conduct of the rally would require the diversion of so great a number of the security force of the Capitol to properly police the line of movement and the areas contiguous thereto as to prevent normal security.

c. The concentration of persons, animals, and vehicles at assembly areas of the rally will unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

d. The conduct of such rally will interfere with the movement of fire-fighting equipment enroute to a fire.

e. The rally is not scheduled to move from its point of origin and to its point of termination expeditiously and without unreasonable delays enroute.

f. The rally is to be held for the sole purpose of advertising any product or goods or is designed to be held all or in part for private profit.

g. The rally will unreasonably disrupt the normal operations of state government and the public right of safe use or reasonable enjoyment of public spaces.

B. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The rally chairperson or other person heading or leading such activity shall be in possession of the permit during the conduct of the rally.

C. Whenever any rally is conducted in a manner substantially different from that indicated in the permit application and rules therefore, the permit shall be deemed to be automatically revoked and shall be forfeited.

D. No public rally in the Capitol Complex shall be undertaken unless a permit has been obtained as required above. Any person violating this rule , or applicable state or local law, may be subject to prosecution under applicable law.

Chapter 12: PUBLICATIONS AND GENERAL SERVICES DIVISION

2MCAR 1.4501

Purpose and Scope: The procedures herein relate to the Commissioner of Administration's authority pursuant to Minn. Stat. § 16.61, 331.07, 331.08, and 331.09 , providing in part for the certification of and computation of standard and adjusted line rates.

2 MCAR 1.4502

Definition of a "standard line" for Legal Notices.

The "standard line" shall be 6-point Times Roman with a lower case alphabet of 90 points set on a 6-point slug without spacing between the lines, and 11 picas in length, as required by Minn. Stat. § 331.07.

2 MCAR 1.4503

Evaluation and Certification of Line Rates for Legal Notices.

A. Request for Evaluation and Certification: The following procedures shall be followed to request (1) an adjustment evaluation from the standard line and (2) certification of standard or adjusted line rates to any Minnesota newspaper, public official, or interested party requesting same.

1. The functions of computing adjustment evaluations and issuing certifications of standard or adjusted line rates are performed only upon written request.

2. Requests shall be completed as follows:

a. All requests shall be filed with the Commissioner of Administration, c/o State Printer, 506 Rice Street, St. Paul, Minnesota 55103.

b. The request shall contain the following:

(1) Statement by Publisher

(a) name of newspaper

(b) street address, zip code, city and county

(c) Publisher's name

(2) Method of production

(a) letterpress, matted & plated, or print from type

(b) offset, hot type, cold type, or hot and cold type

(3) Type used in printing legal ads

(a) type size and name of type

(b) pica width of single and double column

(c) hot or cold type

(d) justified or not justified (if not justified, minimum sample of five (5) inches of type set in column width of the type used must be provided with request)

(e) three (3) lower case alphabets in compact form for each column width and style of type which requires certification

(f) if the page forms are reduced in the camera or are matted, the lower case alphabet supplied must be reduced at the same percentage

(g) other relevant information requested by the Commissioner or his agent

c. Publishers who change type faces or who make format changes that affect column widths may apply for new certified rates, including in the request a minimum of three (3) lower case alphabets in compact form (no letter spacing) for the type style to be used and for each of the column widths requiring new line rates.

B. Formula for Evaluation

1. To calculate line rates for non-standard type faces and non-standard line lengths, the formula to be used is based on the proportion of the alphabet length of the "standard" type face to the alphabet length of the non-standard type face, in relation to the proportion of the length of the non-standard line to the length of the "standard" line, in relation to the line charge for the "standard" line.

Formula for above is as follows:

$$\frac{\text{LC. Alphabet (in points) of 6-point Times Roman}}{\text{LC. Alphabet (in points) of type you use}} \times \frac{\text{Your column width (in picas)}}{\text{Standard Times Roman 11 pica line length}} \times \text{Standard Line Rate} = \text{Adjusted Line Rate.}$$

2. A separate line rate certification is required (1) for each type face used in setting for legal notices, and (2) for each line length used in setting type for legal notices. Each line rate certification applies to only

one type face and one column width (measuring from direct left to direct right of line length). It may not be used for any other billing. Line rate certification procedures apply to cold type composition as well as hot metal typesetting.

2 MCAR 1.4504

Fees for Publication of Legal Notices.

Fees for publications are established by Minn. Stat. § 331.08 for a standard line for first insertion and subsequent insertions and for what is termed "price and one-half" or "double price" composition. The definition of "price and one-half" or "double price" composition is established by the State Printer and published in the pamphlet "Publication of Legal Advertising in Newspapers", including approved forms and computation samples, as required by Minn. Stat. § 16.61.

2 MCAR 1.4505

Controversy between publisher and public official.

A. In case of controversy or disagreement between a publisher of a newspaper and a public official of this state as to the measurement of any legal notice published or required by law to be published in newspapers, such public official shall submit a copy of the printed notice to the Commissioner of Administration in accordance with the procedure described herein. The Commissioner shall measure such notice and forward a certificate signed by him giving the number of lines and the amount of the fees allowed for the publication

of such notice.

1. The following procedure is required:

   a. The public official shall send one complete copy of the legal publication to be measured to the Commissioner of Administration, c/o State Printer, 506 Rice Street, St. Paul, Minnesota, 55103. Said copy of publication will not be returned.

   b. The public official shall also send an affidavit of publication with indication of lower case alphabet and the number of insertions used in said publication.

   c. When disputed legal notices have been set by a third party, the public official shall state who set the legal notice and furnish three (3) copies of lower case alphabet in compact form of type used.

   d. If copy for legal notices is furnished in camera ready form for use in the newspaper, the public official shall so state. (Camera ready copy is measured in the same manner as a ballot).

   e. If legal notice was reduced by camera or matted at time of publication, the public official shall require the newspaper to submit a lower case alphabet reduced by the same percentage as the notice which was published.

f. A stamped, return addressed number ten (10) envelope shall accompany each measurement requested.

2. A complete copy of legal publication along with the computation sheet and a copy of certificate of measurement will be kept on file for at least one (1) year.

Chapter 13: REAL ESTATE MANAGEMENT

2 MCAR 1.5001 PROPERTY ACQUISITION

Pursuant to Minn. Stat. Chapter 16 and specific legislative enactments, this rule shall govern the State's acquisition of real property for the operation of state government.

A. Unless otherwise provided by law or by reorganization order issued pursuant to Minn. Stat. §§ 16.125 and 16.135, a state department or agency needing real property shall make a request in writing to the Department of Administration to acquire property, specify the property to be acquired, and indicate the source and sufficiency of funds needed for the acquisition.

B. Real Estate Management Division shall proceed with acquisition as follows:

1. The title to the property shall be examined by an attorney for the Division, whereupon a field title report shall be prepared by the Division. The field title report shall be based on information from the owner or a representative of the owner. The purpose and nature of the acquisition shall be explained to the owner at the time of the field title interview. Where there are occupied buildings involved, a relocation study shall be made to insure that displacees can be relocated without undue hardship.

2. A legal description of the property to be acquired shall be written. Where necessary, a written engineering assessment shall be obtained from the State Architect's Office.

3. The property to be acquired shall be appraised. Appraiser(s) shall be selected by the Director or the Assistant Director, and may be state employees or fee appraisers. Where fee appraisers are used, they shall be selected from a list of qualified fee appraisers, which list shall be maintained by the Division. The fee to be paid to the appraiser shall be as agreed upon between the appraiser and the Director or the Assistant Director.

4. The appraisal(s) shall be reviewed by members of the Division staff. Where the appraisal(s) are deemed satisfactory, the appraisal amount which is deemed to represent value (and damages, where applicable) shall be certified by the Director or the Assistant Director.

5. Instruments appropriate for the acquisition shall be requested from the Attorney General's Office.

6. A direct purchase offer shall be submitted to the property owner. Where possible and practical, the offer shall be submitted in person. A detailed explanation of the state's acquisition policies and of the owner's options shall be made to the owner, especially including, where applicable, a full explanation of relocation benefits available to the owner.

7. If the owner accepts the offer, the property shall be purchased. The Division shall be responsible for proper execution of instruments, closing of transaction, recording of instruments, payment to owner, relocation assistance to the owner, and removal of buildings, where applicable.

8. If the owner rejects the offer, and the legislature has directed by law that acquisition by eminent domain proceedings shall or may be pursued, the Division shall institute necessary proceedings to so acquire.

2 MCAR 1.5101 ISSUANCE OF PERMITS OR EASEMENTS ACROSS STATE LANDS Pursuant to Minn. Stat. § 16.88, this rule shall govern the availability to the public of permits or easements to cross state-owned land other than state-owned land expressly exempted.

A. An application for a permit or an easement to cross state-owned land shall be made in compliance with Minn. Stat. § 16.88, Subd. 3, to the Director, Real Estate Management Division, Department of Administration, Room G-22 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

B. The Real Estate Management Division shall grant or deny the application in accordance with the provisions of Minn. Stat. § 16.88. The applicant shall be informed in writing of granting or denial

of the permit or easement. Where the application for permit or easement is denied, the applicant shall be informed of the reasons for such denial.

C. Pursuant to paragraph B above, where the application for permit or easement is granted, the permit or easement shall be granted only after agreement by the applicant to pay to the state an amount to be determined on the basis of an appraisal by the Real Estate Management Division, and to comply with all terms and conditions of the permit or easement.

D. Except where the permit or easement is clearly a benefit to the state, no permit or easement shall be granted for less than the amount of $100.00.

2 MCAR 1.5201 Permits to Search for Lost Property

Scope and Purpose. Pursuant to Minn. Stat. §§ 16.021, 16.022, and 16.023, 2 MCAR §§ 1.5201-1.5205 govern the granting of permits to search upon lands owned by the state for abandoned or lost property and disposition of abandoned or lost property found thereunder.

2 MCAR 1.5202

Terms and Conditions. Permits shall be granted upon permittee's agreement to and performance of the following terms and conditions:

A. Permittee shall indemnify and hold the State of Minnesota harmless for any claim, meritorious or otherwise, and for any clauses of action regardless of their nature arising directly or indirectly out of any permittee's activities. The state shall not be liable for any damage to property of permittee or injury to permittee or

invitees.

B. If in the opinion of the Director or the Assistant Director the activity to be conducted may endanger life or property, permittee shall purchase liability insurance which protects all persons and their property from injury or damage. The amount of such liability insurance shall be no less than:

Minimum coverage per person per occurrence	$100,000
Minimum coverage per occurrence	$500,000

The State of Minnesota shall be designated as sole payee in the event of loss.

C. Permittee shall obey and conform to all federal, state, and local laws, rules and ordinances.

D. Permittee shall cause no damage to any property by virtue of its activities. In the event of any damage to any state property, permittee shall immediately repair same. Failure to immediately make such repairs when advised to do so in writing by the Director or Assistant Director shall result in cancellation of permit.

E. Permittee shall conduct its activities in a manner so as not to adversely affect the environment and shall restore areas of activity to original conditions. Permittee shall remove all equipment

relating to and debris resulting from permittee's activities from state land by the termination date of the permit.

F. Permittee shall limit its activities on state land to areas specified by the permit.

G. Unless otherwise specified, permits shall remain in effect for one year from effective date so long as conditions prescribed hereby and in the permit are met.

H. Permittee shall neither assign nor transfer any rights or obligations under the permit without the prior written consent of the Commissioner or his authorized designee.

I. Permittee shall not vary the permit without the prior written consent of the Commissioner or designee.

J. Receipt of permit shall not constitute an exclusive grant, and the State may issue similar or identical permits for the same or overlapping areas of land.

K. The permit may be cancelled by either party at any time, with or without cause, upon thirty (30) days' written notice to the other party.

L. Unless specifically excepted for cause in the permit, all permits shall be granted with the understanding that the lost or abandoned property which is recovered from state lands shall be turned over

to the Department of Administration for disposition as provided by statute. The permittee's share of the proceeds shall be agreed upon between the permittee and the State prior to issuance of the permit. The State's share shall be deposited in the general revenue fund.

2 MCAR 1.5203 APPLICATION FOR PERMIT

Applications for permits shall be made in writing to the Division to the following address:

Director
Real Estate Management Division
Department of Administration
G-22 State Administration Building
St. Paul, Minnesota 55155

Application shall include the following items:

A. Applicant name, mailing address, and phone number.

B. Description of proposed search.

C. Written acceptance of the specified terms and conditions.

D. Specification of area within which activity will take place.

2 MCAR 1.5204 GRANTING OF PERMITS

Upon receipt of application, the Commissioner or designee shall undertake the following action:

A. Determination as to department jurisdiction over the lands concerned in the application.

B. Determination as to the necessity for liability insurance as specified in 2 MCAR § 1.5202, A and B.

C. Preparation of a written agreement between the State and the applicant.

D. Submission of permit (written agreement) for review and signature by Department of Finance and Attorney General.

Upon execution of the written agreement, the permit shall be in effect under the terms and conditions thereof.

2 MCAR 1.5205 DISPOSITION OF FOUND PROPERTY

Upon discovery of lost of abandoned property, permittee shall, within thirty (30) days of discovery, place such property at the disposal of the Commissioner. The Commissioner or designee shall determine the method and location of maintenance and storage of property. Property will be disposed of under the procedure specified by Minn. Stat. § 16.022. Upon disposition, the Commissioner or designee shall, in a timely manner, authorize payment to the finder the share due him under the terms and conditions of the permit.

2 MCAR 1.5301 PROPERTY LEASING (Where State is Lessor)

Pursuant to Minn. Stat. § 16.02, Subdivision 14, this rule governs the leasing out of state owned real property which is temporarily not needed by the state.

A. All persons wishing to be notified of the availability for leasing of state-owned property shall request in writing such notification. Requests shall be sent to:

Director
Real Estate Management Division
Department of Administration
G-22 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

A list of persons having requested such notification shall be maintained by the Real Estate Management Division. The list shall indicate the particular area in the State and the type of property (i.e., farm, office, etc.) the interested party has expressed an interest in.

B. At least fifteen (15) calendar days prior to the bid return deadline, bid solicitations shall be mailed to appropriate parties who have requested notification of the availability of property for leasing. In addition to mailing of bid solicitation to all parties known to have an interest in leasing the property, the Department of Adminstration may, where circumstances merit, advertise the property for lease in a newspaper having general circulation in the area in which the property to be leased is located. The property shall be leased to the highest responsible bidder, consistent with the State's intended use and management of the property. The Department expressly reserves the right to reject any or all bids or to waive informalities therein.

C. Competitive bidding shall not be used when the Commissioner or designee determines that one or more of the following circumstances exist.

1. There is only one interested party that can feasibly use the property.

2. Factors other than bid price, such as maintenance of the property, are paramount.

3. The contemplated rental term is of short duration.

4. Other governmental entities have expressed the desire to lease the property.

5. Factors exist which make the taking of competitive bids impractical or not in the best interest of the State of Minnesota.

~~Chapter 14: RECORDS MANAGEMENT~~

~~2 MCAR 1.5501~~

~~Scope and Purpose. Pursuant to Minn. Stat. § 138.17, these procedures govern the records management practices of all state agencies.~~

~~2 MCAR 1.5502~~

~~Definitions. For 2 MCAR 1.5501 - 1.5901, the following terms shall have the meaning given them unless clearly indicated otherwise by the context:~~

~~A. "Agency" means any agency of state government identified in Minn. Stat. § 138.17, subds. 1 and 7, entitled to request services from the records management division and for which the Commissioner of Administration may authorize or require records management services.~~

~~B. "Archival quality" means that the medium on which the record is recorded has a lasting property with regenerative capability of at least 100 years and that data contained thereon will be readable, whether by human eye or by machine (as in microfilm), for that period.~~

~~C. "Authorized person" means an agency employee whose name has been submitted in writing by the agency head as one who is entitled to retrieve records or information from records which belong to that specific agency and which are stored in the State Record Center.~~

~~D. "Commissioner" means the Commissioner of Administration.~~

~~E. "Consultative services" means the giving of professional advice regarding records management practices which are not required under these rules. Examples of consultative services include assisting in establishing an office filing system, assisting in the design of a new form, providing guidance in taking inventory of an agency's file series.~~

~~F. "Director" means director of Records Management Division, Department of Administration.~~

~~G. "File, also referred to as a "file unit", is a sequence of documents relating to one subject or transaction.~~

~~H. "File series" refers to a group of files, or file units, kept together because they relate to a particular subject, function, or transaction, or because they have similar/identical physical characteristics. A file series has a beginning and an end and is arranged systematically.~~

~~I. "Form" means a paper, film, film overlay, or computerized format containing information, printed or reproduced by whatever means, with blank spaces left for the entry of additional information. Forms include temporary as well as permanent versions; numbered as well as unnumbered versions, those purchased from vendors as well as those reproduced internally by office duplicating equipment; those used in small as well as large quantities, tags, hand-drawn, special use, and one-time-use items. Form letters~~

~~which have blank spaces left for additional entry of data (except for addressee's name, address, and the date) are forms.~~

~~J. "Forms management program" means the specific set of procedures, principles and techniques which are designed to manage the forms inventory system and to improve the effectiveness of official government forms.~~

~~K. "Microfilm" means the reproduction onto film in a reduced size of records originally created on paper, photographic plates, magnetic tapes, or other means, or copies thereof.~~

~~L. "Micrographics" means all activities which produce microfilm, including, but not limited to, systems design, filming, processing, duplicating and testing for archival quality.~~

~~M. "Records" means "state records" as that term is defined in Minn. Stat. § 138.17, subd. 1.~~

~~N. "Records disposition panel" means the body established pursuant to Minn. Stat. § 138.17, subd. 1.~~

~~O. "Records management" means the application of efficient and economical methods to the creation, utilization, maintenance, retention, preservation, and disposal of official state records pursuant to a program established under these rules. It involves developing standards, procedures, and techniques for managing the longevity of records; and includes implementing controls over office filing equipment, scheduling records for disposition,~~

~~administering records storage, documenting those benefits accruing from the program, and undertaking surveys and audits of disposal operations where implementation has taken place.~~

~~P. "Records Management Division" means the division of the Department of Administration designated by the Commissioner to fulfill the responsibilities described in Minn. Stat. § 138.17 and the procedures set forth in these rules. The division is located at Room 100, Nalpak Building, 333 Sibley Street, St. Paul, Minnesota 55155.~~

~~Q. "Records management services" are those services provided by the Records Management Division. Services are of two types: consultative and required. Consultative services (see Section E of this rule) are discretionary and are available from Records Management Division upon request by an agency head or designee. Required services (Section S of this rule) are not discretionary and shall be requested from the Records Management Division by the agency head or designee.~~

~~R. "Records retention and disposition schedule" means a listing of all approved file series and their respective retention periods and a description of the method, manner, dates and events which govern the disposition of each file series.~~

~~S. "Required services" are those records management procedures, standards and policies which agencies shall request and utilize when creating, installing, and maintaining a records management program. Examples of required records management services are inventorying and controlling state agency forms; developing and~~

implementing records retention and disposition schedules; storing and retrieving records from the state records center; and microfilming records.

T. "State Archives" is an administrative unit of Minnesota Historical Society headed by the State Archivist.

U. "State forms" are forms which are listed on the state-wide forms inventory system operated by the Records Management Division, Department of Administration, for State of Minnesota agencies.

V. "State Records Center" means the facility which provides for planned retention of inactive records and for orderly and timely disposition of records. The purpose of the State Records Center is to make available low cost, safe storage space for inactive records of agencies of state government as defined in Minn. Stat. § 138.17, subd. 1. The State Records Center is under the supervision of the Director of the Records Management Division.

2 MCAR 1.5503

Exceptions: These rules shall not apply to the exceptions cited in Minn. Stat. § 138.17, subds. 1 and 3.

2 MCAR 1.5504

Records Management Services and Requirements: Consultative services shall be provided upon request within the limitation of the Records Management Division's personnel and funding. Agencies shall request records management required services when implementing a records retention and disposition schedule, issuing a new or revised form,

cancelling a form, developing or modifying a microfilm system, and/or engaging in any other required records management program which may be identified in the future.

A. Agencies shall submit written requests for records management services to the Director, Records Management Division, at the previously noted address. All written requests shall be made on application forms provided by Records Management Division Office. Application forms are available from the previously noted address.

B. Within a reasonable time period after receipt of a request by the division, the agency shall be informed of the following:

1. The records management project number assiged to the request; and

2. The approximate date when request will receive first action.

2 MCAR 1.5601

Records Retention and Disposition Schedules.

State agencies shall have established records retention and disposition schedules for their records by July 1, 1989. The following procedures shall be followed:

A. Agencies shall apply for records retention and disposition schedules on forms provided by the Records Management Division and shall complete the forms according to instructions.

1. Agencies shall list:

a. Proposed retention periods for each file series for each location in which that series may be stored, such as office storage, department storage facilities, state records center storage, regional storage facility. Final disposition period or date shall be included for each file series.

b. Statutory requirements, and rules and regulation requirements which affect retention periods shall be listed.

2. The head of the applying agency, or designee, shall sign the application for records retention schedule and forward the request form to the Director, Records Management Division, at the previously noted address.

3. The Director shall review the agency's completed application for retention schedule for completeness, and compliance with Minnesota Statutes and applicable rules requirements.

B. The Director shall forward the application to the State Archivist, who, as representative of the Director of the Minnesota Historical Society on the records disposition panel, shall act on the application for records retention and disposition schedule and shall present it to the other panel members for action.

C. Upon making its determination, the records disposition panel shall

return the application, and the panel's written recommendation, for retention schedule to the Director.

D. The Director shall record the official records retention schedule for the applying agency and notify in writing the applying agency of the status of its application.

E. The Director shall notify the agency and the State Archivist not less than 90 days in advance of the next disposition date(s) as designated on the agency's approved schedule.

F. Agencies disposing of records under an approved records retention and disposition schedule shall notify the Director and the State Archivist identifying each file series of records which has been destroyed or delivered to the State Archives, Minnesota Historical Society.

2 MCAR 1.5701

The State Records Center

A. The following shall be completed or satisfied prior to the transfer of files to the State Records Center:

1. Records retention schedule shall be approved or shall be in a pending approval status pursuant to 2 MCAR 1.5601.

2. Records scheduled for destruction in less than one year shall not be transferred to the State Records Center unless the applying agency is moving its quarters or is being dissolved.

3. The Records Center shall not be required to maintain records in paper form for more than 10 years. Records which must be kept for any period greater than 10 years shall be stored in the State Records Center on microfilm which has been tested by the Minnesota Historical Society for archival quality. Records so microfilmed and tested shall be considered original documents.

4. Prior to the transfer of records, a written agreement shall be completed between the transferring agency and the State Records Center reflecting the following: Transfer intervals, liability for providing proper identification of persons authorized to retrieve records and/or information from records, procedures for retrieval, and other necessary documentation as each specific transfer may require.

5. Services to non-state agencies shall be provided by the State Records Center staff within limitations of personnel and fiscal resources.

B. Transferring records to the State Records Center.

1. Ownership of records: Records transferred to the State Records Center shall remain in the legal custody of the owning agency.

a. The staff of the State Records Center shall not be authorized to accept a subpoena for release of any records or for information from any records.

b. Records shall be released only on the authority of the owning agency and only to those persons previously identified in writing by the agency head,

~~or designee, as being authorized to receive either records or information from records stored in the State Records Center.~~

~~(1) Agency heads shall annually, upon a date determined by the Director, file with the Records Management Division, a list of names, signatures, titles, telephone numbers, and addresses of persons authorized to obtain records or information from the agencies' stored records. The Director shall assign an authorization number to each authorized person and notify each of his/her assigned number.~~

~~(2) Each authorized person making a record or information from records request by telephone shall use his/her authorization number as means of identification. Records Center staff shall verify the authorization number prior to releasing records or information from records.~~

~~(3) When necessary, amendments to the list of authorized persons, together with sample signatures, shall be submitted in writing by the agency head or designee to the Director.~~

~~(4) State Records Center staff members shall not~~

release records or information from records belonging to one agency to employees of another agency.

c. The State Records Center, as the physical custodian of the records shall take reasonable steps to protect records in order to prevent unauthorized access; misuse of records; and fire, water or other damage due to dust or an unclean environment.

2. Preparation of records procedures.

a. The sending agency shall remove rubber binders, three-ring binders and paper clips from the records to be transferred, and pack said records into standard storage boxes in such a manner that boxes are not unreasonably full and that all records stored in one box have the same retention and disposition schedule.

b. Records to be transferred to the State Records Center shall be enclosed in labeled standard manilla file folders. Files which have been previously stored in hanging-type folders must be transferred to the labeled manilla file folders before packing in storage boxes. Recycled manilla folders may be used for this purpose providing the previous label is obliterated and the appropriate folder label is clearly visible.

c. Agency shall complete the transfer form in triplicate and prepare on label for each storage box. In the event

~~of use of pre-printed boxes, agencies shall properly complete the label information on each box. Transfer forms and labels shall be provided by the State Records Center at the previously noted address.~~

~~d. Owning agencies shall notify the Director of the number of boxes to be transferred. Said agencies shall arrange for delivery of records to and return of records from the State Records Center.~~

~~e. The owning agency shall keep one copy of the transfer forms and send two copies to the Director.~~

~~f. The State Records Center shall index the storage boxes to indicate the shelf location and shall duplicate this information on the transfer forms. State Records Center shall return a copy of the completed transfer form to the agency.~~

~~C. Retrieving records and information from records.~~

~~1. Records and information from records shall be available upon request subject to provisions of subd. B (1) of this rule.~~

~~2. The request shall include the following in addition to the identification requirements of subd. B (1) of this rule:~~

~~a. a reference to the transfer form and~~

b. the shelf and box location of the desired record.

3. The State Records Center shall retrieve the requested record or information from a record, prepare a charge-out card if the record is to be removed from the Center, and forward the record/information from the records to the owning agency within a reasonable period after receiving the request.

D. Disposition of records by the State Records Center.

1. All records transferred to the State Records Center shall have retention and disposition schedules.

2. Disposition procedures for records transferred to the Records Center after the effective date of these rules are as follows:

a. State Records Center staff shall notify the owning agency in writing at least 90 days prior to the date that the disposition of said records will take place.

b. State Records Center staff shall send a duplicate copy of the notice to the records disposition panel.

be destroyed, the Director shall hold the records until the next agreed-upon disposition date.

(1) Upon receipt of notice not approving the disposition, the Director shall notify all parties in writing that the disposition has been postponed either indefinitely, or until the next scheduled disposition date.

(2) If both the agency head and the records disposition panel agree to dispose of the records, the Director shall either destroy the records or send them to the Minnesota Historical Society, according to prior records disposition panel determination.

3. Disposition procedures for records transferred to the Records Center prior to the effective date of these rules are as follows:

a. The owning agency shall request an application for authority to dispose of records from the Director at the previously noted address.

b. The owning agency shall complete the application form for authority to dispose of records in triplicate according to instructions on the face of the form and forward it to the Director. All applications for authority to dispose of records shall be signed by the agency head or designee. The Director shall review the

c. If owning agency head chooses not to prevent the disposition of the records, said agency head shall signify approval of the planned disposition on the notice and return it to the Director no later than 30 calendar days prior to disposition date.

d. If agency head wishes to prevent the disposition of the records, it shall be so signified on the notice indicating the additional time period the records shall be kept and the notice returned to the Director no later than 30 calendar days prior to the proposed disposition date.

e. If the records disposition panel chooses to authorize the disposition of the records, the panel shall signify approval of the planned disposition on the duplicate notice and return it to the Director no later than 30 calendar days prior to the proposed disposition date.

f. If the records disposition panel wishes to prevent the disposition of the records, the panel shall so signify on the duplicate notice indicating the additional time period the records shall be kept and return it to the Director no later than 30 calendar days prior to the proposed disposition date.

g. The Director shall follow the instructions of the agency head, or designee, and the records disposition panel. If either body had indicated that the records are not to

application for completeness and forward it to the State Archivist. The State Archivist, acting for the Director of the Minnesota Historical Society as a member of the records disposition panel, shall bring the application for authority to dispose of records to the attention of the members of the records disposition panel.

c. As stated in Minn. Stat. § 138.17, subd. 1, the records disposition panel's written determination to approve the request to dispose of records must be unanimous. The State ARchivist shall notify in writing the Director by sending two copies of the approved application.

d. Upon receipt of the approved application, the Director shall notify the owning agency, in writing, and shall proceed to dispose of the records.

e. If the records disposition panel's determination is not to approve the request to dispose of records, the State Archivist shall, in writing, so inform the Director, who shall in turn notify in writing the owning agency.

2 MCAR 1.5801

Forms Inventory System

This rule applies only to state agencies as defined in Minn. Stat. § 138.17, subd. 1.

A. State forms are those which state agencies originate and distribute to other state agencies, to other units of government, to the

general public or specific portions thereof, or are used internally by the originating agency. All such forms shall be listed on the state's automated forms inventory system.

B. In the instances where a state agency is formed after these rules become effective, the head of the new agency, or designee, shall request the Forms Inventory Supervisor, Records Management Division, to assist in the development and implementation of a forms management program for the new agency. Request for assistance shall be made by completing an application for records management services available from the Records Management Division at the previously noted address.

2 MCAR 1.5901

Micrographics Services

The following procedures shall apply to all agencies which use micrographics services:

A. Agencies of local government may use the services of the state's central micrographics laboratory.

B. State agencies planning to microfilm documents shall obtain micrographics services from the state's centralized micrographics services section by completing an application for records management services provided by the Records Management Division and available at the previously noted address.

C. Any agency using the micrographics production services shall be charged for all costs involved in said production. Fee

schedules for such charges shall be set by the Commissioner of Administration and approved by the Department of Finance and shall take into consideration normal business factors such as overhead, production costs, labor depreciation, and capital investment.

D. Micrographics services section shall provide the owning agency with estimated costs prior to production.

E. All microfilm produced by the state central micrographics laboratory shall be of archival quality. It shall be stored in an air-filtered, fireproof area where the temperature and humidity are held constant at approximately 70°F and at 40% or less relative humidity. Microfilm output shall be routinely tested by the Minnesota Historical Society to insure that the following minimum standards are met.

1. Residual thiosulfate: Must not exceed 0.7 micrograms per square centimeter. Testing shall be done within 2 weeks of processing.

2. Background density (document contrast), acceptable limits: 0.80 minimum to 1.40 maximum,

3. Base plus fog density (film contrast): Must not exceed .11.

4. Resolution (legibility): Must be 90 lines per millimeter or higher for 16 mm film; 100 lines per millimeter or higher for 35 mm and 105 mm film.

~~5. Microfilm shall also be examined for clarity and completeness of image, film spotting or damage, splices, and other factors affecting film quality.~~

Chapter 15: Telecommunications

2 MCAR 1.6001

Scope and Purpose: Pursuant to Minn. Stat. § 16.02, Subd. 2a, these rules govern the procedures relating to the application by governmental bodies for sublease of TELPAK services from the Telecommunications Division, Department of Administration, G-4 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2 MCAR 1.6002

Definitions.

A. For the purposes of 2 MCAR 1.6001 - 1.6005, the terms defined herein shall have the meanings given them, unless clearly indicated otherwise by the context.

1. "TELPAK" means intercity private telephone circuit groups leased by the Telecommunications Division of the Department of Administration from any source including a common carrier, specialized common carrier, or the federal government.

2. "Governmental Body" means any unit, agency, or political subdivision of state or local government.

2 MCAR 1.6003

Application for Sublease.

A. Any governmental body may apply for subleasing TELPAK in accordance with applicable tariffs. Applications shall be made in writing to:

Telecommunications Division
Department of Administration
G-4 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

B. The application shall include the following:

1. Name and address of governmental body applying for use of TELPAK service.

2. Name, address, and telephone number of applicant's representative who will administer the lease.

3. Name and address for billing of charges.

4. Termination points and intended use of TELPAK circuits requested.

2 MCAR 1.6004

Application Approval.

A. Applications shall be approved or rejected based on the availability of unused circuits and projections of state needs. No obligation exists on the part of the State to sublease any requested TELPAK.

B. All applicants shall be notified within a reasonable time in writing of the disposition of their application.

2 MCAR 1.6005

Fees and Conditions.

A. Fees shall be established with the approval of the Commissioner of Finance and shall be based on TELPAK cost to the Telecommunications Division and administrative overhead costs. Fees shall be changed as the above-noted cost factors change.

B. The following general terms shall apply to all leased TELPAK.

1. The Telecommunications Division or the user may terminate the sublease on thirty (30) day written notice to the other party.

2. The Telecommunications Division assumes no liability for any service interruptions or other damage suffered by lessee as a result of TELPAK use.

Chapter 3: State Building Code Division

2 MCAR 1.10001

Purpose.

These rules govern responsibilities undertaken pursuant to Minn. Stat.§§ 16.83 through 16.867. They relate to administration and enforcement of the State Building Code and the requirements for certification and continuing education of municipal building officials.

2 MCAR 1.10002

Definitions

A. The terms used in rules 2 MCAR 1.10001 through 2 MCAR 1.10010 shall have the following meanings:

1. "Building Official" means the municipal building code administrative authority certified pursuant to Minn. Stat. § 15.861, subds. 2 and 3.

2. "Code" means the State Building Code pursuant to Minn. Stat. § 16.84, subd. 4.

3. "Commissioner" means Commissioner of Administration.

4. "Municipality" means an entity as described in Minn. Stat. § 16.84, subd. 3.

5. "State Building Inspector" means the person who, under the direction and supervision of the Commissioner, administers the State Building Code. State Building

Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

2 MCAR 1.10003

Code Adoption and Amendments.

A. Pursuant to Minn. Stat. § 16.85, the code is adopted and periodically updated to include current editions of national model codes in general use and existing statewide specialty codes and amendments thereto.

B. Pursuant to Minn. Stat. § 16.86, subd. 6, amendments to the code may be proposed and initiated by any interested person, by the Building Code Standards Committee, or by subcommittees thereof.

Proposed amendments shall be submitted in writing on a form provided by the Commissioner.

2 MCAR 1.10004

Application for Appeal.

A. Pursuant to Minn. Stat. § 16.863 any person aggrieved by the final determination of any municipality as to the application of the code may, within 30 working days of said decision, appeal to the Commissioner. The appeal shall be accompanied by a cashiers check, certified check, money order, or equivalent, payable in the amount of $20 to the "Commissioner of Administration".

B. The request for appeal shall contain the following:

1. Name and address of applicant appealing the decision.

2. Attorney representing applicant, if any.

3. Municipality information including name of municipality, building official,and the local appeal board chairman.

4. Property description, including address of property involved.

5. Description of structure, including occupancy, size, construction type.

6. A copy of the municipality's written decision.

7. Specific nature of appeal including, but not limited to the following:

   a. Code section(s) which are applicable to the specific question.

   b. Code section(s) that may indirectly apply.

   c. Listing of issues involved.

8. Any other relevant information requested in writing by the Commissioner.

C. The Commissioner shall arrange for the State Hearing Examiner's Office to conduct a hearing on said appeal pursuant to Minn. Stat. § 15.0418 through 15.0426.

D. Copies of all final determinations of the Commissioner shall be sent to the appellant and the municipality involved or the attorney representing the appelant or municipality.

2 MCAR 1.10005

State Surcharge Fees. All municipal permits issued for work pursuant to the State Building Code shall be subject to a surcharge fee. Said fees are established by Minn. Stat. § 16.866. Reports and remittances by municipalities shall be filed with the Commissioner.

A. All surcharge fees imposed by the State shall be in addition to municipal permit fees.

B. Surcharge report forms and information may be obtained by writing the Commissioner to the attention of the State Building Inspector.

2 MCAR 1.10006

State Building Code Information and Assistance. Any building code information or assistance may be obtained by contacting the State Building Inspector in writing or by telephone.

2 MCAR 1.10007

Education and Training. Within limitations of personnel and funds the State Building Inspector shall provide training programs for municipal building officials, legislative bodies, administrative

staff persons, design professionals, construction industry and the general public.

Information concerning training program availability may be obtained from the State Building Inspector by written or telephone inquiry.

2 MCAR 1.10008

Building Official Certification. This rule establishes procedures for certification of building officials, establishes prerequisites for persons applying to be certified by examination, establishes two classes of certification, and requires continuing education to maintain certification.

A. All building officials shall be certified in one of the following:

1. Class I certification shall permit building code administration limited to evaluation and inspection of one and two family dwellings and their accessory structures.

2. Class II certification shall permit building code administration including evaluation and inspection of all buildings and structures within the scope of the Code.

B. Before making application for Class I certification each individual shall meet the following prerequisites.

1. 3 years experience in any of the skilled construction trades; or

2. 3 years experience in complete design of 1 and 2 family dwellings and accessory buildings thereto; or

3. 2 years experience in municipal building construction inspection; or

4. 24 credits in Building Inspection Technology program in a community college system, plus one year experience in (B)(1), (B)(2), or (B)(3) of this rule. Building Inspection Technology courses must include courses in Field Inspection, Plan Review Non-structural, Plan Review Structural, Administration, Building Codes and Standards and Energy Conservation; or

5. International Conference of Building Officials certification in building inspection, plus one year experience in (B)(1), (B)(2), or (B)(3) of this rule.

6. 2 years in post high school construction oriented architectural or engineering courses, plus one year experience in (B)(1), (B)(2), or (B)(3) of this rule.

C. Before making application for Class II certification, each individual shall meet the following prerequisites.

1. 5 years experience in one or a combination of the prerequisites described in (B)(1), (B)(2), or (B)(3) of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required five years experience; or

2. 24 credits in Building Inspection Technology program in a community college system, plus three years experience in one, or a combination of prerequisites described in (B)(1), (B)(2), or (B)(3) of this rule, and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

3. International Conference of Building Officials certification in building inspection; and 3 years experience in one or a combination of prerequisites described in (B)(1), (B)(2), or (B)(3) of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

4. 2 years in a post high school course in construction or construction oriented, architectural or engineering courses plus three years experience in one, or a combination of prerequisites described in (B)(1), (B)(2), or (B)(3) of this rule, and two years of general construction supervision or building code administration

experience which may be concurrent with the required three years experience.

D. Each person seeking certification as a building official shall submit a completed application to the State Building Inspector with a $20 fee payable to the State of Minnesota on application forms provided by the Commissioner.

1. The State Building Inspector shall review applications for compliance with prerequisites set forth in Sections B and C of this rule.

2. The State Building Inspector shall forward the application to the State Department of Personnel for examination if the prerequisites set forth in Sections B and C of this rule are satisfied.

E. The examination shall be given by the State Department of Personnel pursuant to the rules of that department, as governed by and consistent with Minn. Stat. § 16.861 subd. 3, and the following:

1. If the applicant fails the examination, or fails to appear, the applicant shall be permitted to retake the examination or be scheduled for a second administration following 30 calendar days after test results notification.

2. If the applicant fails the examination a second time, or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit application pursuant to section D of this rule.

Severed per agency request sections F & G
Richard A. Wenk
1/12/79

F. Maintenance of Certification.

1. Effective January 1, 1979, each person certified as a state building official by the certification prccedures of the State of Minnesota shall satisfactorily complete 18 units of instruction in applicable educational programs within each three calendar year period. Evidence of compliance with educational program requirements shall be submitted in accordance with Section G of this rule.

2. The applicable education programs shall deal with matters of building code administration and enforcement of codes used in the State of Minnesota.

3. Of the 18 required units, 10 units shall be obtained by attending two Minnesota Annual Building Official Institutes and four one-day seminars offered by the State Building Inspector, within the prescribed three year period. The remaining eight units may be obtained by participation in the programs as listed in Subdivision 4 of this Section.

4. Each unit of instruction will be determined in the following manner:

a. Annual Building Officials Institute (1 unit per day).

b. State Building Code Division Seminars (1 unit per day).

c. International Conference of Building Officials Training Programs (1 unit per day).

d. North Star Chapter of ICBO Meetings (1/3 unit per meeting).

e. Regional Building Officials Meetings (1/3 unit per meeting).

f. Community College Courses (Building Inspection Technology) (1 unit per credit earned).

g. Vocational Technical Training Institutes (Construction oriented courses) (1 unit per course).

h. Continuing Education Units (CEU's) (Construction or inspection related courses) (1 unit per CEU).

i. Courses offered by other states, correspondence schools, universities, and institutes of learning offering building code related courses shall be considered on an individual basis. Each applicant shall prearrange for unit approval from the Division. Unit determination shall be based on the value of units granted for a like offering in items a through h in this subdivision of this rule.

G. Renewal of Certification.

1. Effective January 1, 1979, each person certified as a

state building official, by the certification procedures of the State of Minnesota, shall submit in writing to the State Building Inspector an application for renewal of his certification within 60 days of the last day of the third calendar year period following the last certificate issued. For persons certified prior to January 1, 1979, the first three year period shall begin January 1, 1979.

2. A renewal fee of $10.00 shall be paid, at time of application, to the State of Minnesota.

3. The application shall be on a form furnished by the State Building Inspector and shall include evidence of the required educational units as described in Section ~~H~~ F of this rule.

4. Any person not complying with the requirements of this section shall be notified in writing by the State Building Inspector of the noncompliance with this section. The notice shall advise the person that he or she may, within 30 days of the mailing of the notice, appeal in writing to the Commissioner of Administration. If no appeal is requested in such period, it shall be deemed acquiesence by that person of the State Building Inspector's finding.

If the Commissioner of Administration finds that circumstances of employment, health, unavailability of training programs or similar circumstances beyond the person's control did not permit compliance with this section, the Commissioner shall grant a reasonable extension of time in which to comply, or, upon a showing of compelling need, shall waive strict compliance with this section.

5. Any person's certification which expires for non-compliance with the requirements of this rule may apply for recertification by the testing procedures described in this rule.

2 MCAR 1.10009

Removal from Office and Revocation of Certification. Pursuant to

Minn. Stat. § 16.861, subd. 5, upon notice and hearing, a building official may be removed from office and his certification shall be revoked, when competent evidence in submitted to the Commissioner indicating that a building official has consistently failed to in the public interest in performance of his duties. A hearing shall be held pursuant to the provisions of Chapter 15 governing contested case proceedings.

2 MCAR 1.10010

Plan Review Function. Within the limitations of personnel and funds, or as required by law the State Building Inspector shall review plans, specifications, and related documents for compliance with the code.

A. Types of Plan Review

1. Plans of buildings required to be submitted to any state agency include, but are not limited to:

   a. State-owned buildings.

   b. Buildings licensed by state agencies.

   c. Buildings financed in whole or in part by state funds.

2. Manufactured buildings in which all elements of the total assembly cannot be visually inspected on site.

3. Plans submitted by municipal inspection departments for review.

B. Content of Plan Review includes:

1. The plan review function, for structures in Section A.1 and A.3 of this rule, applies to non-structural code requirements. The structural portion of a plan shall be reviewed to determine that the professional engineer has considered the minimum loading requirements of the code, but shall not include review for accuracy of structural design and calculations.

2. The plan review function for Section A.2 structures applies to all aspects of code application and shall be marked approved by the State Building Inspector.

C. For plan review the following material shall be submitted:

~~1.~~ One set of plans, specifications, and other relevant documents necessary to evidence code compliance, together with a transmittal letter shall be sent to the State Building Inspector, State Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101. Manufactured building submittals shall include two sets of plans, specifications, and other relevant documents.

D. The State Building Inspector shall review submittals and forward written comments on items not in compliance with the code. The letter shall be mailed to the following:

1. Municipal building official.

2. Designer of plans and specifications.

3. State Agencies involved, if applicable.

E. The State Building Inspector may contract for plan review as required by this section with any municipality the State Building Inspector determines is properly staffed and qualified to perform the plan review function. No fees shall be paid by the State to any municipality performing said contract function. The municipality shall charge its standard plan review fee directly to the applicant for a building permit.

F. Fees.

1. No fee shall be charged for the review of submittals listed in Section A.1 of this rule.

2. Fees shall be charged for review of plans submitted as described in Sections A.2 and A.3 of this rule.

3. Fees shall be as required in 2 MCAR §§ 1.10107 and 1.10335.

Existing rules of the Building Code Division are amended to read as follows:

SBC 320 Seals. Each manufactured building or system manufactured pursuant to the Code shall have permanently attached thereto in a visible location as shown on the approved plans, a state seal evidencing the State Building Inspector's approval of such building, component or system. No seals shall be issued prior to plan approval for buildings to which the seals are to be affixed. Application for seals shall be made in writing and accompanied by the appropriate fee in accordance with SBC 335.

SBC 326 Plan Approval Procedures. A plan approval shall be obtained from the State Building Inspector or the evaluation agency for manufactured buildings and systems. Such approvals are mandatory for all closed construction. Approval for open construction is optional to the manufacturer. Plan approval application shall be made to the State Building Inspector in accordance with SBC 335 and shall include, but not be limited to the following:

A. Applications, plans, specifications and other documentation shall be submitted in sufficient copies as required.

B. Applications shall be made in letter form.

C. All documentations and plans shall indicate the manufacturer's name, office address, and address of manufacturing facility.

D. A quality control manual prepared by the manufacturer shall be submitted.

1. Where the manufacturer elects to have each building or system produced individually inspected, a quality control manual need not be submitted.

E. Manufacturers shall submit plans showing all elements relating to specific systems on sheet(s) properly identifiable.

F. Each plan shall bear the signature and seal of an approved registered architect or professional engineer where required.

G. The plan shall indicate the method of evaluation and inspection for all required on-site testing of the system.

H. Plans shall designate all work to be performed on site, including connections of all systems, equipment and appliances and all work performed in the plant.

I. A 3" x 4" clear rectangular space shall be provided on all sheets of plans near the title box for the stamp of approval.

J. The design of plumbing, electrical, heating and mechanical systems or any structural design or method of construction and data shall be in accordance with the State Building Code.

K. Grade, quality and identification of all materials shall be specified.

L. Design calculations and test reports shall be submitted when required.

M. Plans shall be drawn to scale.

N. Plans shall indicate the location of the approved seal and data plate.

SBC 335 Fees and Applications.

All fees shall be:

A. In the form of checks or money orders.

B. Payable to: Minnesota State Treasurer.

C. Addressed to:

State of Minnesota
Department of Administration
Building Code Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

D. Seal Fee, twenty dollars ($20.00) per Seal.

E. For all other work performed by the Building Code Division such as, but not limited to: the review of plans, specifications, and independent agency reports, inspection and quality control evaluation, a fee of fifteen dollars ($15.00) per man hour shall be charged.

F. Travel expense shall be charged at the rates established for state employees by the Commissioner of Personnel.




FILED
DEC 03 1973
BUILDING
CODE

Admin 91: "Eligibility for the Small Business Procurement Act"is repealed in its entirety.

2 MCAR 1.6501

GENERAL PROVISIONS

A. Scope: Pursuant to Minn. Stat.ch.16, these rules govern the procurement of materials and services for the state under the competitive bidding requirements.

B. Definitions: Within 2 MCAR 1.6501 - 1.6804, the following apply, unless clearly indicated otherwise by the context:

1. "Division of Procurement" means Division of Procurement, Department of Administration, Room 112, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2. "Director" means Director of the Division of Procurement.

3. "Liquidated damages" means a specific sum of money, agreed to as part of a contract to be paid by one party to the other in the event of breach of contract in lieu of actual damages, unless otherwise provided by law.

4. "Material variance" means a variance in a bid from specifications or conditions which allows a bidder a substantial advantage or benefit not enjoyed by all other bidders.

5. "Newspaper of general circulation" means Finance and Commerce for general commodities and services and Construction Bulletin for construction projects, or an

alternate approved by the Director.

6. "Responsible Bidder" means a bidder who

a. is a manufacturer of, regular dealer in, or an agent of a manufacturer of supplies of the general character to be furnished; or

b. is in the business of furnishing the services to be provided; and

c. is financially and otherwise able to perform the contract, as evidenced by integrity, ability, skill, experience, and performance of past contracts for the state or other purchasers; and

d. is otherwise qualified under law and rule, including incorporation or registration to do business in the State of Minnesota; and

e. is in compliance with all tax laws thereof.

2 MCAR 1.6502

Method of Bidding.

A. Any purchase estimated to exceed $5,000.00 shall be purchased on sealed bids, notice of solicitation of bid to be inserted once in a newspaper of general circulation at least seven (7) days prior to the bid opening date. Bids shall also be solicited by sending bid invitations to all prospective bidders registered with the Division of Procurement pursuant to 2 MCAR 1.6502, C, and by posting notice on a public bulletin

board in the Division of Procurement Office at least five (5) days prior to the bid opening date.

B. Any purchase estimated to be $5,000.00 or less may be made upon competitive bids or in the open market, but in either case will be based on three (3) competitive bids, so far as practicable.

C. A list of bidders shall be maintained by the Division of Procurement for various commodity classes. Any persons desiring to sell supplies to the state may file with the Director of Procurement a letter showing their business address, the commodities they desire to sell to the state, and proof of incorporation or registration to do business in the state. The firm name shall then be placed on the permanent bid list to receive invitations to bid. The name of a bidder who fails to respond to three (3) consecutive bid invitations shall be removed from the list of bidders upon written notice. The name of a bidder so removed shall be restored only by specific written request.

D. Submission of Advertised Bids:

1. Each invitation to bid shall include the following information and any other relevant information required by the nature of the individual bid, as called for in the bid specifications.

   a. Department, Division, and Requisition Number.

   b. Name and address of using agency.

   c. Date of issuance.

   d. Time and place of delivery of bid.

e. Date, hour, and place for openings bids.

f. Security requirements, if any.

g. Quantity of supplies and/or services to be furnished.

h. Description of supplies and/or services to be furnished.

i. Place, method, and conditions of inspection or testing, if required.

j. Applicable general and special conditions.

2. General Bid Conditions: Bid conditions applicable to all state purchases shall be stated on the standard invitation to bid.

3. Special Bid Conditions: Bid conditions applicable to specific commodities or types of purchase shall be stated in the invitation to bid. Special conditions supersede general conditions, if conflicting.

4. Bids shall be completed, signed, and submitted by each bidder in accordance with the instructions contained in each invitation for bid. Telegraphic bids shall not be considered unless expressly permitted in the invitation to bid. Bids shall be delivered to the Division of Procurement at address shown on bid invitation.

5. In each instance, the bids shall be on the form provided, in a sealed bid envelope or an envelope clearly identified with the commodity, time and date of opening, and the name of bidder on the front of the envelope.

2 MCAR 1.6503

Bid Security

A. Each bid invitation shall set forth the bid security required by the Division. Such bid security shall be made payable to "State of Minnesota" and shall be made upon the condition or guarantee that in the event the bidder's offer is accepted, the bidder shall enter into contract in accordance with the proposal.

B. Certified checks or bid bonds of successful bidders shall constitute liquidated damages for failure of a bidder to enter into a contract, and shall also be held as security for delivery and acceptance of merchandise, or satisfactory completion of the contract. A performance bond for twenty-five (25) percent of the award may be substituted.

C. Checks of unsuccessful bidders shall be returned to vendor by placing them in the mail within five (5) working days after an award is made. Checks of successful vendors shall be returned as soon as delivery is completed and acceptance is made by the agency, or the contract is satisfactorily completed. No interest shall be paid on any monies held as security.

D. Annual Bid and Supply Bond

1. Bidders may file with the Director of Procurement an annual bid and supply bond in lieu of individual bonds or other security required in various individual bid invitations.

2. Annual bid and supply bonds, when accepted by the Director of procurement, shall cover all bids by the vendor for materials,

commodities, and supplies during the effective period of the annual bond, except as provided in 2 MCAR § 1.6503, D 3.

3. Annual bid and supply bonds shall not cover bid:

a. for building construction, repair, remodeling or other public works;

b. on which the annual bid security does not amount to 5% of the bid;

c. when another bond is required by specification; or

d. when bond is used as security on other bids.

4. The vendor shall be notified in writing if the necessity arises to attach the bond for breach of contract.

2 MCAR 1.6504

Opening of Bids

A. Upon receipt in the Division of Procurement, all bids will be time stamped, showing the date and hour received. Bids received after the time set for the opening of bids will be returned unopened to the bidders. Bids shall be opened publicly and read aloud at the time and place established in the bid invitation. All original bids will be retained pursuant to Minn. Stat § 16.07, subd. 2, for public inspection in the Division of Procurement.

B. Recording and tabulation of bids: The names of bidders, prices bid, and other pertinent data shall be recorded on a tabulation form which shall be available for public inspection in the Division of Procurement.

C. Rejection of bids: The State may reject any or all bids or portions thereof. All bids shall be rejected for good and sufficient cause, including but not limited to, abandonment of the project by the State, or insufficient state funds.

D. A vendor whose sealed bid is rejected shall be given notice of the rejection and the reason(s) for rejection of the bid.

E. Informalities and minor deficiencies: The State reserves the right to waive minor deficiencies or informalities in bids. Minor informalities shall be waived if, in the judgment of the Director of Procurement, the best interest of the State would be served without prejudice to the rights of the other bidders. Examples of minor deficiencies include, but are not limited to:

1. Omission of the title of the signatory;
2. Failure to furnish required catalog cuts;
3. Minor detail omissions.

2 MCAR 1.6505

AWARD

A. Award of contracts shall be made in conformity with Minn. Stat. § 16.08 and with no material variance from the terms and conditions of the bid invitation.

2 MCAR 1.6506

TIE BIDS

A. Tied low bids for less than $500.00 shall be resolved by drawing lots among the tied low bidders, except as provided in 2 MCAR § 1.6506C.

B. Except as provided in 2 MCAR§1.6506C, tied low bids for $500.00 or more shall be referred to the Director or Assistant Director of Procurement for disposition. The Director of Procurement may enter into negotiation with tied low bidders when the Director deems such action to be in the best interest of the State.

C. Whenever a tie involves a Minnesota firm and one whose place of business is outside the State of Minnesota, preference shall by given to the Minnesota firm.

2 MCAR 1.6507

CONTRACT PERFORMANCE

A. The Director of Procurement or authorized agents of state departments shall place orders with successful bidders using official state purchase orders.

B. Upon award, shipment shall be made in accordance with delivery instructions in the invitation to bid.

C. All deliveries shall conform to specifications of the bid. Failure in this respect shall be cause for rejection of the goods.

D. Commodities that fail to comply with specifications, fail to conform to the vendor's sample, are not as provided on the purchase order, or arrive in an unsatisfactory condition shall be rejected except as provided in 2 MCAR § 1.6507 H (2).

E. Notice of rejection, based upon apparent deficiencies disclosed by ordinary methods of inspection, shall be given by the receiving agency to both vendor and the carrier (if FOB shipping point) within reasonable time after delivery, with a copy of this notice to the Division of Procurement. Revocation of acceptance for latent deficiencies that would make the items unsatisfactory for the purpose intended shall be given by the State within reasonable time after discovery. The contractor shall satisfactorily repair or replace such items within a reasonable period of time.

F. The State may require that the vendor permit inspection of the commodities prior to shipment at the factory, plant, or establishment where produced, manufactured, or stored. Unless provision for inspection is made in the invitation to bid, costs thereby incurred will be paid by the State.

G. The vendor shall forthwith remove at his expense any item rejected by the State. If the vendor fails to remove such an item, or to forthwith forward shipping instructions to the agency concerned, the State may sell the item and remit the proceeds of sale, less the expense involved, in accordance with law including but not limited to Minn. Stat. § 336.2-603.

H. If the needs of a state agency do not permit time to replace rejected merchandise, or if deliveries are not made within the time specified in the contract, the agency may:

1. With the approval of the Director of Procurement, buy on the open market supplies of the nature required. The vendor shall be liable for all additional costs and expenses.

2. If it is determined that an item does not conform strictly to specifications, but can be used satisfactorily, the Director of Procurement may adjust the price with written acquiescence of the vendor, and authorize the agency to keep and use such part of the order when such action is required to sustain continued operation.

I. The Director of Procurement may direct that a laboratory analysis or other tests be made to determine the acceptability of the delivered product(s) and to insure that product(s) meet specifications. In these instances, acceptance by the State shall not occur nor be deemed to have been made, and the discount time shall not begin, until testing is completed and affirmative results are obtained. Vendors shall be notified of unsatisfactory test results.

2 MCAR 1.6508

FAILURE TO PERFORM

A. If a bidder who is awarded a contract fails to perform as specified, the bid security shall be retained by the State and deposited with the State Treasurer as liquidated damages. The vendor may also be determined not to be a responsible bidder. The state may also pursue all other remedies permitted or provided by law.

B. If the bid security is in the form of a bond, the bonding company shall be notified in writing of the default. A vendor who fails to enter into contract that has been awarded to him may be determined not to be a responsible bidder regardless of whether bid security was required. The state may seek further damages and shall not be limited by the absence or existence of a bond.

C. After the award of a contract, if the vendor fails to furnish satisfactory performance security, if required, the vendor shall be deemed in default and subject to the above provisions.

D. A vendor shall be held in default for failure to conform to bid specifications or standard commercial practices including, but not limited to the following:

1. Failure to make deliveries within the time specified in in the contract; or

2. Deliveries of goods or materials that do not conform to samples or specifications, and are not promptly replaced; or

3. Delivery of goods or materials that are repeatedly rejected; or

4. Misbranding or materially misrepresenting goods or materials purchased under the contract.

E. In all cases of default, the vendor may be determined not to be a responsible bidder.

2 MCAR 1.6509

CONTRACT CANCELLATION

A. The Director of Procurement may cancel a purchase entered into under competitive bidding under any one of the following conditions including, but not limited to:

1. The contractor agrees to the cancellation;

2. The contractor has obtained the contract by fraud, collusion, conspiracy, or in conflict with any statutory or constitutional provision of the State of Minnesota;

3. Failure to deliver as agreed.

2 MCAR 1.6510

BIDDER ERRORS

A. Prior to the opening of sealed bids, any person may withdraw his bid by notifying the Director in writing of his desire to withdraw, by appearing in person at the Division of Procurement's Office and withdrawing the bid, or by telegraphic writing received by the Director requesting withdrawal of his bid.

B. Subsequent to the opening of sealed bids, a person may withdraw his bid only upon a showing that an obvious error exists in the bid. The showing and request for

withdrawal must be made in writing to the Director within a reasonable time after the opening of the bids and prior to the state's detrimental reliance on the bid.

2 MCAR 1.6601

SHELTERED WORKSHOP

A. Any sheltered workshop wishing to apply to receive notice of available state contracts pursuant to Minn. Stat. § 16.281, shall apply in writing to Director, Minnesota Association of Rehabilitation Facilities, 550 South Snelling Avenue, St. Paul, Minnesota 55116.

2 MCAR 1.6701

Scope and Purpose. 2 MCAR §§ 1.6701 - 1.6704 are promulgated pursuant to Minn. Stat. §§ 16.081 - 16.086 for the purpose of establishing procedures relating to the small business and small business owned by socially or economically disadvantaged persons set-aside program administered by the Procurement Division, Department of Administration, 50 Sherburne Avenue, St. Paul, Minnesota 55155. 2 MCAR §§ 1.6501 - 1.6601 shall also govern procurement under this program. In the event of irreconcilable conflict between the general procurement rules and rules relating specifically to the set-aside program, the rules of the set-aside program shall govern.

2 MCAR 1.6702

SELF-CERTIFICATION OF ELIGIBILITY

A. To become eligible to receive invitations for set-aside bids, each business shall certify and file with the Division of Procurement the following information on the forms provided:

1. Name and address of applicant and principal place of business.

2. Whether applicant is applying for designation as a small business or a small business owned and operated by a socially or economically disadvantaged person(s). Designation shall be made as to the type of business operated and the kinds of service, materials, or supplies which can be delivered.

3. Number of employees.

4. Gross receipts for each of the past 3 years.

5. Whether the business is an affiliate or subsidiary of a dominant business as defined in Minn. Stat. § 16.082.

6. Listing of all owners, including percentage of ownership, and all officers of the applicant with full disclosure of all owners' and officers' direct and indirect involvement in other businesses and enterprises which are in the same field of operation as the applicant, unless ownership is by common stock regularly bought and sold through recognized exchanges.

7. All other relevant information requested by the Division.

B. If the applicant is certifying itself for designation as a business owned and operated by socially or economically disadvantaged persons, the applicant shall also provide information indicating the basis of claim for designation under the standards established by Minn. Stat. § 16.082, subd. 5, for each officer and owner of the business.

C. To assist in verification of the self-certification, the Commissioner of Administration may require each business to submit a copy of its income statement for the three preceding fiscal years as well as a statement of the number of employees.

If a business does not have three years' experience, it shall indicate the date the business was organized and provide income statements since that time, including a current income statement.

D. The Director of the Procurement Division shall be notified in writing of any and all changes in the applicant's business which may alter the information provided above within thirty (30) days of such change(s).

E. Applicants shall be notified in writing only if the Procurement Division rejects an applicant's self-certification. Applications shall be rejected on any of the following grounds:

1. Applicant is dominant in its field or is an affiliate or subsidiary of a dominant business, as prohibited by Minn. Stat. § 16.082, subd. 2; or given figures provided pursuant to 2 MCAR 1.6702, C 1, applicant is dominant in its field or operation for the period of operation.

2. Applicant has failed to provide all relevant required information.

3. Where applying for designation as a business owned and operated by socially or economically disadvantaged person(s), applicant failed to establish that majority ownership and operating control are held by socially or economically disadvantaged person(s).

4. Applicant has failed to comply with laws and rules of the state relating to procurement.

5. Applicant's failure to comply with the requirements of these rules or Minn. Stat. § 16.083, et seq or bad faith in application for inclusion in this program.

2 MCAR 1.6703

ESTABLISHMENT OF SET-ASIDE

A. A list of set-aside contractors properly certified pursuant to 2 MCAR 1.6702, shall be established and maintained by the Division.

B. Determination of contracts for set-aside: When a requisition is received by the Division of Procurement and is placed on the list of set-aside contracts, the contract shall be offered and awarded as follows:

1. First attempt at purchase shall be made from a small business owned by socially or economically disadvantaged person(s). When feasible, competitive bids shall be obtained; if not a price may be negotiated.

2. For all such requisitions, the Division of Procurement shall establish an estimated price for the goods or services.

3. No award shall be made when the low bid or the negotiated price is more than 5% over the estimated price.

4. Acceptable bids shall be recorded and the award made to the lowest responsible bidder.

5. Where there are no bids or no acceptable bids, unsatisfactory bids, if any, will be recorded and the requisition shall thereafter be rebid through normal procurement procedures.

6. If it is necessary to reject original bids and the bid specifications are substantially changed or were in error, specifications shall be revised and the project rebid under set-aside rules.

7. If an acceptable bid is received and awarded under normal procurement procedures, the cost or price shall be recorded for report purposes.

2 MCAR 1.6704

General Terms and Conditions

A. A business which, if offered an award, finds that it cannot produce, supply or construct according to the bid terms and conditions shall, within seven (7) calendar days after receipt of notice as low bidder, notify the Division of Procurement in writing of the reasons therefore.

B. When the Commissioner of Administration finds that the low bidder is unable to perform, the Department of Economic Development shall be notified by the Division of Procurement in accordance with Minn. Stat. § 16.084, so that the Commissioner of Economic Development can

assist the small business in attempting to remedy the causes of the inability to perform.

C. Failure to enter into the contract or to accept an offered award will not automatically disqualify a business from further bidding or negotiation.

D. The records of the Procurement Division shall show the reason(s) for such failure.

E. Failure to satisfactorily complete and meet the terms and conditions of a bid after an award has been made and accepted shall disqualify a business from further bidding or negotiation until assurance of ability to perform is provided, documenting the corrections made to assure performance of future contracts. Such assurances shall be given in writing to the Director, Procurement Division.

F. The Commissioner of Administration may divide bid invitations by dollar amounts, units of production, or duration of contract to facilitate awarding contracts to business in the set-aside program.

G. No contractor awarded a contract under the set-aside program shall subcontract fifty (50%) percent or more of the dollar value of the work under such contract. In construction contracts, the amount of specialty subcontracting shall be excluded in determining the total amound of permissible subcontracting.

2 MCAR 1.6801 State-Funded Partial Indemnification of Small Businesses and Small Businesses Owned by Economically and Socially Disadvantaged Persons.

Pursuant to Minn. Stat. § 574.262 (1977), 2 MCAR § 1.6801 - 1.6804 establish procedures relating to state funding of partial indemnification for certain state contractors which are small businesses and small businesses owned by economically and socially disadvantaged persons. Rules establishing eligibility standards are exempted from the provisions of Minn Stat Chapter 15.

2 MCAR 1.6802

Any person, corporation, or other legal entity wishing to apply for partial indemnification shall contact the Division of Procurement, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, 55155. The application for determination of eligibility shall include the following:

1. A current certified financial statement or equivalent approved by the Director.
2. Reasons for requesting partial indemnification.
3. A list of all bonding companies contacted.
4. Copies of all denials of application(s) for bonding received from bonding companies or bonding agencies.
5. A summary of all other efforts undertaken to obtain bonding.
6. All other relevant information requested.

ATTORNEY GENERAL-Health

Lee E. Sheehy
Special Assistant
Attorney General
Administration

January 4, 1979

Richard A. Wexler
Assistant Attorney General

5370

Return of Department of Administration Procedural Rules

This memorandum is intended to summarize our telephone conversation of Friday, December 29, 1978, in which I raised a number of questions and concerns relating to the above-subject rules. Due to a number of typographical errors and other problems in the rules, I orally returned them to you as of the date of our conversation. You agreed to accept the oral return of the rules as you did not need the rule-making record in order to accomplish the changes. (In addition, this memorandum summarizes the remarks I made to Sheila Fishman in a telephone conversation of December 29, 1978, in which we discussed concerns relating to the State building code portion of the rules. I am including these comments in your memorandum as it is my understanding that you were the attorney assigned to oversee the entire set of rules.)

The following is a list of questions or concerns I raised with you or Sheila.

1. You informed me that no notice of intent to solicit outside information was published since the rules were developed internally and no persons outside the agency were contacted concerning the drafting of the rules.

2. These rules were initiated solely by the Department of Administration and not pursuant to any petitions from the public under Minn. Stat. § 15.0415.

3. I did not receive in the materials submitted with the rules the list of people who attended the hearing. That list should have on it an indication as to which individuals wanted to be notified as to when the rules would be submitted to the Attorney General's Office for review pursuant to Minn. Stat. § 15.0412. You said that you would supply the list as well as a copy of the letter which was sent to all individuals who had requested the notification. (On January 4, 1979, I received a memorandum from Monty Martin by which he forwarded the items noted above.)

4. The Commissioner's findings for rule 1.3003 states that the 1 at the beginning of the second paragraph in section C of the rule should be deleted. However, the rules as submitted to me in final form do not have the 1 deleted.

5. The Commissioner's findings with respect to rule 1.4001 G. 1. state that the phrase "as amended" should be deleted. However, the rules as adopted do not show that the phrase has been deleted.

6. The following comments relate to rule 1.5001 A.

a. The rule contains a citation to Minn. Stat. § 16.13. That citation should be deleted as the section was repealed in 1977.

b. On the fifth line the word "acquire" should be "acquired."

c. You clarified and confirmed for me that the basic statutory authority for chapter 13 relating to real estate management is Minn. Stat. § 16.24.

7. The "t" in the word "the" in the first line of rule 1.6005 B. should be capitalized.

8. Delete the "1" for the subparagraph in rule 1.0010 C.

9. The references in rules 1.6506 A. and B. to rule 1.6506 should be clarified so that the reference is made specifically to rule 1.6506 C.

10. We discussed whether or not the amended version as adopted of rule 1.6506 C. contradicts Minn. Stat. § 16.365. It was decided that it does not since the statutory reference applies to all bids and not just to tie bids. I determined that there was no problem with this rule.

11. The citation in rule 1.6501 A. to Minn. Stat. § 16 should be changed to Minn. Stat. ch. 16 or to a specific section within chapter 16.

12. The word "period" in the second line of rule 1.4201 C. must be changed to "permit."

13. The following comments are directed at chapter 3 of the rules which relate to the State Building Code. The first three comments raise major concerns while the remaining comments are more of an editorial nature.

a. Rule 1.10008 B., C., D., and E. govern the process by which a person could be certified as a Class I or Class II building official. Initially I was concerned about the provisions providing for screening of the applications by the Commissioner prior to passing them on to the Department of Personnel. However, upon review of Minn. Stat. § 16.861, subds. 2 and 3, I decided that subdivision 2 of that section does authorize the Commissioner of Administration to establish the threshold qualifications which must be met before an application is processed. This conclusion is based upon the wording in subdivision 2 which states that in order for a person to be eligible for appointment he must have had experience in certain specified areas of building and construction work as deemed necessary by the Commissioner.

The greater problem, as I see it, relates to the overall scheme of the application process which has the Commissioner making determinations as to a person's educational and experiential background in the building field and then transferring the application to the Department of Personnel for testing. That process appears to be contradictory to Minn. Stat. § 16.861, subd. 3, which provides for two alternative means whereby an individual may be determined qualified for certification. The statute specifies that such determination may be made either by testing or through accepting documentation of successful completion of programs of training developed by public agencies. The alternative means of qualifying for certification appear to be lacking in the rule.

In a subsequent telephone conversation with Sheila Fishman, she related a proposal from the Department of Administration for modifying rule 1.10008 D. 2. and E. to deal with this apparent conflict with the statute. Subsection D. 2. would be amended to delete the word "testing" in the third line and to insert instead the word "examination." In addition, the first sentence of subsection E. would be deleted and the second sentence would be changed to read, "The examination shall be given by the State Department of Personnel pursuant to the rules of that Department and the following as governed by and consistent with Minn. Stat. § 16.861, subd. 3." I am presently considering whether or not that change meets the above-stated problem I have with these sections of the rule.

b. The second major concern I have with the State Building Code rules relates to rule 1.10008 F., Maintenance of Certification. This rule requires certified state building officials to complete 18 units of instruction within repeating three calendar year periods in order to maintain certification. My basic problem with this provision is whether or not there is statutory authority for it. Sheila's basic arguments with respect to the authority for this provision relate to the overall statutory direction to regulate the field of construction in Minnesota and to the provisions in Minn. Stat. §§ 16.83 and 16.85 which require that the code be kept up-to-date with the modern advances in technology. The inference to be drawn from these provisions is that the Commissioner has the authority to develop requirements aimed at keeping the building official current with changes in the code as well as with building technology in general. Obviously, that an applicant is qualified for certification does not mean that over a period of time he will remain qualified by keeping current in the changes in the field. I am still considering this problem and will make a final determination in the near future.

c. The final major concern relates to rule 1.0008 G., Renewal of Certification. The question I raise here is identical to my previous concern, that being whether or not there is statutory authority to require certified building officials to apply for renewal of the certification every three years as well as to pay a renewal fee of $10. I am also taking this provision under advisement.

However, if I decide to approve this provision in the rule, there is a problem which must be dealt with relating to rule 1.10008 G. 4., identified as rule 1.10008 I. 4. in the rules as proposed. The Hearing Examiner's Report in paragraph 19 on the bottom of page five indicates that at the hearing the Department proposed an amendment to subsection 4. and includes the amended language in his Report. The Findings of the Commissioner of Administration adopt the Report of the Hearing Examiner with some exceptions but makes no reference to this particular provision. The problem is that the rule as submitted to me in the adopted form contains the old language rather than the language as proposed at the hearing by the Department. If I were to decide to approve the rule, I could not do so until it was clarified exactly which version of subsection 4. the Commissioner wanted to adopt.

d. Rule 1.10008 A. specifies that all building officials shall be certified in either Class I or Class II. I noted that Minn. Stat. § 16.861, subd. 3 states that the Personnel Department and the Commissioner may establish classes of certification and therefore raised the question as to how the Commissioner could act unilaterally when the statute required joint action. Both you and Sheila explained to me that representatives of the Department of Personnel testified at the hearing and indicated that the Department was involved with the drafting of these provisions and concurred in them. I stated that since the statute requires joint action, although I did not see the need for the adoption of a joint rule, that the Findings of the Commissioner should include a statement to the effect that the Department of Personnel was involved in the development of these classifications and concurred in the rule of the Commissioner.

e. Rule 1.10008 B. 4., 5., and 6. and C. 1. through 4. all make reference back to rule 1.10008 B. 1., 2., and 3. I felt that the reference could be more clearly stated; however, I said that I would still approve the rules if the Department did not want to change the language.

f. There are two typographical errors in rule 1.10009. The first occurs in the fourth line of the rule where the word "in" should be changed to "is." The other problem occurs at the end of the fifth line of the rule where the word "act" needs to be added to the sentence.

g. Finally, I asked for clarification of the statutory authority for rule 1.10010. I had noted that Minn. Stat. § 16.85, subd. 1a. authorized, prior to the commencement of construction, the review of plans and specifications of public buildings owned by the State of Minnesota. The rule, however, provides for the review of plans for certain buildings in addition to state-owned buildings. I asked what the specific statutory authority was to review plans of other buildings and was told that it was based upon the general authority of the Commissioner to enforce the State Building Code. I found that to be a satisfactory answer.

When the changes in the rules have been made, I only need resubmitted to me the specific pages that have been changed rather than an entire set of new rules. When the rules are resubmitted, I will review them and make a final determination on all issues as quickly as possible. Nevertheless, I do anticipate some delay due to the problems related to the rules governing certification of state building officials. Consequently, should the Department desire to sever that portion of the rules, I could approve the remaining rules as soon as I checked the changes. In this way the remaining rules would not be delayed due to the problems with the building official rules.

RAW:kd

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT of Administration

Office Memorandum

TO : Richard A. Wexler
Assistant Attorney General

DATE: December 15, 1978

FROM : Monty L. Martin
Assistant to the Commissioner

PHONE: 296-3938

SUBJECT: In the Matter of the Proposed Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration

Rec'd
DEC 15 1978
Atty. Gen. - Health

Pursuant to Minn. Stat. § 15.0412, Subd. 3, and AttyGen 301, the above captioned rules are submitted to the Attorney General for review as to form and legality. Please address your questions either to myself at the above listed number or to Lee Sheehy of the Attorney General's Office, at 296-1288. The following documents are enclosed:

1. Rules as proposed (3 copies).
2. Rules as adopted (3).
3. Adopted rules with amendments made subsequent to publication noted (1).
4. Order for Hearing (3).
5. Notice of Hearing (3).
6. Certificate of Delivery of the Secretary of State List (3).
7. Secretary of State mailing list (1).
8. Affidavit of Mailing (3).
9. Incorporation by Reference relative to rules of the Federal Surplus Property Section (3).
10. Statement of Need (3).
11. Statement of Evidence (3).
12. Approval of the Governor pursuant to M.S. 16.05 and 16.28 (3).
13. Findings of Fact and Conclusions (3).
14. Report of Hearing Examiner (3).
15. Report of the Chief Hearing Examiner (3).
16. Order Adopting Rules (3).
17. Statement of Compliance with Manual of Rulemaking Procedures (3).
18. The remainder of the hearing record including tapes of the hearing.

MLM:pm

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : RICHARD A. WEXLER
Assistant Attorney General

DATE: 1/12/79

FROM : LEE E. SHEEHY
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: In the Matter of the Proposed Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration

The above-captioned rules are resubmitted based on the findings of the review of the Office of the Attorney General as to form and legality and agency action in response thereto.

Enclosed herewith are the following:

1. Pages to be substituted for the following rules to correct typographical errors or to correct other non-substantive matters:

   a. 1.3003 - Striking the number "1" to comply with the Commissioner's Findings.

   b. 1.4001 G(1) - Striking "as amended" to comply with the Commissioner's Findings.

   c. 1.4201 C - Change "period" to "permit" which corrects a typing error.

   d. 1.5001 A - Strike citation to Minn. Stat. § 16.13 which was repealed in 1978 and correct misspelled "acquired".

   e. 1.6005 B - Strike the "In addition to . . . " clause to conform to the Commissioner's Findings.

   f. 1.10008 (I)(4) - Make changes to conform to Hearing Examiner's Findings No. 19.

   g. 1.10010 C - Delete "1" as required by the Commissioner's Findings.

   h. 1.6501 - Correct citation by changing "§" to "chap."

i. 1.6506 A and B - Add "C" to citation which was inadvertently dropped during typing.

j. 1.10008 B (4),(5) and (6) and C (1-4) - Strike "one, two, or three of this Section" and substitute "(B)(1), (B)(2), or (B)(3) of this rule" to clarify possibly confusing citations.

k. 1.10009 - Substitute "is" for "in" in the third line and substitute the word "act" which was inadvertently dropped from the fourth line.

2. Amendments were also made to the agency's Findings of Fact referencing the above-discussed typographical corrections. An explicit finding relating to the Department of Personnel's testimony in support of the Building Code Division's certification rules was included as you requested.

If you have any questions, do not hesitate to call me.

LES/bw
Encls.

RULES REVIEW CHECKLIST

DATE RULES RECEIVED Dec 15, 1978 Temporary Rule _____

Resubmitted and Received _____

DUE DATE Jan 4, 1978 Date by which comments to AD are due: Dec 26, 1978 - None received

a. Returned to Agency w/o filing w/Secy of State 12/29 (confirming memo of 1/4/7
b. Approved _____ Date Sent Back to Agency ~~12/29~~

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N/A
4. Order for Hearing ✓ ah - complies w/ HE rules
5. Notice of Hearing ✓ ah
   (i) Sufficiency ✓
6. Secretary of State's List ✓ ah
7. Certificate of Acquisition of Secretary of State's List ✓ ah
8. Affidavit of Mailing ✓ ah
   (i) At least 30 days prior to hearing ✓ (33 days) ah
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable N/A
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change _____
    (ii) Permission to Incorporate by Reference, where applicable _____
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N/A ah
17. Petition by Public, where applicable N/A ah.

Hearing July 25, 1978
30 da, notice: June 23, 1978 (32 days) (7th)

ADMIN. 1000A

STATE OF MINNESOTA

DEPARTMENT OFFICE OF HEARING EXAMINERS

Office Memorandum

TO : RICHARD L. BRUBACHER
Commissioner
Department of Administration

DATE: May 30, 1978

FROM : DUANE R. HARVES
Chief Hearing Examiner

SUBJECT: INCORPORATION BY REFERENCE

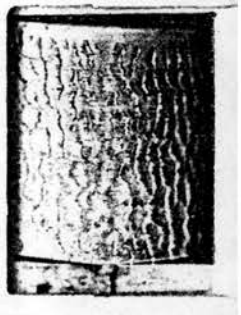
Pursuant to your request of May 25, 1978, attached to this memorandum is the original of the Order of the Chief Hearing Examiner allowing incorporation by reference in your rules of the Federal Property Management Regulation (FPMR) 101-44.207.

DRH:sh
Enc.
cc: Peter C. Erickson

RECEIVED

MAY 30 1978

Dept. of Administration
Office of Commissioner



STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF ADMINISTRATION RELATING TO STANDARDS, GUIDELINES, AND PROCEDURES FOR DETERMINATION OF ELIGIBILITY TO PARTICIPATE IN SURPLUS PERSONAL PROPERTY PROGRAMS.	ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, on May 25, 1978, the Minnesota Department of Administration (hereinafter "Department") by its Commissioner, Richard L. Brubacher, submitted a request to the Chief Hearing Examiner for approval of the incorporation by reference of certain documents in rules to be proposed; and

WHEREAS, pursuant to Minnesota Statutes (1977 Sup.) § 15.0412, Subd. 4, agencies may incorporate by reference provisions of federal law or rule or other materials from sources which the Chief Hearing Examiner determines are conveniently available for viewing, copying and acquisition by interested persons; and

WHEREAS, the Chief Hearing Examiner has reviewed Federal Property Management Regulation (FPMR) 101-44.207 and has found this federal rule to be in excess of 3,000 words and has determined that it would exceed five pages of publication in the State Register; and

WHEREAS, the Department has shown to the Chief Hearing Examiner, and the Chief Hearing Examiner so finds, that the rule is conveniently available for viewing, copying and acquisition by interested persons.

NOW, THEREFORE, IT IS ORDERED that the Department shall have the approval of the Chief Hearing Examiner to incorporate by reference in their proposed rules the above-referenced federal rule.

Dated this 22nd day
of May, 1978.

DUANE R. HARVES
Chief Hearing Examiner

Agency Exh "N"

ADM-78-001-PE

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES AND AMENDMENTS TO THE EXISTING RULES PERTAINING TO SEVERAL UNITS OF THE DEPARTMENT OF ADMINISTRATION.	REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, hearings were held on July 25 and 26, 1978, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Administration on October 5, 1978; and

WHEREAS, the Department of Administration has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Department of Administration has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearings and that the Department of Administration has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Administration has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 11th day
of December, 1978.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES
AND AMENDMENTS TO THE EXISTING RULES
PERTAINING TO SEVERAL UNITS OF THE
DEPARTMENT OF ADMINISTRATION

ORDER ADOPTING RULES

The above-entitled matter was discussed in public hearing before Hearing Examiner Peter C. Erickson of the State of Minnesota Office of Hearing Examiners on the 25th and 26th days of July, 1978, after proper notice required by Minn. Stat. § 15.0412 was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments; having considered all the evidence in the records, files, and proceedings herein, and applicable statutory standards and criteria; and having considered the findings of fact and recommendations of the Hearing Examiner,

NOW THEREFORE, IT IS ORDERED that these rules identified as rules and amendments to the existing rules pertaining to several units of the Department of Administration and as amended as set forth in the findings of fact and conclusions attached herewith, are adopted this 7th day of December, 1978, pursuant to the authority vested in me by Minn. Stat. §§ 15.0412, subd. 3; 16.05; 16.28; 16.75; subd. 7; 16.86; and 16.96.

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION

William G. Strusinski
Temporary Commissioner

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Lee E. Sheehy, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Lee E. Sheehy

Special Assistant Attorney General

DATED: 12-12-78

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES AND AMENDMENTS TO THE EXISTING RULES PERTAINING TO SEVERAL UNITS OF THE DEPARTMENT OF ADMINISTRATION

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter was discussed in public hearing before Hearing Examiner Peter C. Erickson of the State Hearing Examiners Office on the 25th and 26th day of July, 1978, after proper notice required by Minn. Stat. § 15.0412 was published in the State Register and served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all the evidence adduced and upon the records, files and proceedings herein, the Hearing Examiner has made his findings, attached hereto. Upon review of the Hearing Examiner's findings and the evidence and statements submitted by interested parties, I find the following:

The Report of the Hearing Examiner is hereby adopted and incorporated herein by reference as the findings of fact, conclusions and decision of the Department of Administration except as noted below.

Chapter 5 Intergovernmental Information Systems Advisory Council

2 MCAR § 1.2501: Delete the phrase "and the Department". This deletion is necessary to eliminate redundant language. Only the "Commissioner of Administration" is referred to throughout these rules.

Chapter 9 A Materials Management - Documents

2 MCAR § 1.3003: Delete the "1" at the beginning of the second paragraph in section C. This change is necessary in order to comply with proper outline form.

2 MCAR § 1.3005: Deletion of the word "postage" as noted in Hearing Examiner Finding No. 9 and as proposed in an errata sheet provided by the department at the hearing, was included inadvertently. Postage is a consideration in setting of fees and should be included in the rule.

Chapter 9 B Federal Surplus Property

2 MCAR § 1.3101: Delete the "A" at the beginning of the sentence. This change is necessary in order to comply with proper outline form.

Also, the last item in Hearing Examiner Finding No. 10, relative to Federal Surplus Property, applies to State Surplus Property Sales, Chapter 9 D, discussed in Hearing Examiner Finding No. 12.

Chapter 9 C State Register

Delete the "A" from the beginning of 2 MCAR §§ 1.3203, 1.3204, and 1.3205. These changes are necessary to comply with proper outline form.

Chapter 9 D State Surplus Property Sales

2 MCAR § 1.3301: Delete the "A" at the beginning of the rule. This change is necessary in order to comply with proper outline form.

2 MCAR § 1.3303: Delete the phone number in paragraph A as noted in Hearing Examiner Finding No. 10.

Chapter 11 Plant Management

2 MCAR § 1.4001: In clause G.1., delete the "as amended" as well as the "(1977)" noted in Hearing Examiner Finding No. 14. These words are deleted as unnecessary to the understanding of the reference.

Chapter 12 Publications and General Services Division

In 2 MCAR §§ 1.4502 and 1.4504, delete the "A" at the beginning of each rule. This change is necessary in order to comply with proper outline form.

Chapter 13 Real Estate Management

2 MCAR § 1.5202: Delete the last sentence of paragraph A. This statement is deleted as unnecessary and duplicative in the language in Minn. Stat. § 16.021.

Chapter 15 Telecommunications

2 MCAR § 1.6005: In paragraph B, the phrase "In addition to the terms of individual leases," is deleted and the "the" which follows is capitalized. This phrase is deleted since the agreement between the Telecommunications Division and persons leasing TELPAK is not in the form of an individual lease.

Chapter 3 State Building Code Division

The "A" in 2 MCAR §§ 1.10001 and 1.10007 and the "1" in the last paragraph of 2 MCAR § 1.10003 B are deleted. These changes are necessary in order to comply with proper outline form.

2 MCAR § 1.10008: In the new paragraph F.1. (old paragraph H.1.), the reference within clause 1 to "section I" is changed to "section G". In the new paragraph G.3., (old paragraph I.3.) the reference to "section H" is changed to "section F". These changes are in addition to the changes noted in Hearing Examiner Finding No. 19. These changes are necessitated by deletions of earlier sections within this rule, deletions noted in the Hearing Examiner's Report.

Also, in paragraph G.1., "by the testing procedure" in the last line is deleted. This change is necessary to ensure internal consistency within these rules in references to certified persons.

2 MCAR § 1.10010: There are four changes in addition to the items noted in Hearing Examiner Finding No. 19. Delete the "1" in the second paragraph of C., this deletion being necessary to comply with proper outline form.

This rule as proposed included two paragraphs labeled "D". Hearing Examiner Finding No. 19 notes that the department proposed to change the second paragraph to "E". This paragraph should actually be labeled "F" with the new paragraph being labeled "E". This change is necessary to ensure proper outline form.

In the new paragraph E, the word "change" in the last sentence should be "charge". This was a typographical error with "change" making no sense in the context of the sentence.

In the new paragraph F.3., delete "State Building Code III" and insert "2 MCAR §§ 1.10107 and 1.10335." This change is necessary as State Building Code III has been renumbered since the present rule was proposed.

SBC 335: In paragraph D, the "ten" should be changed to "twenty" and the "$10.00" should be changed to "$20.00". Also, the sentence "Replacement seals, one dollar and fifty cents ($1.50) per Seal" should be deleted. These changes are necessary since this rule has been formally amended through a separate and previous rulemaking process.

Based on the findings of the Office of the Attorney General that 2 MCAR 1.10008 D and E relating to Certification of Building Code Officials improperly varies the statutory requirement to provide alternative examination means of achieving certification, those sections have been amended. Specifically, the word "written" is striken to permit all types of examination under the Department of Personnel's rules. Further, language has been added to clarify that the alternative examination means set out in Minn. Stat. § 16.861, Subd. 3, govern the examination process. Finally, the word "examination" is substituted for the word "testing".

Chapter 16 Procurement

2 MCAR § 1.6502: In sub-clause 1.e., the "s" on "openings" should be deleted. This was a typographical error.

Miscellaneous Corrections

Because of typographical and other non-substantive errors discovered in the rules during review by the Office of the Attorney General, the rules are changed as follows:

(i) 1.5001 A - Citation to Minn. Stat. § 16.13 is striken as that statutory provision was repealed in 1978.

(ii) 1.6501 - The "§" is deleted and "chp."

(iii) 1.4201 - The word "period" was changed to "permit" to correct a typographical error.

(iv) 1.10008 B (4-6) and C (1-4) - Strike phrases such as "one, two, three of this section and substitute "(B)(1), (B)(2), or (B)(3) of this rule" to clarify possibly confusing citations.

(v) 1.10009 - Correct typographical errors and omissions by changing "in" to "is" and adding the word "act".

Julie Vikmanis, Manager of Examining and Referral for the State Department of Personnel testified that the Department of Personnel and Administration had consulted concerning the proposed rules, pursuant to Minn. Stat. § 16.861, Subd. 3, and that the Department of Personnel was in concurrence with the proposed rules.

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION

William G. Strusinski

William G. Strusinski
Acting Commissioner

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES AND AMENDMENTS TO THE EXISTING RULES PERTAINING TO SEVERAL UNITS OF THE DEPARTMENT OF ADMINISTRATION

SUPPLEMENTARY FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING

This Findings of Fact, Conclusions, and Order Adopting in the above-entitled matter supplements and does not supercede the Findings of Fact and Conclusions and Order Adopting earlier filed in this matter with the Office of the Attorney General and the Secretary of State. The purpose of this supplemental Order is to correct non-substantive and typographical errors and omissions in the materials earlier promolugated and adopted in this matter.

FINDINGS OF FACT AND CONCLUSIONS

I.

The word "postage" in 3 MCAR Section 1.3005 was to be deleted as set forth in the Agency's Findings of Fact and Conclusions earlier filed in this matter. However, the word inadvertently remained in the adopted rules filed with the Office of the Attorney General and the Secretary of State. The word "postage" should be deleted.

II.

Following consideration of the report of the Office of the Attorney General, I have determined that 2 MCAR §§ 1.10008H and I relating to continuing education and recertification requirements for Building Code officials should be withdrawn. Because of this decision, certain changes should be made in the rules as filed with the Office of the Attorney General and the

Secretary of State. Specifically, references to continuing education recertification requirements should be removed from the prefatory portions of 2 MCAR §§ 1.10001 and 1.10008.

III.

As the rules relating to the Records Management Program were withdrawn prior to hearing, as noted in Finding 14 of the Hearing Examiner's Report filed in this matter and adopted and incorporated by reference in the Agency's earlier Findings of Fact and Conclusions, the words "Records Management" should be removed from the Index of the rules and the phrase "Reserved For Future Use" should be substituted.

IV.

The following sentence was inadvertently deleted from the rules submitted to the Office of the Attorney General and filed with the Secretary of State:

> 2 MCAR § 1.5301 A (2nd paragraph):
> "Notice shall be sent to all appropriate parties on the list when State-owned property is leased out."

This language was in the rules as proposed in the June 12, 1978 State Register, and no finding of deletion is evident in the Agency or Hearing Examiner's Findings and Conclusions.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The word "postage" shall be deleted in 3 MCAR § 1.3005 and a correction page should be submitted to the Office of the Attorney General for approval and filing with the Secretary of State.

2. The references to continuing education recertification requirements in 2 MCAR §§ 1.10001 and 1.10008 shall be deleted and correction pages shall be submitted to the Office of the Attorney General for approval and filing with the Secretary of State.

3. The words "Records Management" shall be stricken from the Index of Rules and the phrase "Reserved For Future Use" shall be substituted. Correction pages shall be submitted to the Office of the Attorney General for approval and filing with the Secretary of State.

4. The sentence inadvertently deleted and set forth in Finding No. IV above shall be included in the Rule. The correction page shall be submitted to the Office of the Attorney General for approval and filing with the Secretary of State.

5. Notice of these changes shall be published in the State Register.

STATE OF MINNESOTA
Department of Administration

By _____
JAMES J. HINIKER
Commissioner

DEPARTMENT OF ADMINISTRATION

RULES PERTAINING TO SEVERAL UNITS

OF THE

DEPARTMENT OF ADMINISTRATION

Table of Contents

Chapter 1	General
Chapter 2	Reserved for Future Use
Chapter 3	State Building Code
Chapter 4	Reserved for Future Use
Chapter 5	Intergovernmental Information Systems Advisory Council
Chapter 6-8	Reserved for Future Use
Chapter 9	Materials Management
Chapter 10	Central Motor Pool
Chapter 11	Plant Management
Chapter 12	Publications and General Services
Chapter 13	Real Estate Management
Chapter 14	Reserved for Future Use
Chapter 15	Telecommunications
Chapter 16	Procurement

Chapter 1 General

2 MCAR 1.0001 Severability.

If any provision of these rules is held invalid, such invalidity shall not affect any other provisions of the rules which can be given effect without the invalid provision, and to this end, the provisions of these rules are declared to be severable.

RECEIVED

APR 16

ADMINISTRATIVE AGENCIES

Unused money in customer deposit shall be refunded at the end of each quarter of the fiscal year unless the customer requests it to be held for future use.

2 MCAR § 1.3004

Other services offered. Subscription services, photocopying white printer reproductions, and other related services shall be offered to state agencies and the general public upon authorization by the commissioner.

2 MCAR § 1.3005

Fees. Fees for services shall be prescribed by the commissioner unless otherwise authorized by law or rule and shall take into consideration the following factors: cost of publication, storage, handling, and the operating expenses of the Documents Section. Fee schedules shown in catalogs and indices are subject to change without notice.

2 MCAR § 1.3006

Disclaimer of liability. The Documents Section of the Department of Administration shall assume no responsibility for or liability arising from contents of publications or maps distributed, produced, or otherwise made available under its auspices. Any concern or conflict arising from contents shall be referred to the state agency from which the copy for the publication or map emanated.

D. submission of permit (written agreement) for review and signature by Department of Finance and Attorney General.

Upon execution of the written agreement, the permit shall be in effect under the terms and conditions thereof.

2 MCAR § 1.5205 Disposition of found property.

Upon discovery of lost of abandoned property, permittee shall, within thirty (30) days of discovery, place such property at the disposal of the Commissioner. The Commissioner or designee shall determine the method and location of maintenance and storage of property. Property will be disposed of under the procedure specified by Minn. Stat. § 16.022. Upon disposition, the Commissioner or designee shall, in a timely manner, authorize payment to the finder the share due him under the terms and conditions of the permit.

2 MCAR § 1.5301 Property leasing (where state is lessor).

Pursuant to Minn. Stat. § 16.02, subd. 14, this rule governs the leasing out of state owned real property which is temporarily not needed by the state.

A. All persons wishing to be notified of the availability for leasing of state-owned property shall request in writing such notification. Requests shall be sent to:

Director
Real Estate Management Division
Department of Administration
G-22 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

A list of persons having requested such notification shall be maintained by the Real Estate Management Division. The list shall indicate the particular area in the state and the type of property (i.e., farm, office, etc.) the interested party has expressed an interest in. Notice shall be sent to all appropriate parties on the list when state-owned property is leased out.

B. At least fifteen (15) calendar days prior to the bid return deadline, bid solicitations shall be mailed to appropriate parties who have requested notification of the availability of property for leasing. In addition to mailing of bid solicitation to all parties known to have an interest in leasing the property, the Department of Adminstration may, where circumstances merit, advertise the property for lease in a newspaper having general circulation in the area in which the property to be leased is located. The property shall be leased to the highest responsible bidder, consistent with the State's intended use and management of the property. The Department expressly reserves the right to reject any or all bids or to waive informalities therein.

Chapter 3 State Building Code Division

2 MCAR § 1.10001

Purpose.

These rules govern responsibilities undertaken pursuant to Minn. Stat.§§ 16.83 through 16.867. They relate to administration and enforcement of the State Building Code and the requirements for certification.

2 MCAR § 1.10002

Definitions.

A. The terms used in rules 2 MCAR § 1.1001 through 2 MCAR 1.10010 shall have the following meanings:

1. "Building Official" means the municipal building code administrative authority certified pursuant to Minn. Stat. § 15.861, subds. 2 and 3.

2. "Code" means the State Building Code pursuant to Minn. Stat. § 16.84, subd. 4.

3. "Commissioner" means Commissioner of Administration.

4. "Municipality" means an entity as described in Minn. Stat. § 16.84, subd. 3.

5. "State Building Inspector" means the person who, under the direction and supervision of the Commissioner, administers the State Building Code. State Building

staff persons, design professionals, construction industry and the general public.

Information concerning training program availability may be obtained from the State Building Inspector by written or telephone inquiry.

2 MCAR § 1.10008

Building official certification. This rule establishes procedures for certification of building officials, establishes prerequisites for persons applying to be certified by examination and establishes two classes of certification.

A. All building officials shall be certified in one of the following:

1. Class I certification shall permit building code administration limited to evaluation and inspection of one and two family dwellings and their accessory structures.

2. Class II certification shall permit building code administration including evaluation and inspection of all buildings and structures within the scope of the Code.

APPROVED AS TO FORM AND LEGALITY

June 7 1979

WARREN SPANNAUS, ATTORNEY GENERAL

By [redacted] ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 8 1979
Joan Anderson Growe
Secretary of State

10:55 AM

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : RICHARD A. WEXLER
Assistant Attorney General

DATE: April 20, 1979

FROM : LEE E. SHEEHY
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Department of Administration Rule

RECEIVED
APR 20 1979
Attorney Generals Office
Health Division

Attached for your review is a Supplemental Findings of Fact and Order Adopting in the above-captioned matter. Also, attached to the Order are pages on which changes mandated by the Order are made.

If you have any questions, do not hesitate to call me.

LES:ch
Enc.

I have approved the changes to the rules covered by the Supplemental Order & attached them hereto.

Dick
6/7/79

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

RECEIVED
APR 5 1979
Attorney General's Office
Health Division

TO : RICHARD A. WEXLER
Assistant Attorney General

DATE: April 4, 1979

FROM : LEE E. SHEEHY
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: In the Matter of the Proposed Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration

This memorandum is intended to finally dispose of the above-captioned matter.

1. The department has decided to withdraw 2 MCAR §§ 1.10008 H and I relating to continuing education and recertification requirements for building code officials. Because of this decision, certain changes should be made in the rules as adopted which were inadvertently overlooked by the agency. Specifically, references to the continuing education and recertification requirements should be removed from prefatory portions of 2 MCAR §§ 1.10001 and 1.10008.

2. The agency withdrew prior to hearing the rules proposed for the Records Management Program, as noted in Finding Number 14 of the Hearing Examiner's Report in this matter. However, in the copy of the rules adopted, the agency failed to remove "Records Management" from the Index of the rules and substitute "Reserved for Future Use", as was done in similar circumstances elsewhere in the rules.

3. The word "postage" in 3 MCAR § 1.3005 was to be deleted as set forth in the agency's Findings of Fact and Conclusions in this matter. However, the word inadvertently remained in the adopted rules filed in this matter.

4. The following sentence was inadvertently deleted from the rules submitted to the Office of the Attorney General:

> 2 MCAR § 1.5301 A (second paragraph):
> "Notice shall be sent to all appropriate parties on the list when state-owned as property is leased out."

This language was in the rules as proposed in the June 12, 1978, State Register, and no finding of deletion is evident in the agency or Hearing Examiner's findings.

Because of the above-discussed matter, additional notice in the State Register and/or amendments to adopted rules may be required. Please call to discuss with me what appropriate action, if any, is required.

cdh

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

October 5, 1978

Mr. Lee Sheehy
Special Assistant
Attorney General
Office of the Attorney General
G-19K Administration Building
Saint Paul, Minnesota 55155

RECEIVED
OCT 5 1
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Ms. Sheila Fishman
Special Assistant
Attorney General
Office of the Attorney General
G-19K Administration Building
Saint Paul, Minnesota 55155

Mr. Donald Pates
Director
Building Code Division
Room 408, Metro Square Building
Saint Paul, Minnesota 55101

Re: In the Matter of the Proposed Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration.
Docket No. ADM-78-001-PE.

Dear Ms. Fishman and Messrs. Sheehy and Pates:

Enclosed for your information, please find a copy of my Report in the above-entitled matter.

If you have any questions, or if I can be of any assistance to you, please do not hesitate to contact me.

Sincerely,

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

PCE:sw
Enc.

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF ADMINISTRATION

In the Matter of the Proposed Rules
and Amendments to the Existing Rules
Pertaining to Several Units of the
Department of Administration.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 9:30 a.m. on July 25 and 26, 1978, in Room 83 of the State Office Building, St. Paul, Minnesota.

Lee J. Sheehy, Special Assistant Attorney General, appeared as counsel on behalf of the Department of Administration. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. s 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Department of Administration shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his Report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Department of Administration shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On June 15, 1978, the filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On June 12, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 2187.

3. On June 22, 1978, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On June 28, 1978, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Evidence, including the names of witnesses to be called; and
(h) The names of Department personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through Monday, August 14, 1978, for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. §§ 15.0412, subd. 3; 16.05; 16.28; 16.75, subd. 7; 16.86; 16.96; and 138.17.

7. The proposed amendment to Chapter 1 is the addition of a severability clause which is necessary to guard against the possible invalidity of any of the rule provisions.

8. Proposed Chapter 5, Intergovernmental Information Systems Advisory Council, is necessary to implement the funding procedure set out in Minn. Stat. §§ 16.90 and 16.911. At hearing, the Department proposed to amend § 1.2507 B. by deleting the words "availability of funds" as they are unneeded.

9. Proposed Chapter 9 A, Materials Management - Documents, is necessary to inform the general public of procedures to obtain publications, maps and other services from the Documents Section of the Departments Material Management Division. At hearing, the Department proposed the following clarifying amendments:

2 MCAR § 1.3003 B.3. Change the second sentence as follows: If the code number is unknown, the county township, and range, ~~or~~ and otherspecific information that will aid in locating the exact area shall be provided.

2 MCAR § 1.3004. In the third line, after "offered to", insert "state agencies and".

2 MCAR § 1.3005. In the fourth line, delete "postage",.

10. Proposed Chapter 9 B, Federal Surplus Property, is necessary to set forth the procedures and requirements concerning the acquisition and use of federal surplus property by Minnesota governmental or non-profit organizations. Pursuant to an Order of the Chief Hearing Examiner dated May 30, 1978, Federal Property Management Regulation 101-44.207 has been incorporated by reference into this Chapter. At hearing, the Department proposed the following clerical amendments:

2 MCAR § 1.3101. In the fourth line, delete "(1976)".

2 MCAR § 1.3105 A.5. Change the reference 2 MCAR § 1.3104 to "2 MCAR § 1.3108 A".

2 MCAR § 1.3303 A. In the fourth line, delete "(612) 296-6132,".

11. The proposed amendments to Chapter 9 C, Office of the State Register, replace all of the rules presently in effect which deal primarily with internal management procedures. The new set of proposed rules dealing

with the State Register is necessary to set out the availability of publication and the procedures to be followed to obtain them.

Rudy Brynolfson, Assistant Director of the Minnesota Energy Agency, commented on the proposed rules as follows:

> "(1) 1.3202 B.6. and C.3. are identical and therefore redundant.
>
> (2) 1.3202 B.2. and 3. and 1.3203 C.4. essentially have the same information. Yet two subdivisions are used in one case and only one subdivision in the other.
>
> (3) 1.3202 A. and 1.3204 A. - Subdivision "A" should not be used unless there is a second subdivision.
>
> (4) 1.3204 - What is the Register's legal liability arising from printing mistakes made by the Register? Can an incorrectly printed rule be in effect if it has been badly botched by the Register? This actually happened with one set of our rules.
>
> (5) 1.3205 - I don't think "so identified" is very clear.

Stephen Ordahl, manager of the State Register, stated that mistakes in the Register are made by the printer, not by Office staff. Errata listings are printed in subsequent issues.

The Examiner finds that the rule as proposed is both needed and reasonable.

12. Proposed Chapter 9.D., State Surplus Property Sales, is necessary to govern the proper disposition of all obsolete, surplus and recyclable state property. At hearing, the Department proposed the following clerical amendments to the Chapter:

> 2 MCAR § 1.3303 C. In the third and fourth lines, delete ", (612) 296-6132".
>
> 2 MCAR § 1.3304 A. In the fourth line, delete "(612) 296-6132,".
>
> 2 MCAR § 1.3304 B. In the first line, delete "estimate" and add in its place "estimated number".
>
> 2 MCAR § 1.3305 A. In the fifth line, delete ", (612) 296-6132".

Also, the specific citation, "(1977 Supp.)", has been deleted from 2 MCAR § 1.3306 A.

13. Proposed Chapter 10, Central Motor Pool, is necessary to govern the operation of the Motor Pool in handling reports and damage claims resulting from accidents involving Motor Pool vehicles.

14. Proposed Chapter 11, Plant Management, is necessary to set forth the requirements for parking in state operated facilities, reporting personal property lost in state buildings or on state land, and the issuance of permits for public rallies in or on Capitol Complex buildings and grounds. All existing rules entitled "Chapter 9: Plant Management Admin. 80: Parking or (sic) Motor Vehicles on Parking Lots" are proposed to be repealed. At hearing, the Department proposed the following clerical amendments to Chapter 11:

> 2 MCAR § 1.4001 G.3. After the word "sent", insert "in writing".
>
> 2 MCAR § 1.4201. In the third line, change "rules govern" to "rule governs".

2 MCAR § 1.4201 A. In the first line, change "These rules define" to "This rule defines".

2 MCAR § 1.4201 C. After the word "revoked", insert "and shall be forfeited".

2 MCAR § 1.4201 D. In the third line, change "these rules" to "this rule".

Also, "(1977)" has been deleted from the citation in 2 MCAR § 1.4001 G.1.

15. Proposed Chapter 12, Publications and General Services Division, is necessary to enumerate the fees charged for the publication of legal notices and the manner in which controversies concerning those fees is resolved. Statutory language has been duplicated in §§ 1.4501 and 1.4502. The Examiner finds that this duplication is crucial to the ability of people affected by the rules to comprehend their meaning and effect. At hearing, the Department proposed to delete "(1976)" from citations in §§ 1.4501 and 1.4504.

Section 1.4601 states that the Central Mail Section will handle all federal mail in accordance with Title 39 of the U. S. Code. No request for incorporation by reference has as yet been made. However, it should go without saying that federal mail will be handled according to federal law. Consequently, the Examiner finds that § 1.4601 is unneeded and should not be adopted.

16. Proposed Chapter 13, Real Estate Management, is necessary to set forth the Commissioner of Administration's responsibilities concerning the acquisition of real property, leasing state-owned lands, granting easements across state lands, and granting permits to search for lost or abandoned properties on state lands. Paragraph I. of § 1.5202 was inadvertently omitted from the rule as published in the State Register. At hearing, the Department proposed to add the omitted language which reads as follows:

I. Permittee shall not vary the permit without the prior written consent of the Commissioner of designee.

Robert Goff, Director of the Governor's Task Force on Waste and Mismanagement, commented on Chapter 13 as follows:

"As you know, we are in the process of completing a study of state land acquisition. We intend to issue our report on this study sometime this week. Some of the proposed rules for Real Estate Management are in direct contradiction with the recommendations made in our report. They also appear to conflict with the current interdepartmental cooperative agreement between your department and the Department of Natural Resources."

The Department responded to those concerns as follows:

"As regards the Real Estate Management rules on state land acquisition, we have discussed the concerns of Mr. Goff with Michael Priesnitz of his office. Pursuant to that discussion, we propose the following addition to 2 MCAR § 1.5001 A. (p. 2208). Following 'law' in the first line, insert 'or by reorganization order issued pursuant to Minn. Stat. §§ 16.125, 16.13, and 16.135'. This section of the rule is being augmented to recognize those situations wherein land acquisition responsibilities, or various facets thereof, are transferred to other state agencies pursuant to Minn. Stat. §§ 16.125, 16.13, and 16.135. The new language reasonably exempts such situations from the applicability of this rule."

The Examiner finds that proposed Chapter 13, as amended by the Department, is both needed and reasonable.

17. Proposed Chapter 14, Records Management, was withdrawn by the Department at the time of hearing.

18. Proposed Chapter 15, Telecommunications, is necessary to govern the procedures for governmental bodies to apply for the sublease of TELPAK services.

19. Proposed Chapter 3, State Building Code Division, is necessary to set forth methods of administration and enforcement of the State Building Code and establish requirements for certification and continuing education of municipal building officials.

Kenneth Schmitz, Franklin City Administrator, commented that in smaller communities, the only person qualified to be the building official will be the local contractor. Mr. Schmitz also stated that the dual system of classification will impose a hardship on smaller towns. He proposed the following amendments to the rule:

> "For the above reasons, I would like to propose that the following words from Section 1.10008, Subsection B, Number 4 be deleted: 'plus one year experience in subdivision one, two, or three of this section.' A suggested substitution would be the following: 'plus one year apprenticeship working under a certified building official.' This apprentice could then call the certified official to clarify any points that the apprentice is unsure of. Such a proposal would allow smaller towns to select and train an individual who will take the job seriously, have no conflict of interest, and have the ability to administer the program in a realtively inexpensive manner. In addition, this program would make the individual better qualified for one and two family dwelling inspection."

The Department contends that small jurisdictions will be served by qualified building officials employed by counties or other governmental entities.

Charles Gustafson, on behalf of the Minneapolis Department of Inspections, commented that notice of the hearing was inadequate as it was not sent to all certified building officials. The Department stated that notice was mailed and published as required by Chapter 15 and the Rules of the Office of Hearing Examiners. Additionally, one hundred copies of the proposed rules were distributed to the North Star Chapter of Building Officials 30 days prior to hearing.

Both Mr. Gustafson and the Directors of the Minneapolis Department of Inspections commented that the continuing education requirements are unreasonably burdensome. In response, the Department proposed to amend § 1.10008 I.4. as follows:

> 4. Any person not complying with the requirements of this section shall be notified in writing by the State Building Inspector of the noncompliance with this section. The notice shall advise the person that he or she may, within 30 days of the mailing of the notice, appeal in writing to the Commissioner of Administration. If no appeal is requested in such period, it shall be deemed acquiesence by that person of the State Building Inspector's finding.
>
> a. If the Commissioner of Administration finds that circumstances of employment, health, unavailability of training programs or similar circumstances beyond the person's control did not permit compliance with this section, the Commissioner shall

grant a reasonable extension of time in which to comply, or, upon a showing of compelling need, shall waive strict compliance with this section.

At hearing, the Department proposed to amend Chapter 3 as follows to clarify the purpose and intent of the rules:

2 MCAR § 1.10004 Application for appeal.

B.3. municipality information, including name of municipality, building official, and the local appeal board chairman:

2 MCAR § 1.10008

E. The testing shall be by written examination. The written examination shall be given by the State Department of Personnel pursuant to the rules of that department and the following:

E.1. If the applicant fails the written examination or fails to appear, the applicant shall be permitted to retake the examination or be scheduled for a second administration following 30 calendar days after testing results notification.

E.2. If the applicant fails the written examination a second time, or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit application pursuant to Section D of this rule.

F. Delete section F in its entirety.

G. Delete section G in its entirety.

H. Designate H as F.

I. Designate I as G.

G.1. Effective January 1, 1979, each person certified as a state building official, by the certification procedures of the State of Minnesota, shall submit in writing to the State Building Inspector an application for renewal of his certification within 60 days of the last day of the third calendar year period following the last certificate issued. For persons certified by the testing procedure prior to January 1, 1979, the first three-year period shall begin January 1, 1979.

2 MCAR § 1.10010 .Plan Review Function

Second Section D, change to E, and add a new section:

E. The State Building Inspector may contract for plan review as required by this section with any municipality the State Building Inspector determines is properly staffed and qualified to perform the plan review function. No fees shall be paid by the State to any municipality performing said contract function. The municipality shall change its standard plan review fee directly to the applicant for a building permit.

New F. Fees

The Examiner finds that proposed Chapter 3, as amended by the Department, is both needed and reasonable.

20. Proposed Chapter 16, Procurement, is necessary to set forth the requirements for the procurement of materials and services for the state

through competitive bidding. At hearing, the Department proposed the following clerical amendments to Chapter 16:

2 MCAR § 1.6506 C. In the third line, delete "Minn. Stat. s 16.365 shall govern" and insert "preference shall be given to the Minnesota firm".

2 MCAR § 1.6507 H. In the first line, change "need" to "needs".

2 MCAR § 1.6701. Delete "The following rules" and insert "2 MCAR ss 1.6701 - 1.6704".

2 MCAR § 1.6704 A. In the first line, insert a comma after "award" and delete "but".

2 MCAR § 1.6704 G. At the end of the second line, after "more of the", insert "dollar value of the".

2 MCAR § 1.6802 1. After "statement", insert "or equivalent approved by the Director;".

2 MCAR § 1.6803. Delete the portion of the rule beginning with "A determination shall be made. . .".

Also, the Department proposed to delete: (1) the last sentence of § 1.6502 B. as it conflicts with the emergency purchase procedures; and (2) all but the first sentence of § 1.6803 as it is unnecessary.

Beverly Braun commented on behalf of the Department of Economic Development as follows:

"In 2 MCAR 1.6704, Para. B: 'When the Commissioner of Administration finds that the low bidder is unable to perform, the Department of Economic Development shall be notified by the Division of Procurement in accordance with Minnesota Statute 16.084 so that the Deputy Commissioner of Economic Development can assist the small business in attempting to remedy the causes of the inability to perform.' Our concern is that 'Deputy Commissioner' be changed either to 'Commissioner' or 'Department' as it does not seem appropriate to designate one specific individual on our staff to address this problem. In the same paragraph, we would like to encourage the language to read: 'The Department of Economic Development should be notified when there appears to be a problem with the performance on a contract.' There is very little we can do to help a business if we are unaware of a problem until they have either defaulted on a contract or are declaring bankruptcy."

The Department stated that the language used is the statutory criteria for notification. However, the Department agreed that the word "Deputy" should be deleted.

Melvin Aanerud also commented regarding the timing of notification on behalf of the U. S. Small Business Administration. The Examiner finds that the proposed language in § 1.6704 B. reflects what was intended by the legislature. See Minn. Stat. § 16.084.

Nina Rothchild commented on § 1.6702 B. as follows:

"My testimony today is related to the lack of specific standards set for the designation of 'socially or economically disadvantaged persons' in the set-aside program administered by the Procurement Division, Department of Administration.

"My understanding is that, for members of some groups, group membership defines them a priori as socially or economically disadvantaged, whereas for members of other groups -- notably women -- persons must prove on an individual basis that they are socially or economically disadvantaged.

"I believe that the rules should therefore either define standards for disadvantage which persons must meet on a case by case basis, or that the rules should specify which group are by definition socially or economically disadvantaged.

"Since some persons in the past have been adjudged disadvantaged simply by virtue of their group membership, I suggest that the rules be amended to include a second paragraph under 2 MCAR 1.6702 B. as follows:

'Persons who are of minority race, the handicapped, and women shall be considered socially or economically disadvantaged.'"

The Department stated that the statute referenced in the rule provides sufficiently clear standards for a determination of "socially or economically disadvantaged persons." See Minn. Stat. § 16.082, subd. 5.

Charles Loberg, Regional Congress of Construction Employers, and Donald Manguson, Twin Cities Piping Industry Association, both suggested that the word "non-negligent" be deleted from s 1.6510 B. The Department stated that it does not "want vendors or bidders to use negligent errors, or negligence as an excuse or justification for bid withdrawal." § 1.6510 B. states that "a person may withdraw his bid only upon a showing that an obvious unintentional, non-negligent error exists in the bid." The Examiner finds that this language is so confusing as to be unreasonable and may be subject to many different interpretations as to what is obvious, unintentional and not negligent. Use of only the terms "obvious error" would seem to be the clearest standard.

With the exception noted in the above paragraph, the Examiner finds proposed Chapter 16, as amended by the Department, both needed and reasonable.

21. Mr. Ted Pegues testified that the Department of Transportation was consulted regarding promulgation of Chapter 16 pursuant to Minn. Stat. § 574.262, subd. 3.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

C O N C L U S I O N S

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Administration. All other substantive and procedural requirements of statute or rule have been complied with.

2. Pursuant to Minn. Stat. § 15.052, subd. 3 (1976), it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed agency action . . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts."

3. The Examiner concludes that the Department has documented its statutory authority to take the proposed action.

4. The Examiner concludes that the Department has demonstrated the need for and reasonableness of the proposed rules, as amended, with the exceptions noted in Findings 15 and 20, by an affirmative presentation of facts.

Based upon the foregoing Conclusions, the Examiner makes the following:

R E C O M M E N D A T I O N

That the Department of Administration adopt the proposed rules as amended and recommended to be amended in this Report.

Dated this 5 day of October, 1978.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Administration

Proposed Rules and Amendments to the Existing Rules Pertaining to Several Units of the Department of Administration

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room 83, State Office Building, St. Paul, Minnesota 55155, commencing on July 25, 1978, at 9:30 a.m., and continuing on July 26, 1978, or until such time as all interested persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, State Hearing Examiners Office, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8118, either before the hearing or within 5 days after the close of the hearing upon order of the hearing examiner.

The following new and/or amended rules and repeal of existing rules are being proposed and will be discussed in the order given.

1. Intergovernmental Information Systems Advisory Council rules governing the application, solicitation, review, analysis, and final disposition of grant proposals relating to data processing and systems analysis.

2. Documents Section rules informing the general public of the availability and cost of publications, maps, and other services from the Documents Section, Materials Management Division.

3. Federal Surplus Property Section rules relating to eligibility for and distribution of federal surplus property made available by the federal government for transfer to governmental or nonprofit organizations, including establishing certain standards relating to the terms and acceptable financing of such purchases.

4. Office of the State Register rules governing the availability and cost of publications from the Office of the State Register, Materials Management Division, including repeal of existing rules.

5. State Surplus Property Sales Section rules governing the disposition of obsolete, surplus, and recyclable state property, including eligibility for and terms of purchase.

6. Central Motor Pool rules relating to handling insurance claims involving Central Motor Pool vehicles.

7. Plant Management rules governing the parking of motor vehicles in parking facilities owned or operated by the State of Minnesota and controlled by the Commissioner of Administration, relating to the cost and issuance of parking permits for such facilities, relating to the disposition of lost personal property discovered on certain state property, and governing the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. Included is the repeal of previous Parking rules.

8. Publications and General Services rules providing for the certification of and computation of standard and adjusted line rates, relating to the central mail room of the Department of Administration, and relating to resolution of a controversy between a public official and publisher concerning the proper line rate and charge.

9. Real Estate Management rules governing the state's acquisition of real property, the issuance of permits for easements across state lands, the issuance of permits to

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

search for lost or abandoned property upon state lands, and the leasing out of state owned property which is temporarily not needed by the state.

10. Records Management rules governing the records management practices of all state agencies established pursuant to Minn. Stat. § 138.17, including retention, storage, and disposition of state records.

11. Telecommunications rules relating to the application by governmental bodies for sub-lease of TELPAK services.

12. State Building Code rules establishing procedures for appeals of municipal building code interpretations, relating to state surcharge fees, establishing requirements for certification and continuing education of municipal building officials and revocation of such certification, and establishing plan review procedures. Amendments to existing rules relating to manufactured building seals, plan approvals and fees are also being proposed.

13. Procurement rules governing the procurement of materials and services for the state under the competitive bidding requirements and establishing procedures relating to the socially or economically disadvantaged business-small business set-aside program administered by the Procurement Division, Department of Administration. Included is the repeal of existing rules relating to the small business procurement act.

Copies of the proposed rules are available and one free copy may be obtained by writing to the Commissioner's Office, 200 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. Additional copies will be available at the door on the dates of the hearing. A "Statement of Need" explaining why the agency feels the rules are necessary and a "Statement of Evidence" outlining the testimony they will be introducing will be filed with the hearing examiners office at least 25 days prior to the hearing and will be available there for public inspection.

The department's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 15.0412, subd. 3; 16.05; 16.28; 16.75, subd. 7; 16.86; 16.96; and 138.17.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1974), any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Richard L. Brubacher
Commissioner of Administration

May 30, 1978

Table of Contents

Chapter 1 General

Chapter 2 Reserved for Future Use

Chapter 3 State Building Code

Chapter 4 Reserved for Future Use

Chapter 5 Intergovernmental Information Systems Advisory Council

Chapter 6-8 Reserved for Future Use

Chapter 9 Materials Management

Chapter 10 Central Motor Pool

Chapter 11 Plant Management

Chapter 12 Publications and General Services

Chapter 13 Real Estate Management

Chapter 14 Records Management

Chapter 15 Telecommunications

Chapter 16 Procurement

Rules as Proposed (presented in the order listed in the Notice of Hearing).

Chapter 1 General

2 MCAR 1.0001 Severability. If any provision of these rules is held invalid, such invalidity shall not affect any other provisions of the rules which can be given effect without the invalid provision, and to this end, the provisions of these rules are declared to be severable.

Chapter 5 Intergovernmental Information Systems Advisory Council

2 MCAR § 1.2501 Purpose and scope. Pursuant to Minn. Stat. §§ 16.90 and 16.911, these rules govern the application, solicitation, review, analysis, and final disposition of grant proposals received by the Intergovernmental Information Systems Advisory Council for possible funding of projects or programs under the auspices of the Commissioner and the Department of Administration relating to data processing and systems analysis proposals.

2 MCAR § 1.2502 Definitions. For the purposes of 2 MCAR §§ 1.2501-1.2508, the following terms have the meanings given:

A. "Commissioner" means Commissioner of Administration.

B. "IISAC" or "Council" means the Intergovernmental Information Systems Advisory Council.

C. "Executive Director" or "Director" means the Executive Director of IISAC.

2 MCAR § 1.2503 Eligibility. All Minnesota governmental entities and/or organizations composed of groups of such entities are eligible to submit applications for project grants to IISAC. Information as to the availability of funding and conditions of funding may be obtained from the Executive Director, Intergovernmental Information Systems Advisory Council, 300 Hanover Building, 480 Cedar Street, St. Paul, Minnesota 55101.

2 MCAR § 1.2504 Directions for submission of proposals.

A. Applications shall be submitted in writing to the Executive Director, Intergovernmental Information Systems Advisory Council, 300 Hanover Building, 480 Cedar Street, St. Paul, Minnesota 55101, in accordance with the following procedures.

1. All proposals shall be typed on letter sized paper (8½ × 11).

2. Pages shall be numbered for ease of reference.

3. Twenty-five copies of each proposal shall be submitted with the application.

4. The proposals shall follow the proposal format as described in paragraph B of this rule.

5. All proposals shall identify the name, title, address, and telephone number of the person who will represent the eligible agency on matters regarding the proposal content.

6. No standard forms are required.

7. The Commissioner or Executive Director may require other information relevant to processing an application.

B. Proposal format:

1. a cover sheet stating:

a. title of the proposal;

b. the agency submitting the proposal;

c. names, address, and telephone number of agency and project director;

2. a narrative section describing the overall background of the organization, its mission, goals, objectives, whom it services, and its relationship to state agencies and political subdivisions;

3. a section containing a clear, concise explanation of the purpose of the proposal;

4. a section containing a narrative which details and expands on the purpose of the proposal;

5. a section itemizing tasks to be performed and deliverable products resulting from the proposal;

6. a budget section itemizing expenses and showing matching contributions if applicable;

7. a section containing a time schedule relating to the tasks to be accomplished and deliverable products;

8. a section containing pertinent enclosures and endorsements relating to support of the application.

2 MCAR § 1.2505 Acknowledgement of receipt. All applicants shall be notified of formal receipt of applications. Such notification shall include:

1. date of distribution to Council members;

2. date of Council meeting at which the application will be reviewed;

3. notification of completeness of application or requests for additional information.

2 MCAR § 1.2506 Oral presentations. Oral presentations or testimony may be requested by the Council to clarify or further explain portions of the proposal. Such presentations or testimony shall be requested in writing by the Director.

2 MCAR § 1.2507 Approval or disapproval of applications.

A. Council approval or disapproval of recommendations for funding shall be made by a majority vote of those members present at a regular meeting of the Council. The recommendations shall be based on a consideration of the following factors:

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.2057

1. available funding;

2. potential technological advancements;

3. cost-benefit relationship;

4. transferability of anticipated technological advancements to other potential users;

5. applicant's experience and expertise in the field of data processing and systems analysis;

6. applicant's financial need.

B. Recommendations shall be forwarded to the Commissioner for his or her approval. The Commissioner's approval shall be contingent upon his or her consideration of the above factors, availability of funds, and the determination that the proposal is consistent with state information systems priorities. The Commissioner shall notify the Council which shall in turn notify all applicants as to action taken on applications.

2 MCAR § 1.2508 Disclaimer. The submission of a proposal or application to the Intergovernmental Information Systems Advisory Council does not commit the Council to fund the proposal or to pay for any cost incurred by the applicant in the development or presentation of the proposal.

Chapter 9A Materials Management — Documents

2 MCAR § 1.3001 Authority and scope. These rules are promulgated pursuant to Minn. Stat. §§ 16.02, subds. 17 and 24; 16.026; 16.80; and 16.811, to inform the general public of the availability of publications, maps and other services from the Documents Section, Materials Management Division, Department of Administration. All references to "Commissioner" refer to the Commissioner of Administration. All references to "Documents Section" refer to the Documents Section, Department of Administration, 140 Centennial Bldg., 658 Cedar St., St. Paul, Minnesota 55155.

2 MCAR § 1.3002 Publications and maps availability.

A. Authorization of publications. All publications and maps authorized by the commissioner shall be made available to the general public for fees set pursuant to 2 MCAR § 1.3005.

1. Information about publications or maps currently available may be obtained by writing the Documents Section at the above-noted address or by calling the Documents Section and requesting a catalog or map index.

B. Catalogs of publications and maps. The Documents Section shall publish a catalog of Minnesota State publications and indices of maps at intervals deemed necessary by the Commissioner, to keep the public reasonably informed of all materials currently available from the Documents Section.

1. Catalogs shall list current publications, their prices and code numbers including but not limited to the following publications: statutes, directories, conservation books, miscellaneous reports, teaching guides, and adopted rules of state agencies.

2. Indices for lake and fire plan maps list the name and code number of the lake, township and range for fire plan maps, and the prices for each.

3. Catalogs and indices are available from the Documents Section. There shall be no charge for catalogs and indices.

2 MCAR § 1.3003 How to purchase available materials.

A. Over-the-counter sales. Any person may purchase any publication or map offered for sale from the section by paying the prescribed fee, plus sales tax, at the office of the Documents Section at the above-noted address during regular business hours.

B. Mail order instructions. Mail orders shall be sent to Documents Section, Room 140 Centennial Bldg., 658 Cedar St., St. Paul, Minnesota 55155. No forms are required.

1. Mail orders shall include a check or money order for the exact amount of purchase, including sales tax where applicable. If tax exemption is claimed, the tax exempt number shall be given.

2. Mail orders shall include the full title of the publication and code number, if possible.

3. Mail orders for lake maps shall include name of the lake and, where known, the code number. If the code number is unknown, township and range or other specific information that will aid in locating the exact area shall be provided. All orders for fire plan maps shall be placed by listing township and range numbers of the area. A free index containing information including township and range numbers may be obtained from the Documents Section at the address contained in paragraph B above.

4. Mail orders shall include the full name and address, including the zip code, of the person to whom the order is to be sent.

C. Customer deposit. Payment received for publications

or maps that are temporarily out of stock or in short supply shall be held in "Customer Deposit." The customer shall be notified of the customer deposit number, and the item(s) will be shipped when available. The customer may request a refund of the amount held for each customer in the customer deposit on receipt of the notification. Requests for refund or inquiries regarding customer deposits shall be made to the Documents Section at the address contained in paragraph B above.

1. Unused money in customer deposit shall be refunded at the end of each quarter of the fiscal year unless the customer requests it to be held for future use.

2 MCAR § 1.3004 Other services offered. Subscription services, photocopying, white printer reproductions, and other related services shall be offered to the general public upon authorization by the commissioner.

2 MCAR § 1.3005 Fees. Fees for services shall be prescribed by the commissioner unless otherwise authorized by law or rule and shall take into consideration the following factors: cost of publication, storage, handling, postage, and the operating expenses of the Documents Section. Fee schedules shown in catalogs and indices are subject to change without notice.

2 MCAR § 1.3006 Disclaimer of liability. The Documents Section of the Department of Administration shall assume no responsibility for or liability arising from contents of publications or maps distributed, produced, or otherwise made available under its auspices. Any concern or conflict arising from contents shall be referred to the state agency from which the copy for the publication or map emanated.

Chapter 9B Federal Surplus Property

2 MCAR § 1.3101 Authority and scope.

A. The Federal Surplus Property Section of the Materials Management Division, Department of Administration, was created and operates pursuant to Minn. Stat. §§ 16.061-16.066 (1976). The Federal Surplus Property Section maintains a distribution center for federal surplus property made available by the federal government, or any department or agency thereof, for transfer to governmental or nonprofit organizations for any purpose authorized by federal and state law and in accordance with any rules and regulations promulgated thereunder.

2 MCAR § 1.3102 Definitions. As used in 2 MCAR §§ 1.3101-1.3109, the following terms shall have the meaning given them.

A. "Acquisition Cost" means original purchase price of property paid by the Federal Government.

B. "Donee" means public agency or nongovernmental organization qualified or authorized to acquire federal surplus property as provided in 2 MCAR § 1.3103.

C. "FPMR" means Federal Property Management Regulations.

D. "FSP Activity" means the Minnesota Federal Surplus Property Section, 5420 Highway 8, Arden Hills, Minnesota 55112.

E. "Utilization Restriction" means restrictions on the use and disposition of federal surplus property, including required use for one or more public purposes and non-disposal restrictions for stated period of time, as required pursuant to federal and state law, and rules and regulations promulgated pursuant thereto.

F. "Federal Surplus Property Utilization and Sale Coordinator" means FSP Activity person designated to audit the utilization of federal surplus property acquired by donees and to coordinate sales of property that has no further utility value.

G. "General Services Administration" means the federal agency responsible for the transfer of Federal Surplus Personal Property.

2 MCAR § 1.3103 Eligibility.

A. Standards and guidelines for the determination of eligibility are established pursuant to the requirements of FPMR 101-44.207. Eligibility to acquire federal surplus property may include public agencies involved in carrying out or promoting for the residents of a given political area one or more public purposes, including, but not limited to, conservation, economic development, education, parks and recreation, public health, and public safety; or to nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, museums attended by the

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.3104

public, and libraries serving free all residents of a community, district, state, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, for purposes of education or health, including research for any such purpose. Interested participants shall request, on forms obtainable from the FSP Activity, a determination of eligibility from the FSP Activity at the address listed in 2 MCAR § 1.3102 D.

B. The FSP Activity within a reasonable period of time of receipt of request shall make a written determination of eligibility pursuant to federal and state laws and rules, and such determination shall be sent to the applicant.

2 MCAR § 1.3104 Financing and service charge.

A. A revolving fund, established pursuant to Minn. Stat. § 16.064, shall finance the acquisition, storage and distribution of surplus federal property. The fund shall be maintained by the collection of service and handling charges.

B. Service charges shall be assessed at a rate taking into consideration costs involved in acquiring, storing, and distributing surplus property as required by Minn. Stat. § 16.064. Factors considered in determining service charges shall be original acquisition costs, present value, screening cost, quantity, condition, desirability of property, transportation cost, loading and unloading cost, packing and crating, administrative cost, repair and rehabilitation, utilization and compliance, and delivery to donees when required.

C. When special or extraordinary costs occur, such costs will be added to the service charge. Costs which shall be added are as follows.

1. Rehabilitated property. Direct costs for rehabilitating property shall be added to the service charge.

2. Overseas property. Additional direct costs for returning the property may be added to the service charge.

3. Long-haul property. Charges for major items with unusual costs may be added to the service charge.

4. Special handling. An additional charge may be made for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.

5. Screening. Extraordinary costs incurred in screening property may be added.

D. Where direct transfer of property to eligible donee is made, the service charge may be reduced taking into consideration savings made because of direct shipment to donee or other savings in the above-listed cost categories.

E. In the event the program is terminated, assets shall be converted to cash in accordance with these rules and all funds not used to pay outstanding obligations of the FSP Activity shall revert to the general fund of the State of Minnesota.

2 MCAR § 1.3105 Terms and conditions on donable property.

A. The following general conditions, in conjunction with conditions imposed by the terms of an individual sale of items, are imposed by the State of Minnesota and are applicable to items with a unit acquisition cost of $2,000 or more:

1. There shall be a period of utilization restriction which shall expire after the property has been used for the purpose for which acquired for a period of 4 years, except that all State of Minnesota agencies shall be required to manage federal surplus property in accordance with statewide inventory management programs.

2. From the date it receives the property, the donee shall not sell, trade, lease, lend, bail, cannibalize, encumber or otherwise dispose of such property or remove it permanently for use outside the state, without prior written approval of the FSP Activity, until expiration of all utilization restrictions.

3. If at any time from the date it receives the property until expiration of utilization restrictions, any of the property is no longer suitable, useable, or further needed by the donee, the donee shall promptly notify, in writing, the FSP Activity and shall be directed, in writing, by the FSP Activity to return the property to the FSP Activity, release the property to another donee or another state agency, sell or otherwise dispose of the property.

4. In the event that any property acquired through the FSP Activity is sold, traded, leased, loaned, bailed, cannibalized, encumbered or otherwise disposed of contrary to state or federal law or regulation, relating but not limited to the General Services Administration special handling or use regulations, the donee shall pay the FSP Activity the proceeds of the disposal or the fair market value or the fair rental value of the property at the time of such disposal as determined by the FSP Activity. "Fair Market Value" and "Fair Rental Value" as used herein shall mean the value of obtaining a like item in the local industrial, retail, or other market.

5. The proceeds from any authorized sale or transfer shall be reimbursed pursuant to 2 MCAR § 1.3104.

B. The following conditions are imposed by the State of Minnesota, applicable to items with a unit acquisition cost of less than $2,000:

1. Appropriate inventory controls shall be established by each donee to ensure optimum property utilization and control in conformance with federal and state law and rule.

2. Except as listed in 2.a., property with acquisition cost of less than $2,000 which is no longer needed or suitable for use in the federal surplus program may be sold or junked by the donee possessing such property, consistent with any laws and internal policies and procedures governing such disposition. Donees shall be authorized to retain all revenues derived from such sale of surplus property, assuming that all aforementioned criteria have been met.

a. Consistent with federal statutory requirements, all property must be placed in use within one year and be used for one year after being placed in use. Donees in violation of this requirement shall return such property to the FSP Activity.

C. Failure to comply with all terms, conditions and provisions of state and federal law and regulation may subject donee to removal from FSP eligibility.

2 MCAR § 1.3106 Fair and equitable distribution.

A. Factors considered in the distribution of property are based on relative needs, relative resources and ability to utilize the property and include the following:

1. Relative needs. In considering requests of potential recipients, the criteria for determining the relative needs shall be:

a. size and type of program conducted;

b. contemplated use and frequency of use;

c. economic condition of agency, activity or institution;

d. critical or urgent need;

e. geographical location (urban, suburban or rural);

f. interest and expression of need on the part of the donee in the property available.

2. Relative resources. In considering requests of potential recipients, the criteria for determining relative resources shall be:

a. funding source and availability (grants, donations, taxes, etc.);

b. equipment availability.

3. Ability to utilize. In considering requests of potential recipients, the criteria for evaluating ability to utilize property shall be:

a. length of time of contemplated usage;

b. date by which item can be put in use;

c. availability of funds to repair or maintain property in use;

d. ability of the donee to select and remove property from the distribution center or federal activity on a timely basis;

e. type and quantity of property received by the donee to date.

B. The FSP Activity shall operate a distribution center to serve the eligible donees in the distribution of available property. Any donee may submit, in writing, a list of major items needed by the donee, such as vehicles, construction equipment, materials handling equipment, machine tools, generators, air compressors, business machines, boats, aircraft, large electronic and scientific type items. FSP employees shall be guided by these requests in their search for and selection of property. This equipment shall be distributed as outlined in Section A above. Donee shall be notified by telephone by the FSP Activity when a listed major item is acquired.

C. Small miscellaneous items, less than $20.00 per item in value, will be available on the "Help Yourself Plan", with quantity limited to any one donee depending upon the total quantity on hand.

D. Federal surplus property bulletins listing property available for distribution shall be mailed to all donees registered pursuant to 2 MCAR § 1.3103.

E. The FSP Activity shall recommend to General Services Administration the certification of donee screeners, as qualified and needed.

The FSP Activity will, insofar as practical, economical, and equitable, select that property requested by the donees, and the FSP Activity will arrange for direct pickup or shipment of the property to the donee if requested to do so.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.3106

F. Donees which suffer or experience a local disaster and/or major loss of property due to fire, flood, tornado, etc., may apply for a temporary priority for all requested items of property by telephoning the FSP Activity or writing the FSP Activity at the address noted in 2 MCAR § 1.3102 D. Special efforts shall be made to locate and distribute needed property to such donees.

2 MCAR § 1.3107 Compliance, utilization, and disposition.

A. In order to obtain optimum federal surplus property utilization within Minnesota, obsolete and surplus property liability and utilization procedures have been established for statewide application. In order to ensure the integrity of the statewide property utilization program, donee field audits shall be periodically conducted by the FSP Activity of the Materials Management Division. All donees shall cooperate with auditors and all audit requests or be subject to removal from FSP eligibility.

B. When property becomes obsolete or surplus to a donee's needs, it shall be reported to the FSP Activity on forms provided by the FSP Activity, as required in 2 MCAR § 1.3108 A.

C. Property reported as obsolete or surplus by donee on forms provided by the FSP Activity shall be evaluated by the Federal Surplus Property Utilization and Sales Coordinator to determine the most feasible means of disposition. If the property is considered to have further utility value within the utilization restriction period, this information shall be circulated to all donees via the Federal Surplus Property Bulletin, published periodically, and made available pursuant to 2 MCAR § 1.3106 D.

2 MCAR § 1.3108 Property sales.

A. General.

1. All obsolete, surplus and recyclable personal property, which no longer provides any utility value to the Federal Surplus Property program, shall be sold. Local sale of personal property may be authorized, in writing, by the FSP Activity or sales shall be conducted centrally by the State Surplus Property Sales Section pursuant to 2 MCAR §§ 1.3301-1.3306.

2. Personal Property Sales may be transacted via the sealed bid process, public auction or on a negotiated basis. All local personal property shall be authorized, in writing, by the FSP Activity, Division of Materials Management. Application forms for local sale shall be provided by the FSP Activity.

3. The FSP Activity shall determine the maximum amount of reimbursement allowed the donee selling the property pursuant to 2 MCAR § 1.3105 A.5. Any revenue from such sale in excess of the authorized reimbursement amount, shall be submitted to the FSP Activity, accompanied by a copy of the forms required by the FSP Activity for reporting disposition results, a buyer acknowledged (signed) copy of the sales receipt, and a copy of the donee deposit form. Reimbursement to donee shall be on a prorated basis for the following expenses:

a. service charge paid to the FSP Activity;

b. transportation charges paid by the donee in initially acquiring the property;

c. initial costs of repair required to make the items useable; and

d. administrative costs incurred in the sale or transfer of such property.

B. Sealed bid sales.

1. Locally authorized bid sales may be used by all donees in the sealed bid sale of federal surplus property when authorized, in writing, by the FSP Activity pursuant to 2 MCAR § 1.3108 A.1.

2. Whenever practicable, at least three competitive bids shall be solicited in the sale of federal surplus personal property via the sealed bid process.

3. Sealed bid sales which are not authorized locally shall be processed by the FSP Activity pursuant to 2 MCAR § 1.3304.

4. Any employee directly involved in the sales process shall not be eligible to purchase surplus property for which they have specific responsibility.

C. Auction sales.

1. The FSP Activity shall coordinate all federal surplus personal property auction sales for all donees of the State.

2. When a donee has reported property, pursuant to 2 MCAR § 1.3108 A.1., to the FSP Activity, which cannot be transferred to another donee, the FSP Activity shall determine the most effective means of disposal. If an auction sale is warranted, the auction sale shall be processed pursuant to 2 MCAR § 1.3303.

D. Negotiated sales.

1. Pursuant to Minn. Stat. § 16.07, subd. 4, sale of Federal Surplus personal property estimated to be $5,000 or

less may be made either upon competitive bids or in the open market. All negotiated sales shall receive prior approval, in writing, from the FSP Activity.

2. Whenever practicable, at least three competitive bids shall be solicited in the sale of Federal surplus personal property via the negotiated process.

3. No employee of any donee organization may purchase Federal Surplus property via the negotiated sale process.

4. The disposition of all negotiated sales shall be reported to the FSP Activity on the form provided by the FSP Activity, accompanied by a buyer acknowledged (signed) sales receipt and a copy of the donee deposit form.

5. A copy of the buyer acknowledged signed sales receipt shall be maintained in the donee(s) files for seven years from the date the sales transaction was consummated.

2 MCAR § 1.3109 Consultation with advisory groups — public and private groups.

A. The FSP Activity shall consult with advisory bodies and public and private groups which can assist in determining relative needs and resources.

B. A private or public body wishing to be a party to the above consultation, shall, in writing, contact the FSP Activity Manager, 5420 Highway 8, Arden Hills, Minnesota 55112.

Chapter 9C Office of the State Register

All existing rules presently promulgated, adopted, and published as 9 MCAR § 3, entitled "The Office of the State Register Rules of Operation", are proposed to be repealed as follows:

~~RGSTR 1 General~~

~~A. Documents published in the State Register shall be arranged under four principal headings in the following order:~~

~~1. Executive Orders~~

~~2. Rules~~

~~3. Proposed Rulemaking~~

~~4. Official Notices~~

RGSTR 6

~~B. A separate issue of the State Register shall be published once a year, and shall be entirely devoted to descriptions of agency organizations, as provided in Minn. Stat. § 15.0412, subd. 2 (1975).~~

~~RGSTR 2 Numbering and dating~~

~~Minn. Stat. § 15.051, subd. 2 (1975) provides that all issues shall be numbered and dated. Issues shall be numbered by volume and number, for example, "Volume 1 Number 1". All issues of the State Register published in a given year shall be included in a single volume number. Issues shall be dated by day of the week, and date of the year and shall bear the legend, "St. Paul, Minn.", for example, "Wednesday, October 15, 1975, St. Paul, Minn."~~

~~RGSTR 3 Subject indices~~

~~A. Each issue of the State Register shall include a Table of Contents, arranged in the order required by RGSTR 1.~~

~~B. An analytical, cumulative subject index, in the same form as that prepared by the Revisor of Statutes for publication with Minnesota Statutes, shall be published in the State Register at least once each three months. An analytical subject index cumulated over a 12 month period shall be published annually.~~

~~RGSTR 4 Numerical finding aids~~

~~Each issue of the State Register shall contain a cumulative, numerical list of the subjects within each chapter of the Manual of State Agency Rules expressly affected by rules published in the State Register during the current quarter.~~

~~RGSTR 5 Publication of rules by reference~~

~~The Commissioner may elect to satisfy the requirements of Minn. Stat. § 15.0412, subd. 4, with respect to publication of adopted rules by signifying that the rules adopted are identical in every respect to rules formerly published in the State Register as proposed rules, specifically citing the volume and page on which the proposed rules may be found.~~

~~RGSTR 6 Details of format of State Register~~

~~A. Documents subject to codification in the Manual of State Agency Rules which are published in the State Register shall be keyed to the rules and serve as temporary supplement to the rules.~~

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

RGSTR 6

B. The closing date and hour of each issue of the State Register shall appear on the first page of each issue. The issue date shall be the day of deposit of each issue of the State Register in the United States mail for distribution.

C. The Commissioner may designate any other information relating to the nature, use or significance of the State Register for publication on the first or second page of each issue.

D. Sections shall be divided as follows:

ADMIN. 1

A.

1.

a.

(1)

(a)

(i)

(aa)

RGSTR 7 General permission to reproduce contents of State Register

The cross reference tables, tables of contents, indices, numerical lists and codification guides published pursuant to these rules shall be copyrighted in the name of the State of Minnesota and may be reproduced only with the consent of the Commissioner. There shall be no other restrictions on the reproduction and republication of documents or other materials published pursuant to these rules, and this section shall constitute the consent of the State of Minnesota to any such republication or reproduction.

RGSTR 51 Publication withheld

Minn. Stat. § 15.051, Subd. 1 (1975) provides that the Commissioner may withhold publication of any material not submitted according to the form or procedures prescribed in these rules. The Commissioner shall not withhold publication of any material without providing the submitting agency with prompt notice.

RGSTR 52 Approval as to legality; filing

A. Minn. Stat. § 15.0412, subd. 4 (1975) provides that rules, excepting emergency rules, shall be submitted to the Attorney General for approval as to form and legality.

B. Minn. Stat. § 15.0412, subd. 4 (1975) provides that rules, excepting emergency rules, shall be filed in the office of the State Register for publication.

C. Upon approval by the Attorney General and after filing in the office of the Secretary of State, except where such approval or filing is unnecessary, two duplicate legible copies of the document shall be deposited with the Office of the State Register for publication.

D. All copies of documents submitted to the Office of the State Register for publication shall carry the certification of the executive officer, chairman or secretary of the submitting agency, or his designee. Initials and impressed signatures shall not be acceptable.

RGSTR 53 Agency responsibility

The accuracy and completeness of documents submitted for publication in the State Register are the responsibility of the submitting agency. All documents shall be thoroughly proofread before submission for publication.

RGSTR 54 General format

Documents submitted for publication in the State Register shall be in the form indicated in these rules.

RGSTR 55 Name of submitting agency

The name of the submitting agency shall be carried on the front page of any document submitted for publication in the State Register.

RGSTR 56 Name of agency subdivision

Documents submitted by or for a specific board, commission, bureau or similar unit within a department or overall agency shall bear the name of such board, commission, bureau or unit on a separate line immediately below the name of the submitting agency.

RGSTR 57 Short title

A suitable short title identifying the subject of the document shall be provided beginning on a separate line immediately below the name of the submitting agency or agency subdivision. Whenever appropriate, a brief caption indicating the nature of the document may be added.

RGSTR 58 Affected documents

A. A list of sections of the Manual of State Agency Rules affected by proposed or adopted rules submitted for publication shall be provided beginning on a line immediately below the short title. The list shall be in the following form, "Volume 1, Manual of State Agency Rules, Department of Com-

merce, Banking Division, page 21," or "Volume 1, State Register, page 201," in the event the affected rule has not been published in the Manual of State Agency Rules.

B. A citation to any other documents previously published in the State Register affected by the document submitted for publication shall be provided beginning on a line immediately below the list of sections of the Manual of State Agency Rules affected.

RGSTR 59 Requirements as to form and size

A. All documents filed with the Office of the State Register by an agency pursuant to these rules shall conform to all other applicable provisions of these rules and to the following requirements as to form and size.

1. The first page or face sheet of each document shall be 16 or 20 pound white paper 8½ inches wide by 11 inches in length. A one inch margin shall be left across the top of the sheet immediately below which there shall be three boxes each 2½ inches high. The center box shall be 3½ inches wide and the boxes on either side shall be 2½ inches wide. In the center box there shall appear the following language.

"Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:" which shall be followed by the name of the agency issuing the document, the date of the adoption, and the signature and title of the person signing the certification. The box on the right side shall be filled with the information required by RGSTR 55 RGSTR 58. In the box on the left shall appear the following language:

"Copy below is hereby approved as to form and legality," which shall be followed by the name of the Attorney General, the signature of the Special Assistant or Assistant Attorney General, and the date of such approval. From the left hand box to the bottom of the page a margin at least three-fourths of an inch wide shall be left along the left hand side of the page.

Attached hereto as Exhibit A and made a part of this rule is a copy of a face sheet in the style, form and size prescribed. Such prepared face sheets may be obtained from Central Stores, located at 139 East 12th Street, St. Paul, Minnesota 55101.

2. Every sheet of paper following the face sheet shall also be 16 or 20 pound white paper 8½ inches wide by 11 inches in length. A margin one inch wide shall be left along the top of each continuation sheet and along the full length of the left side of the sheet a margin not less than three-fourths of an inch shall be allowed.

Attached as Exhibit B and made a part of this rule is a copy of a continuation sheet in the style, form and size prescribed. Such prepared continuation sheets may be obtained from Central Stores, located at 139 East 12th Street, St. Paul, Minnesota 55101.

3. Documents shall be typed, serially paginated, double-spaced on only one side of a sheet and there shall be no interlineation. After filing with Office of the State Register the documents shall not be altered in any way. Documents which are pasted or glued on the prescribed size sheets or the overall measurements of which exceed those specified shall not be accepted for publication. Documents may not be attached to such sheets by pin, staple or adhesive tape.

RGSTR 60 Waiver

The Commissioner may waive any of the requirements of these rules relating to style, form, and size at the request of a submitting agency if the Commissioner determines that the copy submitted by the agency is suitable as an original and as a printer's copy.

RGSTR 61 Language

All documents shall be drafted in plain, readable English. Technical or uncommon expressions, understandable only by a minority of the general public shall be avoided, except where subject matter requires.

RGSTR 62 Punctuation, capitalization, spelling

In order to promote uniformity in punctuation, capitalization, spelling and other matters of style in materials submitted for publication in the State Register, agencies are encouraged to consult the most recent editions of the United States Government Printing Office Style Manual, the Document Drafting Handbook of the Federal Register, the Fundamentals of Legal Drafting by Reed Dickenson (1965) and the Elements of Style by White and Strunk. Legal citations may follow the form prescribed by the most recent edition of A Uniform System of Citation published by the Harvard Law Review.

RGSTR 63 Descriptions of tracts of land

In order to promote uniformity in descriptions of tracts of land in materials submitted for publication in the State Regis-

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

RGSTR 63

ter, agencies are encouraged to consult the most recent edition of the Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations, prepared by the Bureau of Land Management, U.S. Department of the Interior.

RGSTR 64 Use of words or figures to express numbers

The numbers ten and under, when not used in a citation, shall be expressed in words in running text. The numbers 11 and larger shall be expressed in figures.

RGSTR 65 Illustrations, tabular materials and forms

Whenever possible documents should be drafted as to make the inclusion of illustration, tabular materials and forms unnecessary. If their inclusion cannot be avoided, a notice of intention to submit such materials shall be given to the Office of the State Register, and Schedule Three and the following shall apply:

A. Illustrations. The original drawings or clear reproductions of all maps, charts, graphs or other illustrations shall be forwarded to the Office of the State Register 20 working days prior to the time of formal submission, as provided in Minn. Stat. § 15.051, subd. 2. A notice of intention to submit such materials shall be given to the Office of the State Register at that time. A reproducible copy of the original illustration reduced to a size approximating 8 by 10½ inches, shall appear as part of the two duplicate legible copies of the document.

B. Tabular Materials. Advance copies of tabular materials comprising more than two type-written pages shall be forwarded to the Office of the State Register ten working days prior to the time of formal submission, as provided in Minn. Stat. § 15.051, subd. 2. A notice of intention to submit such materials shall be given to the Office of the State Register at that time.

C. Forms. Forms for application, registration, reports, contracts and the like, and the instructions for preparing such forms shall be forwarded to the Office of the State Register ten working days prior to the time of formal submission, as provided in Minn. Stat. § 15.051, subd. 2. A notice of intention to submit such materials shall be given to the Office of the State Register at that time.

RGSTR 91 Designation of agency representatives

Each agency shall designate a representative to serve as liaison officer in relation to the office of the State Register. Wherever feasible, a single representative shall be designated to function on behalf of all divisions within the agency or department.

RGSTR 92 Notification of designation

Each agency shall notify the Office of the State Register in writing of the name, title, address and telephone extension of each agency representative designated in compliance with RGSTR 91 (relating to designation of agency representatives), promptly upon adoption of these rules. Whenever a change in representation is made by an agency, prompt notification shall be given to the Office of the State Register.

RGSTR 93 Liaison duties

The liaison officer shall represent his agency in all matters relating to the submission of documents to the Office of the State Register and respecting general compliance with the provisions of these rules.

RGSTR 94 Receipt and processing

Documents shall be received at the Office of the State Register during regular office hours.

RGSTR 95 Correction of errors

In the event an agency discovers an error or omission in the official text of a document published pursuant to these rules, the agency shall forthwith deposit, without regard to the requirements of Minn. Stat. § 15.0412 (1975), relating to notice of proposed rule and adoption of rules but with regard to the requirement of approval as to form and legality of the Attorney General, if applicable, or to the other requirements of these rules, with the Office of the State Register, an appropriate correction to the official text. Nothing in this rule shall be construed to violate Minn. Stat. § 15.0412, subd. 4.

RGSTR 96 Publication schedules

All materials submitted for publication in the State Register shall be published according to Schedule One, Two or Three.

RGSTR 97 Procedure for Schedule One

A. A document shall be assigned to "Schedule One" upon specific request of the submitting agency and agreement thereto by the Office of the State Register. Requests may be made by letter or otherwise, as time permits. Confirmation of the assignment shall be made as promptly as possible.

B. Schedule One is designed to provide the fastest possible publication of a document involving the prevention, alleviation, control or relief of an emergency situation. Requests for such publication should briefly describe the emergency and the benefits attributable to immediate publication in the State Register. Documents assigned to

~~Schedule One shall be published on the publication day next following the day of filing.~~

~~RGSTR 98 Procedure for Schedule Two~~

~~In the absence of special arrangement with the submitting agency, documents shall be assigned to Schedule Two for regular publication. Receipt in the ordinary course of business shall be considered as a request for such publication.~~

~~RGSTR 99 Procedure for Schedule Three~~

~~A. Documents that are the subject of agreements involving special editorial or publication services may be placed on Schedule Three by prearrangement.~~

~~B. Documents may be assigned to Schedule Three only because of technical problems requiring additional time to prepare material for the press. The requirement of additional time generally may be obviated through advance consultation with the Office of the State Register respecting unusual tabulations, illustrations or exceptionally voluminous submissions.~~

~~C. Documents assigned to Schedule Three because of technical problems shall be published as nearly on regular schedule as practicable.~~

~~RGSTR 100 Requisitions for quantity overruns of specific items~~

~~To meet requirements for special distribution in special quantity of the State Register, agencies may request an overrun of an entire specific printing. Requests of overrun must be made to the Office of the State Register at the time material is submitted for publication and shall include the estimated number of copies required. Single issues and overruns may be purchased at either the Office of the State Register or the Documents Section.~~

The following rules are proposed to replace those proposed to be repealed.

2 MCAR § 1.3201 Scope and purpose. These rules are promulgated pursuant to Minn. Stat. §§ 15.041-15.051 and govern the availability of publications from the Office of the State Register, Materials Management Division, Department of Administration. The Office of the State Register publishes and offers for sale the following:

1. the *State Register*;

2. the *Minnesota Guidebook to State Agency Services*;

3. the *Minnesota Code of Agency Rules (MCAR).*

2 MCAR § 1.3202 Availability of the State Register publications.

A. Publications of the Office of the State Register are available from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102. All purchases from the Office of the State Register shall be prepaid and may be obtained as described below.

B. *State Register.*

1. The *State Register* is distributed weekly on Monday to the public when published, either as a part of an annual subscription or in single copies for a fee set pursuant to 2 MCAR § 1.3203.

2. Mail orders for annual subscriptions shall be accompanied by the order form found on the back page of each issue of the *State Register* or on an order card available from the Office of the State Register and shall be accompanied by full payment.

3. Checks shall be made payable to the "Minnesota State Treasurer."

4. Single issue orders shall be accompanied by full payment.

5. Over-the-counter sales are available at the Office of the State Register at the address noted in section A above.

6. Subscribers to the *State Register* shall receive a *Minnesota Guidebook* without additional charge.

C. *Minnesota Guidebook to State Agency Services.*

1. The *Guidebook* is made available to the public either as part of the annual *State Register* subscription or in response to requests from nonsubscribers. The *Guidebook* is also available at retail bookstores throughout the state. Retail bookstores interested in distributing the *Guidebook* may contact the Office of the State Register at the address noted in section A above.

2. Mail orders for the *Guidebook* shall be made on the order form found in the back page of each issue of the *State*

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.3202

Register. The order form is also available by phone or written request from the Office of the State Register.

3. Subscribers to the *State Register* shall receive a *Guidebook* without additional charge.

4. Orders for the *Guidebook* shall be accompanied by full payment. Checks shall be made payable to the "Minnesota State Treasurer."

D. *Minnesota Code of Agency Rules (MCAR).*

1. The *MCAR*, consisting of a multivolume set of permanent rules of state agencies, is made available to the public for a fee set pursuant to 2 MCAR § 1.3203. A quarterly update service is available for an additional fee.

2. All orders shall be placed in writing or in person at the Office of the State Register at the address noted in section A above.

E. Finality of sales. All purchases from the Office of the State Register shall be final.

2 MCAR § 1.3203 Fees.

A. Fees for services shall be prescribed by the Commissioner of Administration and approved by the Commissioner of Finance unless otherwise authorized by law or rule and shall be based upon the following factors: cost of publication, storage, handling, postage and operating expenses of the Office of the State Register. Fees may differ for quantity purchases.

2 MCAR § 1.3204 Disclaimer of liability.

A. The Office of the State Register of the Department of Administration shall assume no responsibility for or liability arising from the contents of publications distributed, printed, or otherwise available under its auspices. Any conflict arising from contents shall be referred to the state agency from which the copy or information for the publication emanated.

2 MCAR § 1.3205 Errata listings.

A. Omission or other errors in copy shall be corrected by errata listings so identified in subsequent issues.

Chapter 9D State Surplus Property Sales

2 MCAR § 1.3301 Authority and scope.

A. Pursuant to Minn. Stat. §§ 16.02, 16.07, 16.08, 16.24 and 16.28, the State Surplus Property Sales Section, Division of Materials Management, Department of Administration, is responsible for managing a statewide surplus property sales program in order to ensure the effective ultimate disposition of all surplus personal property. These rules govern the disposition of all such obsolete, surplus and recyclable state property. Sales are conducted via public auction, sealed bid or negotiation, as set forth below.

2 MCAR § 1.3302 General terms and requirements of purchase.

A. Waiver of warranty. The State of Minnesota shall make no warranty as to the fitness, merchantability or other condition of any item sold pursuant to these rules. The purchaser bidding shall agree to purchase said items, conditions "as is — where is." This waiver includes but is not limited to a waiver of any purchaser's claim pursuant to Minn. Stat. §§ 336.2-312 through 336.2-315.

B. Transfer requirements and costs. The purchaser shall assume all cost of title transfer and required vehicle registration fees, if any. Items shall not be removed from the premises until the full purchase price and sales tax have been paid, insurance information provided (insurance company and policy number or binder) and the required license plates are attached to the vehicles, where applicable.

2 MCAR § 1.3303 Auction sales. Pursuant to Minn. Stat. § 16.07, subd. 10, surplus personal property may be sold by auction as follows:

A. Notification of auctions. Persons wishing to be notified of state public auction sales shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, (612) 296-6132, giving their name and complete address. All interested persons shall be placed on an auction mailing list and shall receive bulletins of all public auctions held by the state. State auctions shall also be advertised in news media at least seven (7) days prior to the sale. News media used may include the Minneapolis and St. Paul papers and/or local papers in the immediate vicinity of the sale.

B. Auction terms and requirements. The full amount of the bid price shall be paid at the time of the sale for each item selling for less than $500.00. A minimum of ten percent (10%) of the bid price shall be paid at the time of the sale for each item selling for $500.00 or more. All personal checks shall be accepted for the full amount or the ten percent (10%) down on the day of the sale. A successful bidder shall pay any balance due on a sale, including sales tax, within five (5) days from the date of the sale. Such balance due payments shall be in the form of cash, money order, certified check, or bank draft, made payable to the "Minnesota State Treasurer." Full payment shall be received prior to release of merchandise. Failure on the part of the purchaser to remit the balance due on the amount of the bid within five (5) days shall constitute forfeiture of the amount paid at the time of the sale.

C. Application for auctioneers. All Auctioneers in-

terested in providing their services to the state shall submit their name and address to the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, (612) 296-6132. Sealed bid invitations for auctioneering services shall be mailed to all interested persons for each scheduled auction. Contracts for auctioneering services shall be awarded to a qualified, licensed Auctioneer based on the bid requirements and the lowest percentage fee of each sale's proceeds. In the event of tied commission fee bids, Auctioneer shall be chosen on the basis of a draw or by bid negotiation.

2 MCAR § 1.3304 Sealed bid sales. Pursuant to Minn. Stat. §§ 16.02, subd. 18; 16.07, subd. 2 and 4; 16.08 and 16.24, surplus personal property may be sold by sealed bid as follows:

A. Notification of sealed bid sales. Persons interested in bidding on the purchase of state surplus personal property shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, (612) 296-6132, giving their name and complete address. All interested persons shall be required to indicate the types of property they desire to purchase and shall then be placed on mailing lists by commodity group(s). Applicants shall be advised by sealed bid invitation of all applicable commodities for sale in their respective commodity groups.

B. Conditions for sealed bid sales. The estimate or weight of the items listed for sale is for the general guidance of bidders and the state shall assume no responsibility for any variance therefrom. In accordance with the bid requirements, certified checks, cashier's checks, or money orders of successful bidders submitted with the bid, may constitute liquidated damages for failure of bidder to enter into contract. Sealed Bid Sales shall be awarded to the highest responsible bidder.

C. Removal from mailing lists. Applicants on sealed bid mailing lists who have not bid for the purchase of state surplus property for a period of two or more years may be removed from all applicable mailing lists. Applicants shall be reinstated upon written request.

2 MCAR § 1.3305 Negotiated sales. Pursuant to Minn. Stat. § 16.07, subd. 4, surplus property sales estimated to be $5,000 or less may be made either upon competitive bids or in the open market.

A. Notification of negotiated sales. Persons wishing to be notified of a proposed negotiated sale of specific state surplus personal property shall contact the State Surplus Property Sales Section, 671 N. Robert, St. Paul, Minnesota 55101, (612) 296-6132.

B. Conditions for negotiated sales. If the state is unable to secure sealed bids for the sale of property or it is deemed to be in the best interest of the state, sales may be negotiated with persons who have indicated an interest in the purchase of a specific commodity. So far as practicable, the sales shall be based on at least three competitive bids, shall be permanently recorded and awarded to the highest responsible bidder. The full amount of the purchase price shall be paid at the time of sale. All personal checks shall be accepted for the full amount of sale.

2 MCAR § 1.3306 Public employee purchase of state surplus property.

A. Pursuant to Minn. Stat. § 15.054 (1977 Supp.), employees of the state and its political subdivisions are permitted to purchase state surplus personal property including one motor vehicle within each 12 month period via public auction or sealed bid process.

B. Public employees directly involved in the sales process shall not be eligible to purchase state surplus personal property for which they have specific disposition responsibility.

Chapter 10 Central Motor Pool

2 MCAR § 1.3501 Scope of purpose. The purpose of these rules is to define the procedures of the Department of Administration, Central Motor Pool Division, relating to handling insurance claims involving Central Motor Pool vehicles pursuant to Minn. Stat. § 16.75. All references to "Central Motor Pool Division" below mean Central Motor Pool Division, Department of Administration, 610 N. Robert Street, St. Paul, Minnesota 55101.

2 MCAR § 1.3502 Insurace claim procedures.

A. When a Central Motor Pool vehicle is involved in an accident, the driver of the state vehicle shall complete an accident report on form DPS 32001. This report is to be completed within 3 days of the accident and sent to the Central Motor Pool Division, 610 N. Robert Street, St. Paul, Minnesota 55101. The Central Motor Pool Division shall complete the portion of the form entitled "Insurance".

B. For accidents involving personal injury, death, or total property damage of $300 or more, the Central Motor

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.3502

Pool Division shall forward the accident report to the Department of Public Safety within ten (10) days of the accident, as required by law. A copy of the accident report shall be retained by the Central Motor Pool Division.

C. Notification of the accident, including a copy of the accident report, shall be sent to the state's insurance company by the Central Motor Pool Division. Contact with third parties to discuss settlement for injury or property damage may be initiated by the state's insurer. The Central Motor Pool Division shall direct any persons wishing to file a claim against the state to the proper agency for consideration of such a claim.

D. If it is evident that the other driver was at fault, a claim may be filed with his/her insurance company by the Central Motor Pool Division. A copy of the official repair estimate shall be included. The repair estimate shall be supplied by the body repair shop having the contract for repair of state vehicles or by other responsible body repair shops as approved by the Director of the Central Motor Pool Division.

E. When a check is received covering the damage done to the Central Motor Pool vehicle, a release shall be signed, and the check deposited in the Central Motor Pool revolving fund.

Chapter 11 Plant Management

The existing rule presently promulgated, adopted and published as 1 MCAR 1.080, entitled "Chapter 9: Plant Management Admin. 80: Parking or (sic) Motor Vehicles on Parking Lots", is proposed to be repealed as follows:

~~Admin. 80 Parking or Motor Vehicles on Parking Lots.~~

~~Pursuant to the authority contained in Minnesota Statutes 1969, Section 16.72, Subd. 2, the following are the rules and regulations relating to parking of motor vehicles on parking lots and facilities owned or operated by the State of Minnesota and under the control of the department of administration.~~

~~(a) Lots and Facilities. Parking lots or facilities enumerated herein are located within the Capitol complex, the University of Minnesota Campus, and downtown St. Paul and Minneapolis.~~

~~Lot A — N.E. corner of the block bounded by Sherburne, Capitol Blvd., University and Park Avenues. Entrances and exit on Sherburne.~~

~~Lot B — Balance of the square block in which Lot A is located with two entrances and exits; one on Sherburne Avenue and one on Capitol Blvd.~~

~~Lot C — Forty feet westward of 117 University Avenue and adjacent thereto including the forty foot lot directly North and facing on Sherburne. Entrance and exit on Sherburne Avenue.~~

~~Lot D — Triangular lot bounded by Rice on the West, Aurora on the South and Wabasha on the Northeast. Entrance and exit on Aurora Street.~~

~~Lot E — Directly West of the State Office Building and adjacent thereto, bounded by Aurora on the North, Fuller on the South, and Rice on the West with entrances and exits on Aurora and Fuller Avenue.~~

~~Lot F — Northwesterly on the Highway Building and adjacent thereto with entrances and exits on Rice Street and Fuller Avenue.~~

~~Lot G — Southwesterly of the Highway Building and adjacent thereto with entrance and exit on Rice Street and John Ireland Blvd.~~

~~Lot H — Block bounded on the North by Columbus Circle, on the West by John Ireland Blvd., on the South by 12th Street and on the East by Iglehart Avenue with entrance and exit on Iglehart Avenue.~~

~~Lot I — South of the West section of the Veterans Service Building and adjacent thereto with entrance and exit on 12th Street.~~

~~Lot J — East of the Veterans Service Building and adjacent thereto with entrance and exit on Wabasha Street.~~

~~Lot K — Block bounded on the North by Columbus Circle, on the West by Wabasha Street, on the South by 12th Street and on the East by Cedar Street with entrance and exit on Wabasha and Cedar Streets.~~

~~Lot L — Bounded by Central Avenue on the North; East Central Park Place on the East, 13th Street on the South, West Central Park Place on the West, with entrances and exits on East Central Park Place and West Central Park Place.~~

~~Lot M — East of the Capitol and adjacent to the heating plant with Cedar Street on the West and Central Avenue on the South. Entrance and exit on Cedar Street.~~

~~Lot N — West Driveway on the North side of the Capitol Building with entrance and exit on University Avenue;~~

~~Lot O — East Driveway on the North Side of the Capitol Building with entrance on University Avenue and exit on Cedar Street.~~

~~Lot P — Northeasterly of the Capitol Building and adjacent thereto with entrance and exit on the East Capitol driveway.~~

~~Lot Q — Area bounded by University Avenue on the South, Robert and Capitol Heights Streets on the East, Charles Street on the North, Cedar Street on the West. Entrance and Exit on Sherburne Street, Cedar Street and Charles Ave.~~

~~Lot R — East of, and adjacent to, heating plant with entrance and exits on Aurora St.~~

~~Lot S — South two-thirds of block bounded by Central Avenue on the North, East Central Park Place on the West, 13th Street on the South and Robert Street on the East, with entrance and exit on Robert and 13th Streets.~~

~~Indoor Parking at: Highway Building, John Ireland Blvd., Capitol complex Manpower Services Building, 390 N. Robert, St. Paul, State Department of Health Building, 717 Delaware S.E., Minneapolis.~~

~~Outdoor Parking at: Manpower Services Building, 309 2nd Ave. So., Minneapolis, State Department of Health Building, 717 Delaware S.E., Minneapolis.~~

~~Ramp: State Administration Building parking ramp, 50 Sherburne Ave., Capitol Complex; and any other State-owned parking ramp or facility in the Capitol complex.~~

~~Streets: Iglehart Avenue between 12th Street and Wabasha Avenue, Aurora Street between Cedar Avenue and Park Avenue. East Central Park Place between Central Avenue and 13th Street.~~

~~(b) Effective Date. On and after January 3, 1967, no motor vehicle, either privately or publicly owned, may be parked upon any area herein described in these rules and regulations except in conformity with these prescribed rules and regulations.~~

~~(c) Restricted Areas. Restricted parking in following areas.~~

~~1. Parking meters in accordance with meter fee schedule.~~

~~2. Posted areas for elected officials.~~

~~3. Posted areas for contract parking.~~

~~4. Posted areas for service vehicles.~~

~~5. Posted areas by special assignment.~~

~~(d) Stickers. If it is deemed necessary each State employee will be issued a windshield sticker of a proper identifying color for which he shall pay ten cents for each sticker so issued.~~

~~(e) Prohibited Parking. All parking is prohibited in the driveway entrances, on sidewalks, on landscaped areas, at bus stops, safety zones, crosswalks, along yellow painted curbs, within 15 feet of fire hydrants, within 20 feet of crosswalks or intersections, parking in a stall assigned to others, parking in driveways and restricted areas of lots, ramps, or parking facilities.~~

~~(f) Violations~~

~~(1) When any motor vehicle is parked upon any area in violation of these rules and regulations a traffic ticket may be issued in accordance with applicable laws.~~

The following rule is proposed to replace the rule proposed to be repealed.

2 MCAR § 1.4001 Parking. Pursuant to Minn. Stat. § 16.72, subd. 2, this rule governs the parking of motor vehicles in parking facilities owned or operated by the State of Minnesota and under the control of the Commissioner of Administration.

A. Lots and facilities. Parking lots or facilities governed by these rules are located within the Capitol Complex, the City of St. Paul, and the City of Minneapolis, and include the following:

1. outdoor lots within the Capitol Complex; at the Economic Security Building, 309-2nd Avenue South, Minneapolis; 1246 University Avenue, St. Paul; and at the State Department of Health Building, 717 Delaware Avenue Southeast, Minneapolis;

2. indoor parking facilities located in the Department of Transportation Building in the Capitol Complex; the Economic Security Building, 390 North Robert Street; 1246 University Avenue, St. Paul; and the State Department of Health Building, 717 Delaware Avenue Southeast, Minneapolis;

3. ramp parking facilities located in the State Administration Building and adjacent to the Centennial Building, both in the Capitol Complex;

4. street parking facilities located on Aurora Street between Cedar Avenue and Park Avenue.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.4001

B. Prohibited parking. All parking of motor vehicles is prohibited across driveway entrances; upon sidewalks; along yellow painted curbing; within 15 feet of fire hydrants; within 20 feet of crosswalks or intersections; in stalls assigned to other persons; in driveways; and in restricted zones of lots, ramps, or other posted areas.

C. Application for parking. Applications for contract parking shall be made in writing to the Director of the Plant Management Division located at Room G-9, State Administration Building, St. Paul, Minnesota 55155. The application shall bear the written signature of the person applying and contain the following information: employing agency, telephone number at place of work, type of vehicle (compact or regular), motor vehicle license number, and all other relevant information requested by the Director. Additional information may be required, including the name of each passenger, if carpooling, the employing agency of each passenger, and location if other than in the Capitol Complex. If a desired facility is requested, the facility shall be identified. The applicant shall not submit payment with the application.

D. Permits shall be granted to applicants in the following priority order:

1. applicants qualifying for a handicapped parking permit per 2 MCAR § 1.4001 H or demonstrating special needs or circumstances arising from position, nature of work, and/or travel requirements;

2. applicants with riders with the applicant with the highest number of riders first, the applicant with the second highest number of riders second, etc.;

3. all other applicants on a first come-first served basis.

E. Stickers. All authorized parking contract recipients shall be issued a sticker of proper identifying color. Stickers shall be displayed on the reverse side of the rearview mirror.

F. Fees for parking shall be set by the Commissioner of Administration with the approval of the Commissioner of Finance and shall be based on consideration of, but not limited to, the following factors:

1. administrative overhead and operating cost;

2. surcharge required pursuant to Minn. Stat. § 16.72, subd. 7; and,

3. number of car pool passengers, if any.

G. Exemptions from parking surcharge.

1. Pursuant to Minn. Stat. § 16.72, subd. 7 (1977), as amended, the following are exempt from surcharge:

a. parking contract holders whose work shift is other than the customary daytime work hours, including those individuals employed on rotating shifts;

b. parking contract holders whose work activity does not conform to the customary hours or patterns of work so as to preclude the opportunity to participate in a car pool.

2. Application. Any person wishing to apply for exemption from the surcharge shall apply in writing on the forms provided to the Division of Plant Management, Department of Administration.

3. Notice of approval or denial for the exemption of the surcharge shall be sent to the applicant.

H. Handicapped. To receive a handicapped parking permit, a written application shall be submitted to the Director of the Plant Management Division at the above-noted address stating the circumstances and extent of the handicap. Certification of handicapped eligibility pursuant to Minn. Stat. § 169.345 shall be deemed sufficient showing to authorize vehicles bearing proper identification of such certification to use handicapped designated parking facilities in the Capitol Complex and other facilities. Upon receipt of an application from a noncertified person, the Director shall instruct the applicant to contact the nurse in the Transportation or Centennial Building for verification of the disability. A written recommendation from the nurse is required stating the estimated length of time required to accommodate the disability. Handicapped parking shall be available on a first come-first served basis. Regular parking rates shall apply.

I. Special temporary permits. For departments or agencies having individuals or groups visiting the Capitol Complex for meetings or hearings, temporary reserved hooded meter parking may, if available, be obtained upon request to the Director of the Plant Management Division, for which a per day per unit fee shall be paid by the requesting organization. The amount of the fee shall be set by the Commissioner of Administration and approved by the Commissioner of Finance.

J. Violations. Pursuant to Minn. Stat. § 16.72, subds. 3 and 4, when any motor vehicle is parked in violation of these rules a traffic warning or summons ticket shall be issued to the vehicle or person(s) deemed as the violator(s).

K. Removal and impounding. Any vehicle parked upon any parking lot or facility owned or operated by the State, not in conformity with the aforementioned rules, state law, or local ordinances, may be declared a public nuisance and removed or impounded as set forth in Minn. Stat. § 16.72,

subd. 3. The cost of such removal or impounding shall be a lien against the motor vehicle until paid.

L. Legislative parking resolutions. Pursuant to Minn. Stat. § 16.72, subd. 6, these rules shall not affect regulation of parking of certain vehicles as provided by resolution of the legislative bodies during legislative sessions.

2 MCAR § 1.4101 Personal property lost on state property.

A. Pursuant to Minn. Stat. § 16.022, personal property found in the Capitol Complex or other buildings under the custodial control of the Commissioner of Administration shall be sent to the Plant Management Division, Department of Administration, Room G-9, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. Each article shall be labeled indicating the date, the place where the article was found, and the name and telephone number of the finder.

B. Any person wishing to recover any personal property which may have been lost in the Capitol Complex or other buildings under the custodial control of the Commissioner of Administration shall contact the Plant Management Division at the above-noted address, giving a description of the lost property, the approximate time, and the location where it may have been lost.

C. Articles sent to the Plant Management Division shall be disposed of in accordance with Minn. Stat. § 16.0231.

2 MCAR § 1.4201 Permits for public rallies in the Capitol Complex. Pursuant to Minn. Stat. § 16.02, subds. 6 and 6a, the following rules govern the issuance of permits for public rallies in or on the Capitol Complex buildings and grounds. "Public rallies" for the purpose of this rule means parades, gatherings, solicitations, concerts, speeches or rotunda ceremonies, and other such related uses of the buildings, grounds, and state-owned streets in the Capitol Complex.

A. These rules define the permissible time, place, duration, and manner of the use of the Capitol Complex grounds, including the rotunda, sidewalks, Capitol Building steps and state-owned streets for public rallies, so as not to unreasonably interfere with the rights of others to the use of such public areas, to assure access to driveways and building entrances, to assure traffic movement in such a manner so as to not deprive the public and state employees of police and fire protection, and to assure the public of safe use and enjoyment of such public places.

2 MCAR § 1.4201

1. Any person, firm, partnership, association, corporation, company, or organization shall secure a permit from the Director of Plant Management Division, Department of Administration, Room G-9, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, to conduct a rally on the Capitol Complex grounds prior to announcing or conducting such public rally.

2. Any such person seeking a permit for a public rally shall submit, not less than seven (7) working days prior to the proposed date of the event, a written application identifying the person, firm, partnership, association, corporation, company or organization; mailing address and telephone number; date; time; and name, address, and the telephone number of the contact person who shall be responsible for the public rally; and all other relevant information requested by the Director of the Plant Management Division. The Director, where compelling reasons are shown therefore, and if staff and time are available to make arrangements necessary to protect the public interest, shall have the authority to consider any application hereunder which is filed less than seven (7) working days before the date such rally is proposed to be conducted.

3. Proof of Workers Compensation and public liability insurance shall be submitted when required by Director.

4. Upon consideration of the request for the permit, and after written agreement is reached between the parties involved regarding security, police protection, liability for damages, and cleanup of the areas, the Director of Plant Management shall approve the permit application unless any of the following is found to exist:

a. The conduct of the rally will substantially interrupt the safe and orderly movement of other traffic contiguous to its route or location.

b. The conduct of the rally would require the diversion of so great a number of the security force of the Capitol to properly police the line of movement and areas contiguous thereto as to prevent normal security.

c. The concentration of persons, animals, and vehicles at assembly areas of the rally will unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

d. The conduct of such rally will interfere with the movement of fire-fighting equipment enroute to a fire.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.420

e. The rally is not scheduled to move from its point of origin and to its point of termination expeditiously and without unreasonable delays enroute.

f. The rally is to be held for the sole purpose of advertising any product or goods or is designed to be held all or in part for private profit.

g. The rally will unreasonably disrupt the normal operations of state government and the public right of safe use or reasonable enjoyment of public spaces.

B. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The rally chairperson or other person heading or leading such activity shall be in possession of the permit during the conduct of the rally.

C. Whenever any rally is conducted in a manner substantially different from that indicated in the period application and rules therefore, the permit shall be deemed to be automatically revoked.

D. No public rally in the Capitol Complex shall be undertaken unless a permit has been obtained as required above. Any person violating these rules, or applicable state or local law, may be subject to prosecution under applicable law.

Chapter 12 Publications and General Services Division

2 MCAR § 1.4501 Purpose and scope. The procedures herein relate to the Commissioner of Administration's authority pursuant to Minn. Stat. §§ 16.61, 331.07, 331.08, and 331.09 (1976), providing in part for the certification of and computation of standard and adjusted line rates, and Minn. Stat. § 16.02, subd. 16 (1976) relating to the Central Mail Room of the Department of Administration.

2 MCAR § 1.4502 Definition of a "standard line" for legal notices.

A. The "standard line" shall be 6-point Times Roman with a lower case alphabet of 90 points set on a 6-point slug without spacing between the lines, and 11 picas in length, as required by Minn. Stat. § 331.07.

2 MCAR § 1.4503 Evaluation and certification of line rates for legal notices.

A. Request for evaluation and certification. The following procedures shall be followed to request (1) an adjustment evaluation from the standard line and (2) certification of standard or adjusted line rates to any Minnesota newspaper, public official, or interested party requesting same.

1. The functions of computing adjustment evaluations and issuing certifications of standard or adjusted line rates are performed only upon written request.

2. Requests shall be completed as follows:

a. All requests shall be filed with the Commissioner of Administration, c/o State Printer, 506 Rice Street, St. Paul, Minnesota 55103.

b. The request shall contain the following:

(1) statement by publisher:

(a) name of newspaper;

(b) street address, zip code, city and county;

(c) publisher's name;

(2) method of production:

(a) letterpress, matted & plated, or print from type;

(b) offset, hot type, cold type, or hot and cold type;

(3) type used in printing legal ads:

(a) type size and name of type;

(b) pica width of single and double column;

(c) hot or cold type;

(d) justified or not justified; (if not justified, minimum sample of five (5) inches of type set in column width of the type used must be provided with request);

(e) three (3) lower case alphabets in compact form for each column width and style of type which requires certification;

(f) if the page forms are reduced in the camera or are matted, the lower case alphabet supplied must be reduced at the same percentage;

(g) other relevant information requested by the Commissioner or his agent.

c. Publishers who change type faces or who make format changes that affect column widths may apply for new certified rates, including in the request a minimum of three (3) lower case alphabets in compact form (no letter spacing) for the type style to be used and for each of the column widths requiring new line rates.

B. Formula for evaluation.

1. To calculate line rates for nonstandard type faces and nonstandard line lengths, the formula to be used is based on the proportion of the alphabet length of the "standard" type face to the alphabet length of the nonstandard type face, in relation to the proportion of the length of the nonstandard line to the length of the "standard" line, in relation to the line charge for the "standard" line.

Formula for above is as follows:

$$\frac{\text{L.C. Alphabet (in points) of 6-point Times Roman}}{\text{L.C. Alphabet (in points) of type you use}} \times \frac{\text{Your column width (in picas)}}{\text{Standard Times Roman 11 pica line length}} \times \text{Standard Line Rate} = \text{Adjusted Line Rate.}$$

2. A separate line rate certification is required (1) for each type face used in setting for legal notices, and (2) for each line length used in setting type for legal notices. Each line rate certification applies to only one type face and one column width (measuring from direct left to direct right of line length). It may not be used for any other billing. Line rate certification procedures apply to cold type composition as well as hot metal typesetting.

2 MCAR § 1.4504 Fees for publication of legal notices.

A. Fees for publications are established by Minn. Stat. § 331.08 (1976) for a standard line for first insertion and subsequent insertions and for what is termed "price and one-half" or "double price" composition. The definition of "price and one-half" or "double price" composition is established by the State Printer and published in the pamphlet "Publication of Legal Advertising in Newspapers," including approved forms and computation samples, as required by Minn. Stat. § 16.61.

2 MCAR § 1.4505 Controversy between publisher and public official.

A. In case of controversy or disagreement between a publisher of a newspaper and a public official of this state as to the measurement of any legal notice published or required by law to be published in newspapers, such public official shall submit a copy of the printed notice to the Commissioner of Administration in accordance with the procedure described herein. The Commissioner shall measure such notice and forward a certificate signed by him giving the number of lines and the amount of the fees allowed for the publication of such notice.

1. The following procedure is required:

a. The public official shall send one complete copy of the legal publication to be measured to the Commissioner of Administration, c/o State Printer, 506 Rice Street, St. Paul, Minnesota, 55103. Said copy of publication will not be returned.

b. The public official shall also send an affidavit of publication with indication of lower case alphabet and the number of insertions used in said publication.

c. When disputed legal notices have been set by a third party, the public official shall state who set the legal notice and furnish three (3) copies of lower case alphabet in compact form of type used.

d. If copy for legal notices is furnished in camera ready form for use in the newspaper, the public official shall so state. (Camera ready copy is measured in the same manner as a ballot).

e. If legal notice was reduced by camera or matted at time of publication, the public official shall require the newspaper to submit a lower case alphabet reduced by the same percentage as the notice which was published.

f. A stamped, return addressed number ten (10) envelope shall accompany each measurement requested.

2. A complete copy of legal publication along with the computation sheet and a copy of certificate of measurement will be kept on file for at least one (1) year.

2 MCAR § 1.4601 Handling federal mail.

A. The Central Mail Section handles registered, certified, first class and all other federal incoming and outgoing mail for all buildings located in and around the Capitol Complex according to federal law and regulations cited in Title 39 of the U.S. Code.

Chapter 13 Real Estate Management

2 MCAR § 1.5001 Property acquisition. Pursuant to

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.5001

Minn. Stat. ch. 16 and specific legislative enactments, this rule shall govern the state's acquisition of real property for the operation of state government.

A. Unless otherwise provided by law, a state department or agency needing real property shall make a request in writing to the Department of Administration to acquire property, specify the property to be acquired, and indicate the source and sufficiency of funds needed for the acquisition.

B. Real Estate Management Division shall proceed with acquisition as follows:

1. The title to the property shall be examined by an attorney for the Division, whereupon a field title report shall be prepared by the Division. The field title report shall be based on information from the owner or a representative of the owner. The purpose and nature of the acquisition shall be explained to the owner at the time of the field title interview. Where there are occupied buildings involved, a relocation study shall be made to insure that displacees can be relocated without undue hardship.

2. A legal description of the property to be acquired shall be written. Where necessary, a written engineering assessment shall be obtained from the State Architect's Office.

3. The property to be acquired shall be appraised. Appraiser(s) shall be selected by the Director or the Assistant Director, and may be state employees or fee appraisers. Where fee appraisers are used, they shall be selected from a list of qualified fee appraisers, which list shall be maintained by the Division. The fee to be paid to the appraiser shall be as agreed upon between the appraiser and the Director or the Assistant Director.

4. The appraisal(s) shall be reviewed by members of the Division staff. Where the appraisal(s) are deemed satisfactory, the appraisal amount which is deemed to represent value (and damages, where applicable) shall be certified by the Director or the Assistant Director.

5. Instruments appropriate for the acquisition shall be requested from the Attorney General's Office.

6. A direct purchase offer shall be submitted to the property owner. Where possible and practical, the offer shall be submitted in person. A detailed explanation of the state's acquisition policies and of the owner's options shall be made to the owner, especially including, where applicable, a full explanation of relocation benefits available to the owner.

7. If the owner accepts the offer, the property shall be purchased. The Division shall be responsible for proper execution of instruments, closing of transaction, recording of instruments, payment to owner, relocation assistance to the owner, and removal of buildings, where applicable.

8. If the owner rejects the offer, and the legislature has directed by law that acquisition by eminent domain proceedings shall or may be pursued, the Division shall institute necessary proceedings to so acquire.

2 MCAR § 1.5101 Issuance of permits or easements across state lands. Pursuant to Minn. Stat. § 16.88, this rule shall govern the availability to the public of permits or easements to cross state-owned land other than state-owned land expressly exempted.

A. An application for a permit or an easement to cross state-owned land shall be made in compliance with Minn. Stat. § 16.88, subd. 3, to the Director, Real Estate Management Division, Department of Administration, Room G-22 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

B. The Real Estate Management Division shall grant or deny the application in accordance with the provisions of Minn. Stat. § 16.88. The applicant shall be informed in writing of granting or denial of the permit or easement. Where the application for permit or easement is denied, the applicant shall be informed of the reasons for such denial.

C. Pursuant to paragraph B above, where the application for permit or easement is granted, the permit or easement shall be granted only after agreement by the applicant to pay to the state an amount to be determined on the basis of an appraisal by the Real Estate Management Division, and to comply with all terms and conditions of the permit or easement.

D. Except where the permit or easement is clearly a benefit to the state, no permit or easement shall be granted for less than the amount of $100.00.

2 MCAR § 1.5201 Permits to search for lost property — scope and purpose. Pursuant to Minn. Stat. §§ 16.021, 16.022, and 16.023, 2 MCAR §§ 1.5201-1.5205 govern the granting of permits to search upon lands owned by the state for abandoned or lost property and disposition of abandoned or lost property found thereunder.

2 MCAR § 1.5202 Terms and conditions. Permits shall be granted upon permittee's agreement to and performance of the following terms and conditions:

A. Permittee shall indemnify and hold the State of Minnesota harmless for any claim, meritorious or otherwise, and for any causes of action regardless of their nature aris-

ing directly or indirectly out of any permittee's activities. The state shall not be liable for any damage to property of permittee or injury to permittee or invitees. The state may require purchase by the permittee of a surety bond for these purposes.

B. If in the opinion of the Director or the Assistant Director the activity to be conducted may endanger life or property, permittee shall purchase liability insurance which protects all persons and their property from injury or damage. The amount of such liability insurance shall be no less than:

Minimum coverage per person per occurrence	$100,000
Minimum coverage per occurrence	$500,000

The state of Minnesota shall be designated as sole payee in the event of loss.

C. Permittee shall obey and conform to all federal, state, and local laws, rules and ordinances.

D. Permittee shall cause no damage to any property by virtue of its activities. In the event of any damage to any state property, permittee shall immediately repair same. Failure to immediately make such repairs when advised to do so in writing by the Director or Assistant Director shall result in cancellation of permit.

E. Permittee shall conduct its activities in a manner so as not to adversely affect the environment and shall restore areas of activity to original conditions. Permittee shall remove all equipment relating to and debris resulting from permittee's activities from state land by the termination date of the permit.

F. Permittee shall limit its activities on state land to areas specified by the permit.

G. Unless otherwise specified, permits shall remain in effect for one year from effective date so long as conditions prescribed hereby and in the permit are met.

H. Permittee shall neither assign nor transfer any rights or obligations under the permit without the prior written consent of the Commissioner or his authorized designee.

J. Receipt of permit shall not constitute an exclusive grant, and the state may issue similar or identical permits for the same or overlapping areas of land.

K. The permit may be cancelled by either party at any time, with or without cause, upon thirty (30) days' written notice to the other party.

L. Unless specifically excepted for cause in the permit, all permits shall be granted with the understanding that the lost or abandoned property which is recovered from state lands shall be turned over to the Department of Administration for disposition as provided by statute. The permittee's share of the proceeds shall be agreed upon between the permittee and the state prior to issuance of the permit. The state's share shall be deposited in the general revenue fund.

2 MCAR § 1.5203 Application for permit. Applications for permits shall be made in writing to the Division to the following address:

Director
Real Estate Management Division
Department of Administration
G-22 State Administration Building
St. Paul, Minnesota 55155

Application shall include the following items:

A. applicant name, mailing address, and phone number;

B. description of proposed search;

C. written acceptance of the specified terms and conditions;

D. specification of area within which activity will take place.

2 MCAR § 1.5204 Granting of permits. Upon receipt of application, the Commissioner or designee shall undertake the following action:

A. determination as to department jurisdiction over the lands concerned in the application;

B. determination as to the necessity for liability insurance as specified in 2 MCAR § 1.5202 A. and B.;

C. preparation of a written agreement between the state and the applicant;

D. submission of permit (written agreement) for review and signature by Department of Finance and Attorney General.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.5204

Upon execution of the written agreement, the permit shall be in effect under the terms and conditions thereof.

2 MCAR § 1.5205 Disposition of found property. Upon discovery of lost or abandoned property, permittee shall, within thirty (30) days of discovery, place such property at the disposal of the Commissioner. The Commissioner or designee shall determine the method and location of maintenance and storage of property. Property will be disposed of under the procedure specified by Minn. Stat. § 16.022. Upon disposition, the Commissioner or designee shall, in a timely manner, authorize payment to the finder the share due him under the terms and conditions of the permit.

2 MCAR § 1.5301 Property leasing (where state is lessor). Pursuant to Minn. Stat. § 16.02, subd. 14, this rule governs the leasing out of state owned real property which is temporarily not needed by the state.

A. All persons wishing to be notified of the availability for leasing of state-owned property shall request in writing such notification. Requests shall be sent to:

Director
Real Estate Management Division
Department of Administration
G-22 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

A list of persons having requested such notification shall be maintained by the Real Estate Management Division. The list shall indicate the particular area in the state and the type of property (i.e., farm, office, etc.) the interested party has expressed an interest in. Notice shall be sent to all appropriate parties on the list when state-owned property is leased out.

B. At least fifteen (15) calendar days prior to the bid return deadline, bid solicitations shall be mailed to appropriate parties who have requested notification of the availability of property for leasing. In addition to mailing of bid solicitation to all parties known to have an interest in leasing the property, the Department of Administration may, where circumstances merit, advertise the property for lease in a newspaper having general circulation in the area in which the property to be leased is located. The property shall be leased to the highest responsible bidder, consistent with the State's intended use and management of the property. The Department expressly reserves the right to reject any or all bids or to waive informalities therein.

C. Competitive bidding shall not be used when the Commissioner or designee determines that one or more of the following circumstances exist.

1. There is only one interested party that can feasibly use the property.

2. Factors other than bid price, such as maintenance of the property, are paramount.

3. The contemplated rental term is of short duration.

4. Other governmental entities have expressed the desire to lease the property.

5. Factors exist which make the taking of competitive bids impractical or not in the best interest of the State of Minnesota.

Chapter 14 Records Management

2 MCAR § 1.5501 Scope and purpose. Pursuant to Minn. Stat. § 138.17, these procedures govern the records management practices of all state agencies.

2 MCAR § 1.5502 Definitions. For 2 MCAR §§ 1.5501-1.5901, the following terms shall have the meaning given them unless clearly indicated otherwise by the context:

A. "Agency" means any agency of state government identified in Minn. Stat. § 138.17, subds. 1 and 7, entitled to request services from the records management division and for which the Commissioner of Administration may authorize or require records management services.

B. "Archival quality" means that the medium on which the record is recorded has a lasting property with regenerative capability of at least 100 years and that data contained thereon will be readable, whether by human eye or by machine (as in microfilm), for that period.

C. "Authorized person" means an agency employee whose name has been submitted in writing by the agency head as one who is entitled to retrieve records or information from records which belong to that specific agency and which are stored in the State Record Center.

D. "Commissioner" means the Commissioner of Administration.

E. "Consultative services" means the giving of professional advice regarding records management practices which are not required under these rules. Examples of consultative services include assisting in establishing an office filing system, assisting in the design of a new form, providing guidance in taking inventory of an agency's file series.

F. "Director" means director of Records Management Division, Department of Administration.

G. "File", also referred as a "file unit", is a sequence of documents relating to one subject or transaction.

H. "File series" refers to a group of files, or file units, kept together because they relate to a particular subject, function, or transaction, or because they are similar/identical physical characteristics. A file series has a beginning and an end and is arranged systematically.

I. "Form" means a paper, film, film overlay, or computerized format containing information, printed or reproduced by whatever means, with blank spaces left for the entry of additional information. Forms include temporary as well as permanent versions; numbered as well as unnumbered versions, those purchased from vendors as well as those reproduced internally by office duplicating equipment; those used in small as well as large quantities, tags, handdrawn, special use, and one-time-use items. Form letters which have blank spaces left for additional entry of data (except for addressee's name, address, and the date) are forms.

J. "Forms management program" means the specific set of procedures, principles and techniques which are designed to manage the forms inventory system and to improve the effectiveness of official government forms.

K. "Microfilm" means the reproduction onto film in a reduced size of records originally created on paper, photographic plates, magnetic tapes, or other means, or copies thereof.

L. "Micrographics" means all activities which produce microfilm, including, but not limited to, systems design, filming, processing, duplicating and testing for archival quality.

M. "Records" means "state records" as that term is defined in Minn. Stat. § 138.17, subd. 1.

N. "Records disposition panel" means the body established pursuant to Minn. Stat. § 138.17, subd. 1.

O. "Records management" means the application of efficient and economical methods to the creation, utilization, maintenance, retention, preservation, and disposal of official state records pursuant to a program established under these rules. It involves developing standards, procedures, and techniques for managing the longevity of records; and includes implementing controls over office filing equipment, scheduling records for disposition, administering records storage, documenting those benefits accruing from the program, and undertaking surveys and audits of disposal operations where implementation has taken place.

P. "Records Management Division" means the division of the Department of Administration designated by the Commissioner to fulfill the responsibilities described in Minn. Stat. § 138.17 and the procedures set forth in these rules. The division is located at Room 100, Nalpak Building, 333 Sibley Street, St. Paul, Minnesota 55155.

Q. "Records management services" are those services provided by the Records Management Division. Services are of two types: consultative and required. Consultative services (see Section E of this rule) are discretionary and are available from Records Management Division upon request by an agency head or designee. Required services (Section S of this rule) are not discretionary and shall be requested from the Records Management Division by the agency head or designee.

R. "Records retention and disposition schedule" means a listing of all approved file series and their respective retention periods and a description of the method, manner, dates and events which govern the disposition of each file series.

S. "Required services" are those records management procedures, standards and policies which agencies shall request and utilize when creating, installing, and maintaining a records management program. Examples of required records management services are inventorying and controlling state agency forms; developing and implementing records retention and disposition schedules; storing and retrieving records from the state records center; and microfilming records.

T. "State Archives" is an administrative unit of Minnesota Historical Society headed by the State Archivist.

U. "State forms" are forms which are listed on the state-wide forms inventory system operated by the Records Management division, Department of Administration, for state of Minnesota agencies.

V. "State Records Center" means the facility which provides for planned retention of inactive records and for orderly and timely disposition of records. The purpose of the State Records Center is to make available low cost, safe storage space for inactive records of agencies of state government as defined in Minn. Stat. § 138.17, subd. 1. The

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.5502

State Records Center is under the supervision of the Director of the Records Management Division.

2 MCAR § 1.5503 Exceptions. These rules shall not apply to the exceptions cited in Minn. Stat. § 138.17, subds. 1 and 3.

2 MCAR § 1.5504 Records management services and requirements. Consultative services shall be provided upon request within the limitation of the Records Management Division's personnel and funding. Agencies shall request records management required services when implementing a records retention and disposition schedule, issuing a new or revised form, cancelling a form, developing or modifying a microfilm system, and/or engaging in any other required records management program which may be identified in the future.

A. Agencies shall submit written requests for records management services to the Director, Records Management Division, at the previously noted address. All written requests shall be made on application forms provided by Records Management Division Office. Application forms are available from the previously noted address.

B. Within a reasonable time period after receipt of a request by the Records Management Division, the agency shall be informed of the following:

1. the records management project number assigned to the request; and

2. the approximate date when request will receive first action.

2 MCAR § 1.5601 Records retention and disposition schedules. State agencies shall have established records retention and disposition schedules for their records by July 1, 1989. The following procedures shall be followed:

A. Agencies shall apply for records retention and disposition schedules on forms provided by the Records Management Division and shall complete the forms according to instructions.

1. Agencies shall list:

a. proposed retention periods for each file series for each location in which that series may be stored, such as office storage, department storage facilities, state records center storage, regional storage facility; final disposition period or date shall be included for each file series;

b. statutory requirements, and rules and regulation requirements which affect retention periods shall be listed.

2. The head of the applying agency, or designee, shall sign the application for records retention schedule and forward the request form to the Director, Records Management Division, at the previously noted address.

3. The Director shall review the agency's completed application for retention schedule for completeness, and compliance with Minnesota Statutes and applicable rules requirements.

B. The Director shall forward the application to the State Archivist, who, as representative of the Director of the Minnesota Historical Society on the records disposition panel, shall act on the application for records retention and disposition schedule and shall present it to the other panel members for action.

C. Upon making its determination, the records disposition panel shall return the application, and the panel's written recommendation, for retention schedule to the Director.

D. The Director shall record the official records retention schedule for the applying agency and notify in writing the applying agency of the status of its application.

E. The Director shall notify the agency and the State Archivist not less than 90 days in advance of the next disposition date(s) as designated on the agency's approved schedule.

F. Agencies disposing of records under an approved records retention and disposition schedule shall notify the Director and the State Archivist identifying each file series of records which has been destroyed or delivered to the State Archives, Minnesota Historical Society.

2 MCAR § 1.5701 The State Records Center.

A. The following shall be completed as satisfied prior to the transfer of files to the State Records Center:

1. Records retention schedule shall be approved or shall be in a pending approval status pursuant to 2 MCAR § 1.5601.

2. Records scheduled for destruction in less than one year shall not be transferred to the State Records Center unless the applying agency is moving its quarters or is being dissolved.

3. The Records Center shall not be required to maintain records in paper form for more than 10 years. Records which must be kept for any period greater than 10 years shall be stored in the State Records Center on microfilm which has been tested by the Minnesota Historical Society for archival quality. Records so microfilmed and tested shall be considered original documents.

4. Prior to the transfer of records, a written agreement shall be completed between the transferring agency and the State Records Center reflecting the following: transfer intervals, liability for providing proper identification of persons authorized to retrieve records and/or information from records, procedures for retrieval, and other necessary documentation as each specific transfer may require.

5. Service to nonstate agencies shall be provided by the State Records Center staff within limitations of personnel and fiscal resources.

B. Transferring records to the State Records Center.

1. Ownership of records. Records transferred to the State Records Center shall remain in the legal custody of the owning agency.

a. The staff of the State Records Center shall not be authorized to accept a subpoena for release of any records or for information from any records.

b. Records shall be released only on the authority of the owning agency and only to those persons previously identified in writing by the agency head, or designee, as being authorized to receive either records or information from records stored in the State Records Center.

(1) Agency heads shall annually, upon a date determined by the Director, file with the Records Management Division, a list of names, signatures, titles, telephone numbers, and addresses of persons authorized to obtain records or information from the agencies' stored records. The Director shall assign an authorization number to each authorized person and notify each of his/her assigned number.

(2) Each authorized person making a record or information-from-records request by telephone shall use his/her authorization number as means of identification. Records Center staff shall verify the authorization number prior to releasing records or information from records.

(3) When necessary, amendments to the list of authorized persons, together with sample signatures, shall be submitted in writing by the agency head or designee to the Director.

(4) State Records Center staff members shall not release records or information from records belonging to one agency to employees of another agency.

c. The State Records Center, as the physical custodian of the records, shall take reasonable steps to protect records in order to prevent unauthorized access; misuse of records; and fire, water or other damage due to dust or an unclean environment.

2. Preparation of records procedures.

a. The sending agency shall remove rubber binders, three-ring binders and paper clips from the records to be transferred, and pack said records into standard storage boxes in such a manner that boxes are not unreasonably full and that all records stored in one box have the same retention and disposition schedule.

b. Records to be transferred to the State Records Center shall be enclosed in labeled standard manilla file folders. Files which have been previously stored in hanging-type folders must be transferred to the labeled manilla file folders before packing in storage boxes. Recycled manilla folders may be used for this purpose providing the previous label is obliterated and the appropriate folder label is clearly visible.

c. Agency shall complete the transfer form in triplicate and prepare one label for each storage box. In the event of use of preprinted boxes, agencies shall properly complete the label information on each box. Transfer forms and labels shall be provided by the State Records Center at the previously noted address.

d. Owning agencies shall notify the Director of the number of boxes to be transferred. Said agencies shall arrange for delivery of records to and return of records from the State Records Center.

e. The owning agency shall keep one copy of the transfer forms and send two copies to the Director.

f. The State Records Center shall index the storage boxes to indicate the shelf location and shall duplicate this information on the transfer forms. State Records Center shall return a copy of the completed transfer form to the agency.

C. Retrieving records and information from records.

1. Records and information from records shall be available upon request subject to provisions of subd. B. 1. of this rule.

2. The request shall include the following in addition to the identification requirements of subd. B. 1. of this rule:

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.5701

a. a reference to the transfer form; and

b. the shelf and box location of the desired record.

3. The State Records Center shall retrieve the requested record or information from a record, prepare a charge-out card if the record is to be removed from the Center, and forward the record/information from the records to the owning agency within a reasonable period after receiving the request.

D. Disposition of records by the State Records Center.

1. All records transferred to the State Records Center shall have retention and disposition schedules.

2. Disposition procedures for records transferred to the Records Center after the effective date of these rules are as follows:

a. State Records Center staff shall notify the owning agency in writing at least 90 days prior to the date that the disposition of said records will take place.

b. State Records Center staff shall send a duplicate copy of the notice to the records disposition panel.

c. If owning agency head chooses not to prevent the disposition of the records, said agency head shall signify approval of the planned disposition on the notice and return it to the Director no later than 30 calendar days prior to the disposition date.

d. If agency head wishes to prevent the disposition of the records, it shall be so signified on the notice indicating the additional time period the records shall be kept and the notice returned to the Director no later than 30 calendar days prior to the proposed disposition date.

e. If the records disposition panel chooses to authorize the disposition of the records, the panel shall signify approval of the planned disposition on the duplicate notice and return it to the Director no later than 30 calendar days prior to the proposed disposition date.

f. If the records disposition panel wishes to prevent the disposition of the records, the panel shall so signify on the duplicate notice indicating the additional time period the records shall be kept and return it to the Director no later than 30 calendar days prior to the proposed disposition date.

g. The Director shall follow the instructions of the agency head, or designee, and the records disposition panel. If either body had indicated that the records are not to be destroyed, the Director shall hold the records until the next agreed-upon disposition date.

(1) Upon receipt of notice not approving the disposition, the Director shall notify all parties in writing that the disposition has been postponed either indefinitely, or until the next scheduled disposition date.

(2) If both the agency head and the records disposition panel agree to dispose of the records, the Director shall either destroy the records or send them to the Minnesota Historical Society, according to prior records disposition panel determination.

3. Disposition procedures for records transferred to the Records Center prior to the effective date of these rules are as follows:

a. The owning agency shall request an application for authority to dispose of records from the Director at the previously noted address.

b. The owning agency shall complete the application form for authority to dispose of records in triplicate according to instructions on the face of the form and forward it to the Director. All applications for authority to dispose of records shall be signed by the agency head or designee. The Director shall review the application for completeness and forward it to the State Archivist. The State Archivist, acting for the Director of the Minnesota Historical Society as a member of the records disposition panel, shall bring the application for authority to dispose of records to the attention of the members of the records disposition panel.

c. As stated in Minn. Stat. § 138.17, subd. 1, the records disposition panel's written determination to approve the request to dispose of records must be unanimous. The State Archivist shall notify in writing the Director by sending two copies of the approved application.

d. Upon receipt of the approved application, the Director shall notify the owning agency, in writing, and shall proceed to dispose of the records.

e. If the records disposition panel's determination is not to approve the request to dispose of records, the State Archivist shall, in writing, so inform the Director, who shall in turn notify in writing the owning agency.

2 MCAR § 1.5801 Forms inventory system. This rule applies only to state agencies as defined in Minn. Stat. § 138.17, subd. 1.

A. State forms are those which state agencies originate and distribute to other state agencies, to other units of government, to the general public or specific portions thereof, or are used internally by the originating agency. All such forms shall be listed on the state's automated forms inventory system.

B. In the instances where a state agency is formed after these rules become effective, the head of the new agency, or designee, shall request the Forms Inventory Supervisor, Records Management Division, to assist in the development and implementation of a forms management program for the new agency. Request for assistance shall be made by completing an application for records management services available from the Records Management Division at the previously noted address.

2 MCAR § 1.5901 Micrographics services. The following procedures shall apply to all agencies which use micrographics services:

A. Agencies of local government may use the services of the state's central micrographics laboratory.

B. State agencies planning to microfilm documents shall obtain micrographics services from the state's centralized micrographics services section by completing an application for records management services provided by the Records Management Division and available at the previously noted address.

C. Any agency using the micrographics production services shall be charged for all costs involved in said production. Fee schedules for such charges shall be set by the Commissioner of Administration and approved by the Department of Finance and shall take into consideration normal business factors such as overhead, production costs, labor depreciation, and capital investment.

D. Micrographics services section shall provide the owning agency with estimated costs prior to production.

E. All microfilm produced by the state central micrographics laboratory shall be of archival quality. It shall be stored in an air-filtered, fireproof area where the temperature and humidity are held constant at approximately 70°F and at 40% or less relative humidity. Microfilm output shall be routinely tested by the Minnesota Historical Society to insure that the following minimum standards are met.

1. Residual thiosulfate: must not exceed 0.7 micrograms per square centimeter. Testing shall be done within 2 weeks of processing.

2. Background density (document contrast), acceptable limits: 0.80 minimum to 1.40 maximum.

3. Base plus fog density (film contrast): must not exceed .11.

4. Resolution (legibility): must be 90 lines per millimeter or higher for 16 mm film; 100 lines per millimeter or higher for 35 mm and 105 mm film.

5. Microfilm shall also be examined for clarity and completeness of image, film spotting or damage, splices, and other factors affecting film quality.

Chapter 15 Telecommunications

2 MCAR § 1.6001 Scope and purpose. Pursuant to Minn. Stat. § 16.02, subd. 2.a., these rules govern the procedures relating to the application by governmental bodies for sublease of TELPAK services from the Telecommunications Division, Department of Administration, G-4 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2 MCAR § 1.6002 Definitions.

A. For the purposes of 2 MCAR §§ 1.6001-1.6005, the terms defined herein shall have the meanings given them, unless clearly indicated otherwise by the context.

1. "TELPAK" means intercity private telephone circuit groups leased by the Telecommunications Division of the Department of Administration from any source including a common carrier, specialized common carrier, or the federal government.

2. "Governmental Body" means any unit, agency, or political subdivision of state or local government.

2 MCAR § 1.6003 Application for sublease.

A. Any governmental body may apply for subleasing TELPAK in accordance with applicable tariffs. Applications shall be made in writing to:

Telecommunications Division
Department of Administration
G-4 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

B. The application shall include the following:

1. name and address of governmental body applying for use of TELPAK service;

2. name, address, and telephone number of applicant's representative who will administer the lease;

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.6003

3. name and address for billing of charges;

4. termination points and intended use of TELPAK circuits requested.

2 MCAR § 1.6004 Application approval.

A. Applications shall be approved or rejected based on the availability of unused circuits and projections of state needs. No obligation exists on the part of the state to sublease any requested TELPAK.

B. All applicants shall be notified within a reasonable time in writing of the disposition of their application.

2 MCAR § 1.6005 Fees and conditions.

A. Fees shall be established with the approval of the Commissioner of Finance and shall be based on TELPAK cost to the Telecommunications Division and administrative overhead costs. Fees shall be changed as the above-noted cost factors change.

B. In addition to the terms of individual leases, the following general terms shall apply to all leased TELPAK.

1. The Telecommunications Division or the user may terminate the sublease on thirty (30) day written notice to the other party.

2. The Telecommunications Division assumes no liability for any service interruptions or other damage suffered by lessee as a result of TELPAK use.

Chapter 3 State Building Code Division

2 MCAR § 1.10001 Purpose.

A. These rules govern responsibilities undertaken pursuant to Minn. Stat. §§ 16.83 through 16.867. They relate to administration and enforcement of the State Building Code and the requirements for certification and continuing education of municipal building officials.

2 MCAR § 1.10002 Definitions.

A. The terms used in rules 2 MCAR § 1.10001 through 2 MCAR § 1.10010 shall have the following meanings:

1. "Building Official" means the municipal building code administrative authority certified pursuant to Minn. Stat. § 15.861, subds. 2 and 3.

2. "Code" means the State Building Code pursuant to Minn. Stat. § 16.84, subd. 4.

3. "Commissioner" means Commissioner of Administration.

4. "Municipality" means an entity as described in Minn. Stat. § 16.84, subd. 3.

5. "State Building Inspector" means the person who, under the direction and supervision of the Commissioner, administers the State Building Code. State Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

2 MCAR § 1.10003 Code adoption and amendments.

A. Pursuant to Minn. Stat. § 16.85, the code is adopted and periodically updated to include current editions of national model codes in general use and existing statewide specialty codes and amendments thereto.

B. Pursuant to Minn. Stat. § 16.86, subd. 6, amendments to the code may be proposed and initiated by any interested person, by the Building Code Standards Committee, or by subcommittees thereof.

1. Proposed amendments shall be submitted in writing on a form provided by the Commissioner.

2 MCAR § 1.10004 Application for appeal.

A. Pursuant to Minn. Stat. § 16.863 any person aggrieved by the final determination of any municipality as to the application of the code may, within 30 working days of said decision, appeal to the Commissioner. The appeal shall be accompanied by a cashiers check, certified check, money order, or equivalent, payable in the amount of $20 to the "Commissioner of Administration."

B. The request for appeal shall contain the following:

1. name and address of applicant appealing the decision;

2. attorney representing applicant, if any;

3. municipality information, including name of municipality, building official, local appeal board composition and the chairman's name;

4. property description, including address of property involved;

5. description of structure, including occupancy, size, construction type;

6. a copy of the municipality's written decision;

7. specific nature of appeal, including but not limited to the following:

a. code section(s) which are applicable to the specific question;

b. code section(s) that may indirectly apply;

c. listing of issues involved;

8. any other relevant information requested in writing by the Commissioner.

C. The Commissioner shall arrange for the State Hearing Examiner's Office to conduct a hearing on said appeal pursuant to Minn. Stat. § 15.0418 through 15.0426.

D. Copies of all final determinations of the Commissioner shall be sent to the appellant and the municipality involved or the attorney representing the appellant or municipality.

2 MCAR § 1.10005 State surcharge fees. All municipal permits issued for work pursuant to the State Building Code shall be subject to a surcharge fee. Said fees are established by Minn. Stat. § 16.866. Reports and remittances by municipalities shall be filed with the Commissioner.

A. All surcharge fees imposed by the state shall be in addition to municipal permit fees.

B. Surcharge report forms and information may be obtained by writing the Commissioner to the attention of the State Building Inspector.

2 MCAR § 1.10006 State Building Code information and assistance. Any building code information or assistance may be obtained by contacting the State Building Inspector in writing or by telephone.

2 MCAR § 1.10007 Education and training. Within limitations of personnel and funds the State Building Inspector shall provide training programs for municipal building officials, legislative bodies, administrative staff persons, design professionals, construction industry and the general public.

A. Information concerning training program availability may be obtained from the State Building Inspector by written or telephone inquiry.

2 MCAR § 1.10008 Building official certification. This rule establishes procedures for certification of building officials, establishes prerequisites for persons applying to be certified by examination, establishes two classes of certification, and requires continuing education to maintain certification.

A. All building officials shall be certified in one of the following:

1. Class I certification shall permit building code administration limited to evaluation and inspection of one and two family dwellings and their accessory structures.

2. Class II certification shall permit building code administration including evaluation and inspection of all buildings and structures within the scope of the Code.

B. Before making application for Class I certification each individual shall meet the following prerequisites:

1. 3 years experience in any of the skilled construction trades; or

2. 3 years experience in complete design of 1 and 2 family dwellings and accessory buildings thereto; or

3. 2 years experience in municipal building construction inspection; or

4. 24 credits in Building Inspection Technology program in a community college system, plus one year experience in subdivisions one, two, or three of this section; Building Inspection Technology courses must include courses in Field Inspection, Plan Review Non-structural, Plan Review Structural, Administration, Building Codes and Standards and Energy Conservation; or

5. International Conference of Building Officials certification in building inspection, plus one year experience in one, two, or three of this section; or

6. 2 years in post high school construction oriented architectural or engineering courses, plus one year experience in one, two, or three of this section.

C. Before making application for Class II certification, each individual shall meet the following prerequisites:

1. 5 years experience in one or a combination of the prerequisites described in subdivisions one, two, or three of section B of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required five years experience; or

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.10008

2. 24 credits in Building Inspection Technology program in a community college system, plus three years experience in one, or a combination of prerequisites described in one, two, or three of section B of this rule, and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

3. International Conference of Building Officials certification in building inspection; and 3 years experience in one or a combination of prerequisites described in one, two or three of section B of this rule; and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience; or

4. 2 years in a post high school course in construction or construction oriented, architectural or engineering courses plus three years experience in one, or a combination of prerequisites described in one, two, or three of section B of this rule, and two years of general construction supervision or building code administration experience which may be concurrent with the required three years experience.

D. Each person seeking certification as a building official shall submit a completed application to the State Building Inspector with a $20 fee payable to the State of Minnesota on application forms provided by the Commissioner.

1. The State Building Inspector shall review applications for compliance with prerequisites set forth in sections B and C of this rule.

2. The State Building Inspector shall forward the application to the State Department of Personnel for testing if the prerequisites set forth in sections B and C of this rule are satisfied.

E. The examination shall be both written and oral. The writen test shall be given by the State Department of Personnel pursuant to the rules of that department and the following:

1. If the applicant fails the written test, or fails to appear, the applicant shall be permitted to retake the written portion or be scheduled for a second administration following 30 calendar days after test results notification.

2. If the applicant fails the written portion a second time, or fails to appear for a second scheduled administration, the applicant shall wait six months and then may resubmit application pursuant to section D of this rule.

F. An applicant shall be permitted to take the oral examination after successfully passing the written test.

1. The State Building Inspector shall schedule an oral examination for the applicant.

2. If the applicant fails to pass the oral examination, the applicant may apply to retake it. Such reapplication shall be made in writing to the State Building Inspector.

3. If the applicant fails to pass the oral examination after two opportunities, the applicant must wait six months before reapplying to take the written and oral examination.

4. A letter, stating reason for failure, shall be sent to applicants who fail the oral examination.

5. If the applicant successfully completes the total examination, a certificate of certification shall be issued.

G. Oral Examination Board. The Board for Oral Examination shall be comprised of four people selected by the Commissioner. The composition of the board shall be two certified building officials, a representative of a municipal administrative staff, and a representative of the State Building Code Division staff.

H. Maintenance of certification.

1. Effective January 1, 1979, each person certified as a state building official by the testing procedures of the State of Minnesota shall satisfactorily complete 18 units of instruction in applicable educational programs within each three calendar year period. Evidence of compliance with educational program requirements shall be submitted in accordance with section I of this rule.

2. The applicable education programs shall deal with matters of building code administration and enforcement of codes used in the State of Minnesota.

3. Of the 18 required units, 10 units shall be obtained by attending two Minnesota Annual Building Official Institutes and four one-day seminars offered by the State Building Inspector, within the prescribed three year period. The remaining eight units may be obtained by participation in the programs as listed in subdivision 4 of this section.

4. Each unit of instruction will be determined in the following manner:

a. Annual Building Officials Institute (1 unit per day).

b. State Building Code Division seminars (1 unit per day).

c. International Conference of Building Officials training programs (1 unit per day).

d. North Star Chapter of ICBO meetings (1/3 unit per meeting).

e. Regional Building Officials meetings (1/3 unit per meeting).

f. Community College courses (Building Inspection Technology) (1 unit per credit earned).

g. Vocational Technical training institutes (Construction oriented courses) (1 unit per course).

h. Continuing Education Units (CEU's) (Construction or inspection related courses) (1 unit per CEU).

i. Courses offered by other states, correspondence schools, universities, and institutes of learning offering building code related courses shall be considered on an individual basis. Each applicant shall prearrange for unit approval from the Division. Unit determination shall be based on the value of units granted for a like offering in items a through h in this subdivision of this rule.

I. Renewal of certification.

1. Effective January 1, 1979, each person certified as a state building official, by the testing procedures of the State of Minnesota, shall submit in writing to the State Building Inspector an application for renewal of his certification within 60 days of the last day of the third calendar year period following the last certificate issued. For persons certified by the testing procedure prior to January 1, 1979, the first three year period shall begin January 1, 1979.

2. A renewal fee of $10.00 shall be paid, at time of application, to the State of Minnesota.

3. The application shall be on a form furnished by the State Building Inspector and shall include evidence of the required educational units as described in section H of this rule.

4. Any person not complying with the requirements of this section shall be notified in writing by the State Building Inspector of the expiration of the individual's certification as a state building official.

5. Any person's certification which expires for noncompliance with the requirements of this rule may apply for recertification by the testing procedures described in this rule.

2 MCAR § 1.10009 Removal from office and revocation of certification. Pursuant to Minn. Stat. § 16.861, subd. 5, upon notice and hearing, a building official may be removed from office and his certification shall be revoked, when competent evidence substantiated by the State Building Inspector is submitted to the Commissioner indicating that a building official has consistently failed to act in the public interest in performance of his duties. A hearing shall be held pursuant to the provisions of Chapter 15 governing contested case proceedings.

2 MCAR § 1.10010 Plan review function. Within the limitations of personnel and funds, or as required by law the State Building Inspector shall review plans, specifications, and related documents for compliance with the code.

A. Types of plan review include:

1. plans of buildings required to be submitted to any state agency include, but are not limited to:

a. state-owned buildings;

b. buildings licensed by state agencies;

c. buildings financed in whole or in part by state funds;

2. manufactured buildings in which all elements of the total assembly cannot be visually inspected on site;

3. plans submitted by municipal inspection departments for review.

B. Content of plan review.

1. The plan review function, for structures in section A.1. and A.3. of this rule, applies to nonstructural code requirements. The structural portion of a plan shall be reviewed to determine that the professional engineer has considered the minimum loading requirements of the code, but shall not include review for accuracy of structural design and calculations.

2. The plan review function for section A.2. structures applies to all aspects of code application and shall be marked approved by the State Building Inspector.

C. For plan review the following material shall be submitted.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.10010

1. One set of plans, specifications, and other relevant documents necessary to evidence code compliance, together with a transmittal letter, shall be sent to the State Building Inspector, State Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101. Manufactured building submittals shall include two sets of plans, specifications, and other relevant documents.

D. The State Building Inspector shall review submittals and forward written comments on items not in compliance with the code. The letter shall be mailed to the following:

1. municipal building official;

2. designer of plans and specifications;

3. state agencies involved, if applicable.

D. Fees.

1. No fee shall be charged for the review of submittals listed in section A.1. of this rule.

2. Fees shall be charged for review of plans submitted as described in sections A.2. and A.3. of this rule.

3. Fees shall be as required in State Building Code 111.

Existing rules of the Building Code Division are amended to read as follows:

SBC 320 Seals. Each manufactured building or system manufactured pursuant to the Code shall have permanently attached thereto in a visible location as shown on the approved plans, a state seal evidencing the State Building Inspector's approval of such building, component or system. No seals shall be issued prior to plan approval for buildings to which the seals are to be affixed. Application for seals shall be made in writing and accompanied by the appropriate fee in accordance with SBC 335.

SBC 326 Plan approval procedures. A plan approval shall be obtained from the State Building Inspector or the evaluation agency for manufactured buildings and systems. Such approvals are mandatory for all closed construction. Approval for open construction is optional to the manufacturer. Plan approval application shall be made to the State Building Inspector in accordance with SBC 335 and shall include, but not be limited to the following:

~~(a)~~ A. Applications, plans, specifications and other documentation shall be submitted in sufficient copies as required.

~~(b)~~ B. Applications shall be made in letter form.

~~(c)~~ C. All documentations and plans shall indicate the manufacturer's name, office address, and address of manufacturing facility.

~~(d)~~ D. A quality control manual prepared by the manufacturer shall be submitted.

1. Where the manufacturer elects to have each building or system produced individually inspected, a quality control manual need not be submitted.

~~(e)~~ E. Manufacturers shall submit plans showing all elements relating to specific systems on sheet(s) properly identifiable.

~~(f)~~ F. Each plan shall bear the signature and seal of an approved registered architect or professional engineer where required.

~~(g)~~ G. The plan shall indicate the method of evaluation and inspection for all required on-site testing of the system.

~~(h)~~ H. Plans shall designate all work to be performed on site, including connections of all systems, equipment and appliances and all work performed in the plant.

~~(i)~~ I. A 3″ × 4″ clear rectangular space shall be provided on all sheets of plans near the title box for the stamp of approval.

~~(j)~~ J. The design of plumbing, electrical, heating and mechanical systems or any structural design or method of construction and data shall be in accordance with the State Building Code.

~~(k)~~ K. Grade, quality and identification of all materials shall be specified.

~~(l)~~ L. Design calculations and test reports shall be submitted when required.

~~(m)~~ M. Plans shall be drawn to scale.

~~(n)~~ N. Plans shall indicate the location of the approved seal and data plate.

SBC 335 Fees and applications. All fees shall be:

~~(a)~~ A. in the form of checks or money orders;

~~(b)~~ B. payable to Minnesota State Treasurer;

~~(c)~~ C. addressed to:

State of Minnesota
Department of Administration
Building Code Division
408 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

~~(d)~~ D. Seal Fee, ten dollars ($10.00) per Seal. Replacement seals, one dollar and fifty cents ($1.50) per Seal.

~~(e)~~ E. For all other work performed by the Building Code Division such as, but not limited to: the review of plans, specifications, and independent agency reports, inspection and quality control evaluation, a fee of fifteen dollars ($15.00) per man hour shall be charged.

~~(f)~~ F. Travel expense shall be charged at the rates established for state employees by the Commissioner of ~~Administration~~ Personnel.

Chapter 16 Procurement

All existing rules presently promulgated, adopted, and published as 2 MCAR § 1, and entitled "Admin. 91: Eligibility for the Small Business Procurement Act," are proposed to be repealed as follows and to be replaced by 2 MCAR §§ 1.6701-1.6704.

~~Admin. 91 Eligibility for the Small Business Procurement Act~~

~~(a) Eligibility for the set aside of 10% of the State Procurement budget shall include small businesses organized for profit with their principal place of business in Minnesota.~~

~~(1) Eligibility shall include individuals, partnerships, corporations, joint ventures, associations and cooperatives.~~

~~(2) The business cannot be dominant or an affiliate or subsidiary of a business that is dominant in its field of operation.~~

~~(3) A manufacturing business must employ 100 or less persons and have less than $15,000,000 in total gross receipts in the 3 year period preceding the application.~~

~~(4) A general construction business must have less than $6,000,000 in total gross receipts in the 3-year period preceding the application.~~

~~(5) A specialty construction business must have less than $3,000,000 in total gross receipts in the 3-year period preceding the application.~~

SBC 335

~~(6) A non-manufacturing business must employ 25 or less persons and have less than $3,000,000 in total gross receipts in 3-year period preceding the application.~~

~~(7) An affiliate or subsidiary of a business dominant in its field of operation may be eligible if it retains at least 80% self-ownership.~~

~~(b) Eligibility for 10% of 10% set aside program.~~

~~(1) Eligibility shall include small businesses owned and operated by socially or economically disadvantaged persons.~~

~~(aa) Such disadvantage may be caused by cultural, social or economic circumstances or background, or by location in an area with surplus labor as declared by the U.S. Department of Commerce or other related causes.~~

~~(c) Self Certification of Eligibility~~

~~(1) To become eligible to receive invitations for bids each small business shall complete, certify and file with the Division of Procurement form Admin. 527A or 527B.~~

~~(aa) The form shall provide for designation as a small business and/or as an economically or socially disadvantaged person.~~

~~(i) Designation shall be made as to the type of business operated and the kinds of services, materials or supplies which can be delivered.~~

~~(ii) Designation shall be made if the business is an affiliate or subsidiary of dominant business.~~

~~(2) To assist in verification of the Self-Certification the Commissioner of Administration may require each business to submit a copy of its income statement for the three preceding fiscal years as well as a statement of the number of employees.~~

~~(aa) If a business does not have three years' experience, the date the business was organized and a current income statement shall be submitted.~~

~~(3) Each business shall complete and file an application for a certificate of compliance with the Department of Human Rights (form DHR 31) if it has not already filed one.~~

~~(d) Lists of eligible small businesses to be established.~~

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

SBC 335

(1) Based on filing of Admin. form 527A or 527B, businesses shall be coded to show those eligible as socially or economically disadvantaged persons.

(aa) By types of business, manufacturing, general or special construction and non-manufacturing, and

(bb) By types of services, materials, goods and supplies.

(2) Statistical information shall be prepared for the annual report to the Governor and Legislature as required by Laws

(e) Establishment of set-aside.

(1) After reviewing the capabilities of the small businesses and matching this with estimated needs:

(aa) At least 10% of the estimated procurement dollars for the fiscal year will be allocated and set aside for this program.

(bb) At least 10% of the dollar figure computed in (aa) will be allocated and set aside for purchases from socially or economically disadvantaged persons.

(2) When a requisition is received by the Division of Procurement:

(aa) It shall determine if the required goods, services or construction can be provided by small businesses or socially or economically disadvantaged persons.

(i) If it is a set aside purchase, first attempt at purchase will be made from a socially or economically disadvantaged person.

(ii) When feasible, competive bids shall be obtained; if not, a price may be negotiated.

(bb) For all such requisitions the Division of Procurement will establish an estimated price for the goods or services.

(cc) No award will be made when the low bid or the negotiated price is more than 5% over the estimated price.

(dd) Acceptable bids shall be recorded and the award made to the lowest acceptable bidder.

(ee) Where there are no acceptable bids, unsatisfactory bids will be recorded and the contract will be rebid under normal procurement procedures.

(ff) If an acceptable bid is recieved under normal procurement procedures, cost or price will be recorded for report purposes.

(f) Problem Areas

(1) A business which is offered an award but finds it cannot produce, supply or construct according to the bid terms and conditions shall, within seven (7) calendar days after receipt of notice as low bidder, notify the Division of Procurement of the reasons therefor.

(aa) In such cases, the Department of Economic Development shall be notified by the Division of Procurement so that they can assist the small business in attempting to remedy the causes of the inability to perform.

(2) Failure to enter into contract or accept an offered award will not automatically disqualify a business from further bidding or negotiation.

(aa) The records shall show the reason for such failure:

(3) Failure to satisfactorily complete and meet the terms and conditions of a bid after a contract or award has been made and accepted will disqualify a business from further bidding or negotiation until assurance of ability to perform is provided, documenting the corrections made to assure performance of future contracts.

(g) Miscellaneous

(1) The Commissioner of Administration may divide bid invitations by dollar amounts, units of production, or duration of contract to facilitate awarding contracts to businesses in the set-aside programs.

(aa) State agencies shall purchase from approved small business, within the guidelines of Statutes and these rules.

(2) Small businesses and socially or economically disadvantaged persons shall be governed by State Purchasing Statutes and Division of Procurement rules and procedures subject to modifications expressed herein.

The following rules are proposed for adoption.

2 MCAR § 1.6501 General provisions.

A. Scope. Pursuant to Minn. Stat. § 16, these rules govern the procurement of materials and services for the state under the competitive bidding requirements.

B. Definitions. Within 2 MCAR § 1.6501-1.6804, the following apply, unless clearly indicated otherwise by the context:

1. "Division of Procurement" means Division of Procurement, Department of Administration, Room 112, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2. "Director" means Director of the Division of Procurement.

3. "Liquidated damages" means a specific sum of money, agreed to as part of a contract to be paid by one party to the other in the event of breach of contract in lieu of actual damages, unless otherwise provided by law.

4. "Material variance" means a variance in a bid from specifications or conditions which allows a bidder a substantial advantage or benefit not enjoyed by all other bidders.

5. "Newspaper of general circulation" means *Finance and Commerce* for general commodities and services and *Construction Bulletin* for construction projects, or an alternate approved by the Director.

6. "Responsible bidder" means a bidder who:

a. is a manufacturer of, regular dealer in, or an agent of a manufacturer of supplies of the general character to be furnished; or

b. is in the business of furnishing the services to be provided; and

c. is financially and otherwise able to perform the contract, as evidenced by integrity, ability, skill, experience, and performance of past contracts for the state or other purchasers; and

d. is otherwise qualified under law and rule, including incorporation or registration to do business in the State of Minnesota; and

e. is in compliance with all tax laws thereof.

2 MCAR § 1.6502 Method of bidding.

A. Any purchase estimated to exceed $5,000.00 shall be purchased on sealed bids, notice of solicitation of bid to be inserted once in a newspaper of general circulation at least seven (7) days prior to the bid opening date. Bids shall also be solicited by sending bid invitations to all prospective bidders registered with the Division of Procurement pursuant to 2 MCAR § 1.6502 C., and by posting notice on a

public bulletin board in the Division of Procurement Office at least five (5) days prior to the bid opening date.

B. Any purchase estimated to be $5,000.00 or less may be made upon competitive bids or in the open market, but in either case will be based on three (3) competitive bids, so far as practicable. Such solicitation shall also be posted as described in 2 MCAR § 1.6502 A.

C. A list of bidders shall be maintained by the Division of Procurement for various commodity classes. Any persons desiring to sell supplies to the state may file with the Director of Procurement a letter showing their business address, the commodities they desire to sell to the state, and proof of incorporation or registration to do business in the state. The firm name shall then be placed on the permanent bid list to receive invitations to bid. The name of a bidder who fails to respond to three (3) consecutive bid invitations shall be removed from the list of bidders upon written notice. The name of the bidder so removed shall be restored only by specific written request.

D. Submission of advertised bids.

1. Each invitation to bid shall include the following information and any other relevant information required by the nature of the individual bid, as called for in the bid specifications:

a. Department, Division, and requisition number;

b. name and address of using agency;

c. date of issuance;

d. time and place of delivery of bid;

e. date, hour, and place for openings bids;

f. security requirements, if any;

g. quantity of supplies and/or services to be furnished;

h. description of supplies and/or services to be furnished;

i. place, method, and conditions of inspection or testing, if required;

j. applicable general and special conditions.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.6502

2. General bid conditions. Bid conditions applicable to all state purchases shall be stated on the standard invitation to bid.

3. Special bid conditions. Bid conditions applicable to specific commodities or types of purchase shall be stated in the invitation to bid. Special conditions supersede general conditions, if conflicting.

4. Bids shall be completed, signed, and submitted by each bidder in accordance with the instructions contained in each invitation for bid. Telegraphic bids shall not be considered unless expressly permitted in the invitation to bid. Bids shall be delivered to the Division of Procurement at address shown on bid invitation.

5. In each instance, the bids shall be on the form provided, in a sealed bid envelope or an envelope clearly identified with the commodity, time and date of opening, and the name of bidder on the front of the envelope.

2 MCAR § 1.6503 Bid security.

A. Each bid invitation shall set forth the bid security required by the Division. Such bid security shall be made payable to "State of Minnesota" and shall be made upon the condition or guarantee that in the event the bidder's offer is accepted, the bidder shall enter into contract in accordance with the proposal.

B. Certified checks or bid bonds of successful bidders shall constitute liquidated damages for failure of a bidder to enter into a contract, and shall also be held as security for delivery and acceptance of merchandise, or satisfactory completion of the contract. A performance bond for twenty-five (25) percent of the award may be substituted.

C. Checks of unsuccessful bidders shall be returned to vendor by placing them in the mail within five (5) working days after an award is made. Checks of successful vendors shall be returned as soon as delivery is completed and acceptance is made by the agency, or the contract is satisfactorily completed. No interest shall be paid on any monies held as security.

D. Annual bid and supply bond.

1. Bidders may file with the Director of Procurement an annual bid and supply bond in lieu of individual bonds or other security required in various individual bid invitations.

2. Annual bid and supply bonds, when accepted by the Director of procurement, shall cover all bids by the vendor for materials, commodities, and supplies during the effective period of the annual bond, except as provided in 2 MCAR § 1.6503 D. 3.

3. Annual bid and supply bonds shall not cover bid:

a. for building construction, repair, remodeling or other public works;

b. on which the annual bid security does not amount to 5% of the bid;

c. when another bond is required by specification; or,

d. when bond is used as security on other bids.

4. The vendor shall be notified in writing if the necessity arises to attach the bond for breach of contract.

2 MCAR § 1.6504 Opening of bids.

A. Upon receipt in the Division of Procurement, all bids will be time stamped, showing the date and hour received. Bids received after the time set for the opening of bids will be returned unopened to the bidders. Bids shall be opened publicly and read aloud at the time and place established in the bid invitation. All original bids will be retained pursuant to Minn. Stat. § 16.07, subd. 2, for public inspection in the Division of Procurement.

B. Recording and tabulation of bids. The names of bidders, prices bid, and other pertinent data shall be recorded on a tabulation form which shall be available for public inspection in the Division of Procurement.

C. Rejection of bids. The state may reject any or all bids or portions thereof. All bids shall be rejected for good and sufficient cause, including but not limited to abandonment of the project by the state, or for insufficient state funds.

D. A vendor whose sealed bid is rejected shall be given notice of the rejection and the reason(s) for rejection of the bid.

E. Informalities and minor deficiencies. The state reserves the right to waive minor deficiencies or informalities in bids. Minor informalities shall be waived if, in the judgment of the Director of Procurement, the best interest of the state would be served without prejudice to the rights of the other bidders. Examples of minor deficiencies include, but are not limited to:

1. omission of the title of the signatory;

2. failure to furnish required catalog cuts;

3. minor detail omissions.

2 MCAR § 1.6505 Award.

A. Award of contracts shall be made in conformity with

Minn. Stat. § 16.08 and with no material variance from the terms and conditions of the bid invitation.

2 MCAR § 1.6506 Tie bids.

A. Tied low bids for less than $500.00 shall be resolved by drawing lots among the tied low bidders, except as provided in 2 MCAR § 1.6506 C.

B. Except as provided in 2 MCAR § 1.6506 C., tied low bids for $500.00 or more shall be referred to the Director or Assistant Director of Procurement for disposition. The Director of Procurement may enter into negotiation with tied low bidders when the Director deems such action to be in the best interest of the State.

C. Whenever a tie involves a Minnesota firm and one whose place of business is outside the State of Minnesota, Minn. Stat. § 16.365 shall govern.

2 MCAR § 1.6507 Contract performance.

A. The Director of Procurement or authorized agents of state departments shall place orders with successful bidders using official state purchase orders.

B. Upon award, shipment shall be made in accordance with delivery instructions in the invitation to bid.

C. All deliveries shall conform to specifications of the bid. Failure in this respect shall be cause for rejection of the goods.

D. Commodities that fail to comply with specifications, fail to conform to the vendor's sample, are not as provided on the purchase order, or arrive in an unsatisfactory condition shall be rejected except as provided in 2 MCAR § 1.6507 H. 2.

E. Notice of rejection, based upon apparent deficiencies disclosed by ordinary methods of inspection, shall be given by the receiving agency to both vendor and the carrier (if FOB shipping point) within reasonable time after delivery, with a copy of this notice to the Division of Procurement. Revocation of acceptance for latent deficiencies that would make the items unsatisfactory for the purpose intended shall be given by the state within reasonable time after discovery. The contractor shall satisfactorily repair or replace such items within a reasonable period of time.

F. The state may require that the vendor permit inspection of the commodities prior to shipment at the factory,

plant, or establishment where produced, manufactured, or stored. Unless provision for inspection is made in the invitation to bid, costs thereby incurred will be paid by the state.

G. The vendor shall forthwith remove at his expense any item rejected by the state. If the vendor fails to remove such an item, or to forthwith forward shipping instructions to the agency concerned, the state may sell the item and remit the proceeds of sale, less the expense involved, in accordance with law including but not limited to Minn. Stat. § 336.2-603.

H. If the need of a state agency do not permit time to replace rejected merchandise, or if deliveries are not made within the time specified in the contract, the agency may:

1. with the approval of the Director of Procurement, buy on the open market supplies of the nature required; the vendor shall be liable for all additional costs and expenses.

2. If it is determined that an item does not conform strictly to specifications, but can be used satisfactorily, the Director of Procurement may adjust the price with written acquiescence of the vendor, and authorize the agency to keep and use such part of the order when such action is required to sustain continued operation.

I. The Director of Procurement may direct that a laboratory analysis or other tests be made to determine the acceptability of the delivered product(s) and to insure that product(s) meet specifications. In these instances, acceptance by the state shall not occur nor be deemed to have been made, and the discount time shall not begin, until testing is completed and affirmative results are obtained. Vendors shall be notified of unsatisfactory test results.

2 MCAR § 1.6508 Failure to perform.

A. If a bidder who is awarded a contract fails to perform as specified, the bid security shall be retained by the state and deposited with the State Treasurer as liquidated damages. The vendor may also be determined not to be a responsible bidder. The state may also pursue all other remedies permitted or provided by law.

B. If the bid security is in the form of a bond, the bonding company shall be notified in writing of the default. A vendor who fails to enter into contract that has been awarded to him may be determined not to be a responsible bidder regardless of whether bid security was required. The

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

state may seek further damages and shall not be limited by the absence or existence of a bond.

C. After the award of a contract, if the vendor fails to furnish satisfactory performance security, if required, the vendor shall be deemed in default and subject to the above provisions.

D. A vendor shall be held in default for failure to conform to bid specifications or standard commercial practices including, but not limited to the following:

1. failure to make deliveries within the time specified in the contract; or

2. deliveries of goods or materials that do not conform to samples or specifications, and are not promptly replaced; or

3. delivery of goods or materials that are repeatedly rejected; or

4. misbranding or materially misrepresenting goods or materials purchased under the contract.

E. In all cases of default, the vendor may be determined not to be a responsible bidder.

2 MCAR § 1.6509 Contract cancellation.

A. The Director of Procurement may cancel a purchase entered into under competitive bidding under any one of the following conditions including, but not limited to:

1. the contractor agrees to the cancellation;

2. the contractor has obtained the contract by fraud, collusion, conspiracy, or in conflict with any statutory or constitutional provision of the State of Minnesota;

3. failure to deliver as agreed.

2 MCAR § 1.6510 Bidder errors.

A. Prior to the opening of sealed bids, any person may withdraw his bid by notifying the Director in writing of his desire to withdraw, by appearing in person at the Division of Procurement's Office and withdrawing the bid, or by telegraphic writing received by the Director requesting withdrawal of his bid.

B. Subsequent to the opening of sealed bids, a person may withdraw his bid only upon a showing that an obvious unintentional, non-negligent error exists in the bid. The showing and request for withdrawal must be made in writing to the Director within a reasonable time after the opening of the bids and prior to the state's detrimental reliance on the bid.

2 MCAR § 1.6601 Sheltered workshop.

A. Any sheltered workshop wishing to apply to receive notice of available state contracts pursuant to Minn. Stat. § 16.281, shall apply in writing to Director, Minnesota Association of Rehabilitation Facilities, 550 South Snelling Avenue, St. Paul, Minnesota 55116.

2 MCAR § 1.6701 Scope and purpose. The following rules are promulgated pursuant to Minn. Stat. §§ 16.081-16.086 for the purpose of establishing procedures relating to the small business and small business owned by socially or economically disadvantaged persons set-aside program administered by the Procurement Division, Department of Administration, 50 Sherburne Avenue, St. Paul, Minnesota 55155. 2 MCAR §§ 1.6501-1.6601 shall also govern procurement under this program. In the event of irreconcilable conflict between the general procurement rules and rules relating specifically to the set-aside program, the rules of the set-aside program shall govern.

2 MCAR § 1.6702 Self-certification of eligibility.

A. To become eligible to receive invitations for set-aside bids, each business shall certify and file with the Division of Procurement the following information on the forms provided:

1. name and address of applicant and principal place of business;

2. whether applicant is applying for designation as a small business or a small business owned and operated by a socially or economically disadvantaged person(s); designation shall be made as to the type of business operated and the kinds of service, materials, or supplies which can be delivered;

3. number of employees;

4. gross receipts for each of the past 3 years;

5. whether the business is an affiliate or subsidiary of a dominant business as defined in Minn. Stat. § 16.082;

6. listing of all owners, including percentage of ownership, and all officers of the applicant with full disclosure of all owners' and officers' direct and indirect involvement in other businesses and enterprises which are in the same field of operation as the applicant, unless ownership is by common stock regularly bought and sold through recognized exchanges;

7. all other relevant information requested by the Division.

B. If the applicant is certifying itself for designation as a business owned and operated by socially or economically disadvantaged persons, the applicant shall also provide information indicating the basis of claim for designation under the standards established by Minn. Stat. § 16.082, subd. 5, for each officer and owner of the business.

C. To assist in verification of the self-certification, the Commissioner of Administration may require each business to submit a copy of its income statement for the three preceding fiscal years as well as a statement of the number of employees.

If a business does not have three years' experience, it shall indicate the date the business was organized and provide income statements since that time, including a current income statement.

D. The Director of the Procurement Division shall be notified in writing of any and all changes in the applicant's business which may alter the information provided above within thirty (30) days of such change(s).

E. Applicants shall be notified in writing only if the Procurement Division rejects an applicant's self-certification. Applications shall be rejected on any of the following grounds:

1. Applicant is dominant in its field or is an affiliate or subsidiary of a dominant business, as prohibited by Minn. Stat. § 16.082, subd. 2; or given figures provided pursuant to 2 MCAR § 1.6702 C.1., applicant is dominant in its field or operation for the period of operation.

2. Applicant has failed to provide all relevant required information.

3. Where applying for designation as a business owned and operated by socially or economically disadvantaged person(s), applicant failed to establish that majority ownership and operating control are held by socially or economically disadvantaged person(s).

4. Applicant has failed to comply with laws and rules of the state relating to procurement.

5. Applicant's failure to comply with the requirements of these rules or Minn. Stat. § 16.083, *et seq.* or bad faith in application for inclusion in this program.

2 MCAR § 1.6703 Establishment of set-aside.

A. A list of set-aside contractors, properly certified pursuant to 2 MCAR § 1.6702, shall be established and maintained by the Division.

B. Determination of contracts for set-aside. When a requisition is received by the Division of Procurement and is placed on the list of set-aside contracts, the contract shall be offered and awarded as follows:

1. First attempt at purchase shall be made from a small business owned by a socially or economically disadvantaged person(s). When feasible, competitive bids shall be obtained; if not, a price may be negotiated.

2. For all such requisitions, the Division of Procurement shall establish an estimated price for the goods or services.

3. No award shall be made when the low bid or the negotiated price is more than 5% over the estimated price.

4. Acceptable bids shall be recorded and the award made to the lowest responsible bidder.

5. Where there are no bids or no acceptable bids, unsatisfactory bids, if any, will be recorded and the requisition shall thereafter be rebid through normal procurement procedures.

6. If it is necessary to reject original bids and the bid specifications are substantially changed or were in error, specifications shall be revised and the project rebid under set-aside rules.

7. If an acceptable bid is received and awarded under normal procurement procedures, the cost or price shall be recorded for report purposes.

2 MCAR § 1.6704 General terms and conditions.

A. A business which, if offered an award but finds that it cannot produce, supply or construct according to the bid terms and conditions shall, within seven (7) calendar days after receipt of notice as low bidder, notify the Division of Procurement in writing of the reasons therefor.

B. When the Commissioner of Administration finds that the low bidder is unable to perform, the Department of Economic Development shall be notified by the Division of

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

2 MCAR § 1.6704

Procurement in accordance with Minn. Stat. § 16.084, so that the Deputy Commissioner of Economic Development can assist the small business in attempting to remedy the causes of the inability to perform.

C. Failure to enter into the contract or to accept an offered award will not automatically disqualify a business from further bidding or negotiation.

D. The records of the Procurement Division shall show the reason(s) for such failure.

E. Failure to satisfactorily complete and meet the terms and conditions of a bid after an award has been made and accepted shall disqualify a business from further bidding or negotiation until assurance of ability to perform is provided, documenting the corrections made to assure performance of future contracts. Such assurances shall be given in writing to the Director, Procurement Division.

F. The Commissioner of Administration may divide bid invitations by dollar amounts, units of production, or duration of contract to facilitate awarding contracts to business in the set-aside program.

G. No contractor awarded a contract under the set-aside program shall subcontract fifty (50%) percent or more of the work under such contract. In construction contracts, the amount of specialty subcontracting shall be excluded in determining the total amount of permissible subcontracting.

2 MCAR § 1.6801 State-funded partial indemnification of small businesses and small businesses owned by economically and socially disadvantaged persons. Pursuant to Minn. Stat. § 574.262 (1977), 2 MCAR §§ 1.6801-1.6804 establish procedures relating to state funding of partial indemnification for certain state contractors which are small businesses and small businesses owned by economically and socially disadvantaged persons. Rules establishing eligibility standards are exempted from the provisions of Minn. Stat. ch. 15.

2 MCAR § 1.6802. Any person, corporation, or other legal entity wishing to apply for partial indemnification shall contact the Division of Procurement, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, 55155. The application for determination of eligibility shall include the following:

1. a current certified financial statement;

2. reasons for requesting partial indemnification;

3. a list of all bonding companies contacted;

4. copies of all denials of application(s) for bonding received from bonding companies or bonding agencies;

5. a summary of all other efforts undertaken to obtain bonding;

6. all other relevant information requested.

2 MCAR § 1.6803. Upon receipt of an application for determination of eligibility, the Commissioner shall make an eligibility determination and notify the applicant within a reasonable time. A determination shall be made based upon consideration of the following factors:

a. good faith effort of contractor to obtain bonding from private bonding agencies or bonding companies;

b. qualification of the contractor to do business in the State of Minnesota under the laws of the State of Minnesota and the rules of the procuring agency(ies).

2 MCAR § 1.6804. Participation in partial indemnification pursuant to these rules shall be restricted or limited as set forth in Minn. Stat. § 574.262, subd. 2.

Department of Commerce Banking Division

Proposed Rules Relating to Electronic Funds Transfer Terminals

Order for Hearing

It is hereby ordered that a public hearing on the above captioned rules be held in the State Office Building, Room 83, St. Paul, Minnesota, on July 12, 1978, commencing at 9:00 a.m., and continuing until all persons have had an opportunity to be heard.

It is further ordered, that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who registered their names with the Secretary of State for that purpose.

It is further ordered, that the Notice of Hearing be published in the *State Register*.

Robert A. Mampel
Commissioner of Banks

May 26, 1978

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held in the State Office Building, Room 83, St. Paul, Minnesota 55155, on July 12, 1978, commencing at 9:00 a.m., and continuing until all representatives of associations or interested groups or persons have had an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. George A. Beck, State Office of Hearings Examiner, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8108, the Hearing Examiner appointed to hear this matter, either before the hearing or within five (5) working days after the close of the hearing unless the Hearing Examiner orders a longer period of time which may not exceed twenty (20) days.

The proposed rules, if adopted, would establish procedures for the application, approval and use of electronic financial terminals as follows:

1. Rule 4 MCAR § 1.0226, authority, scope and purpose declaration.

2. Rule 4 MCAR § 1.0227 is proposed to provide definition of terms.

3. Rule 4 MCAR § 1.0228 is proposed to provide the manner in which applications for electronic financial terminal authorization shall be made as well as the information required from the applicant following authorization.

4. Rule 4 MCAR § 1.0229 is proposed to provide operation standards necessary to the approval of applications for electronic financial terminal authorizations and their subsequent use.

5. Rule 4 MCAR § 1.0230 is proposed to provide the information to be disclosed to customers using electronic financial terminals and the manner in which it shall be disclosed.

6. Rule 4 MCAR § 1.0231 is proposed to require that each customer using an electronic financial terminal be given a prescribed periodic record of transactions.

Copies of the proposed rules in their entirety are now available and one free copy may be obtained by writing to the Banking Division, Fifth Floor, Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101. Additional copies of the rules will be available at the door on the day of the hearing.

4 MCAR § 1.0226

These rules are proposed pursuant to the authority vested in the Banking Division by the provisions of Laws of 1978, ch. 469, § 11. A "Statement of Need" explaining why the Commissioner feels the proposed rules are necessary and a "Statement of Evidence" outlining the testimony that will be introduced will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after commencing lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spend more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone number (612) 296-5615.

Robert A. Mampel
Commissioner of Banks

May 26, 1978

Rules as Proposed

Proposed Rules 4 MCAR §§ 1.0226 to 1.0231 relate to the operation of electronic funds transfer terminals, the manner and information required in the submission of applications for authorization, establish minimum technical operation standards, and require disclosure of information to customers using such terminals. The following rules are proposed for adoption pursuant to the authority contained in Laws of 1978, ch. 469, § 11.

4 MCAR § 1.0226 Authority, scope and purpose. Laws of 1978, ch. 469, authorizes the Commissioner of Banks to promulgate rules as are reasonably necessary to carry out and make effective the provisions and purposes of the Act relating to the establishment and operation of electronic financial terminals. The Act requires that rules be promulgated to govern application forms and requires that technical standards be established. These rules establish an application procedure and guide to standards considered reasonable to accomplish the purposes of the Act. Further, the Act mandates the promulgation of rules to inform, guide and

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

protect the consumers, retailers and financial institutions in the utilization of electronic financial terminal systems. These rules further set out specific requirements concerning the issuance of cards, disclosure of pertinent required information and reporting of data relating to financial transactions initiated at electronic financial terminals.

4 MCAR § 1.0227 Definitions. All terms herein which are defined in Laws of 1978, ch. 469, shall have the meanings attributed to them therein. For the purpose of Laws of 1978, ch. 469, and these rules, terms defined herein shall have the meanings given to them.

A. "Account holder" means "customer."

B. "Act" means Laws of 1978, ch. 469, as enacted and subsequently amended.

C. "Card" means the device used to activate an electronic financial terminal, including a credit card or debit card.

D. "Card Issuer" means a financial institution or a person in conjunction with a financial institution providing the use of a terminal under a pre-authorized contractual agreement with a customer to be activated by a card.

E. "Control" means:

1. person having greater than 50 percent ownership interest in the terminal or terminals applied for;

2. any leasee of the terminal or terminals; or

3. any managing agent appointed by those persons having ownership or leasehold interests in the terminal or terminals.

F. "Customer" means any person who has established a contractual relationship with a financial institution whereby that person is authorized to initiate any of those functions permitted to be performed under the Act at an electronic financial terminal.

G. "Operator" means any provider or retailer who initiates or assists in the initiation of electronic financial terminal transactions on behalf of a customer. Operator does not include an employee of a financial institution, financial institution holding company or subsidiary thereof or the account holder. For purposes of 4 MCAR § 1.0228 C., operator does not include individual employees of a provider or retailer.

H. "Person" means any individual, bodies politic or corporate, partnerships or other unincorporated associations, including a financial institution as defined in the Act.

I. "Personal Identification Number" is the confidential code provided to the account holder which is necessary to the completion of a transaction at an electronic financial terminal.

J. "Provider" means the person or persons having control over an electronic financial terminal under the Act.

K. "Terminal" means an electronic financial terminal as defined in the Act.

L. "Transaction" means each separate, identifiable, financial function performed at an electronic financial terminal as authorized under the Act.

4 MCAR § 1.0228 Electronic financial terminal application for authorization; notification requirements.

A. Any person seeking approval to act as a provider of a terminal or terminals shall, not less than 45 days before the establishment of the terminal or terminals, file with the Commissioner a written application on a form provided by the Commissioner entitled Electronic Financial Terminal Authorization Application. Such application shall include, but need not be limited to, the following request for information:

1. name and principal address of the person filing the application, together with such person's financial statement for the most recently closed fiscal year;

2. the name and principal address of the person or persons having control thereof, if other than the applicant, together with such persons' financial statements for the most recently closed fiscal year;

3. descriptive information including:

a. the number of terminals applied for;

b. the retail location of each terminal by street address or other designation, including city and county;

c. the manufacturer, model number and type of the terminal;

4. whether the terminal will be attended or unattended and, if attended, by whose employees or agents as operators;

5. the functions to be performed at the terminal;

6. schedule of charges to be paid to the provider by those financial institutions sharing the terminal or terminals;

7. a complete description of the physical and technical operation standards pertaining to the terminal, including information and specifications necessary to enable a financial

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE PROPOSED RULES
AND AMENDMENTS TO THE EXISTING RULES
PERTAINING TO SEVERAL UNITS OF THE
DEPARTMENT OF ADMINISTRATION

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing in the above-entitled matter will be held in Room 83, State Office Building, St. Paul, Minnesota 55155, commencing on July 25, 1978, at 9:30 a.m., and continuing on July 26, 1978, or until such time as all interested persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Date: June 5, 1978

Richard L. Brubacher
Commissioner of Administration

Agency Exh. "E"

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL-Health

Office Memorandum

TO : Lee E. Sheehy
Special Assistant
Attorney General

DATE: February 21, 1979

FROM : Richard A. Wexler
Assistant Attorney General

PHONE: 296-5370

SUBJECT: Department of Administration's Procedural Rules

On December 15, 1978, I received the above-subject rules to review for form and legality on behalf of the Attorney General pursuant to Minn. Stat. § 15.0412, subd. 4. The rules were returned orally on December 29, 1978, for the reasons stated in my memorandum to you of January 4, 1979. They were subsequently resubmitted to me on January 12, 1979, along with an Amended Findings of Fact from the Commissioner. I reviewed the rules on January 12, found that all of the concerns raised in my memorandum except for those relating to 2 MCAR § 1.10008 F. and G., had been corrected. I therefore approved the rules except for the two just referenced. They were severed from the remaining rules at the request of the Department of Administration. I have attached hereto the record pertaining to the rules.

The primary purpose of this memorandum is to explain why 2 MCAR § 1.10008 F. and G. were disapproved pursuant to Minn. Stat. § 15.0412, subd. 4. 2 MCAR § 1.10008, promulgated pursuant to the authority of Minn. Stat. § 16.861, relates generally to the certification of building officials who are responsible for the administration of the State Building Code on the local municipal level. The sections which were disapproved, 2 MCAR § 1.10008 F. and G., establish respectively a continuing education requirement and a three year certification renewal cycle for building officials. These provisions were disapproved because of the lack of statutory authority.

Minn. Stat. § 16.861, subd. 1 directs the governing body of each municipality, either separately or in combination, to appoint a person to be designated "building official" to administer the State Building Code. In order to be so appointed, the person must have been certified by the Commissioner of Administration under the provisions of Minn. Stat. § 16.861, subds. 2 and 3. To qualify for certification, subdivisions 2 and 3 state, in essence, that the applicant must pay a $20.00 fee, meet certain experience qualifications, and either pass a test or present documentation of successful completion of programs of training developed by public agencies. The statute, however, makes no reference to renewal of certification. The only reference to continuing education is found in subdivision 3 where the Department of Personnel is given the option, upon first obtaining the approval of the Commissioner to ". . . prepare and conduct educational programs designed to train and assist building officials in carrying out their responsibilities . . ." The issue to be decided is whether these statutory provisions grant an implied power to the Commissioner, as part of his responsibility to administer the certification program, to promulgate by rule the requirement that building officials renew their certification every three years and participate in continuing education courses. I have concluded that no such authority exists.

The issue brings into focus two competing principles of law. One principle is that an administrative agency may exercise those powers expressly delegated to it by the legislature as well as those which arise by fair implication from the express powers. Wisconsin's Environmental Decade, Inc. v. Public Service Commission of Wisconsin, 69 Wis.2d 1, 230 N.W.2d 243, 251 (1975); Welsand v. State of Minnesota Railroad & Warehouse Commission, 251 Minn. 504, 88 N.W.2d 834 (1958). The competing principle is that rules may not extend or modify the statute under which they are promulgated. State of Minnesota v. Lloyd A. Fry Roofing Company, ___ Minn. ___, 246 N.W.2d 696 (1976); Cooper, State Administrative Law, 255-257 (1965). The issue could thus be restated as to whether or not 2 MCAR § 1.10008 F. and G. extend the statute or merely specify an application of the legislative purpose which was implicit in the general language used by the legislature.

The Commissioner has suggested that the requisite statutory authority is contained in Minn. Stat. §§ 16.83 and 16.85, subd. 1. These provisions direct that the State Building Code reflect modern methods, devices, materials, and techniques. It is asserted that the statutory mandate to keep the code up-to-date infers the authority to impose a continuing education requirement for certified building officials since they are the persons responsible for the code's administration and enforcement. To accept the argument would be tantamount to stating that any reasonable idea that is not inconsistent with or prohibited by legislation can be implemented by rule.

Such a conclusion is not supported by case law. Instead, any rule making power implied from a statute must flow from it by reasonable and necessary implication. In other words, the legislature must have at least in some way addressed the matter in question. The following two cases will help illustrate the operative principle.

The Welsand case is an example of a case in which the court found that an implied power existed. The Railroad and Warehouse Commission had been granted general rule making authority necessary to regulate irregular route common carriers. The rule being challenged was the definition of the term "irregular route common carriers." The court, in finding that there was statutory authority for the rule, held that the Commission could adopt by reasonable implication those definitions which were reasonably necessary to assist the program of regulation.

On the other hand the Fry Roofing Company case provides insight into the conditions under which an implied power does not exist. Here the Minnesota Pollution Control Agency (PCA), pursuant to a rule it had adopted, issued an order directing Fry to conduct various stack emission tests on air emissions generated from one of its plants. Fry refused. In the litigation that followed the court found that PCA lacked statutory authority to adopt the rule pursuant to which it issued the order notwithstanding a general grant of power to promulgate rules consistent with the statutory purposes of controlling air pollution. The court noted that in another area, water pollution, the legislature had given PCA specific power to issue orders which was lacking here.

In comparing Welsand and Fry, the key difference seems to be that in Welsand, the development of a definition was a necessary element to the proper functioning of the regulatory program authorized by the legislature. Fry posed a different situation. While the issuance of enforcement orders would have been a good idea and furthered the administration of the air pollution program, they were not such a crucial or integral element to the program's enforcement so that the power to issue them could be necessarily and logically implied from the enabling legislation.

The application of this analysis to 2 MCAR § 1.10008 F. and G. requires that they be disapproved for lack of statutory authority. The legislature in enacting Minn. Stat. § 16.861 was concerned about the quality of the persons appointed as building officials and dealt with that problem by requiring persons so appointed to meet certain standards in order to be certified. However, section 16.861 does not require building officials to participate in continuing education programs and to renew their certifications. Thus, the question becomes one of whether those aspects are such a necessary aspect of the certification program that the authority to require them flows logically from the expressed legislative grant of power. The answer must be in the negative. While there may be good reason to believe that the legislature's goal of well qualified building officials would be even better served by also requiring continuing education and renewal of certification, these items are not a necessary element of the certification program. The purpose of certification will still be served even without those aspects.

In summary, 2 MCAR § 1.10008 F. and G. were disapproved since the authority contained in Minn. Stat. § 16.861 to certify building officials does not include either an express or an implied authority to require continuing education and certification renewal.

RAW:cs

Attachment