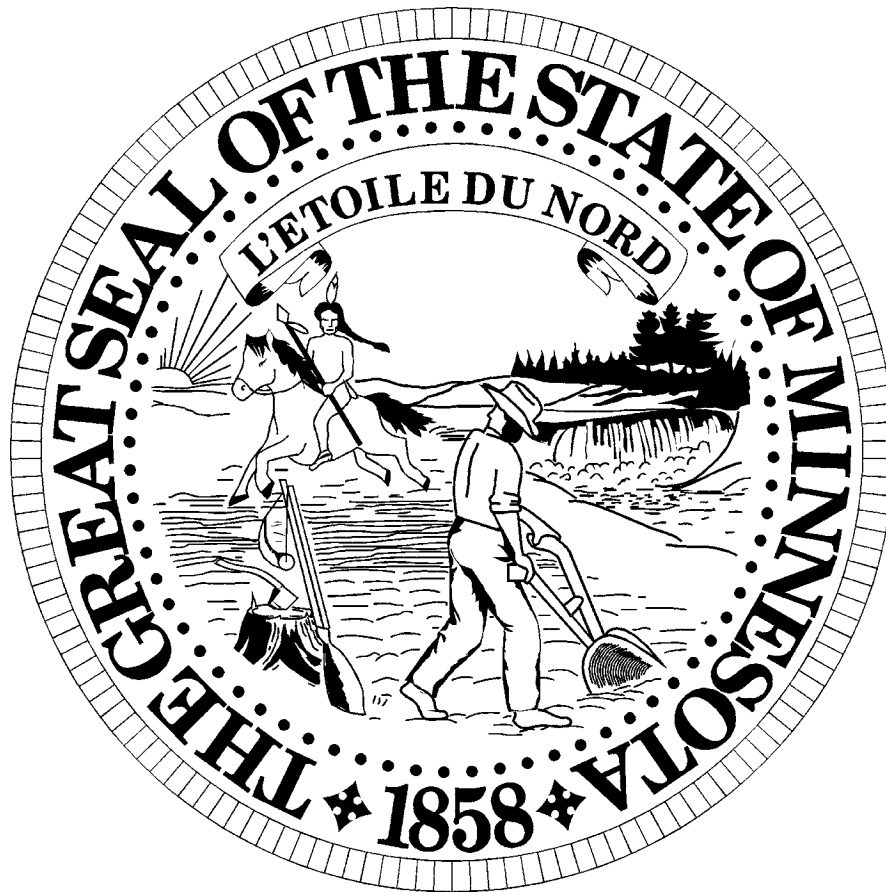


# Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)



**Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules;  
Executive Orders; Appointments; Commissioners' Orders; Revenue Notices;  
Official Notices; State Grants & Loans; State Contracts; Non-State Public Bids,  
Contracts and Grants**

**Monday 9 May 2022**

**Volume 46, Number 45**

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# Minnesota State Register

## Judicial Notice Shall Be Taken of Material Published in the Minnesota State Register

The Minnesota State Register is the official publication of the State of Minnesota's Executive Branch of government, published weekly to fulfill the legislative mandate set forth in Minnesota Statutes, Chapter 14, and Minnesota Rules, Chapter 1400. It contains:

- Proposed Rules
- Adopted Rules
- Exempt Rules
- Expedited Rules
- Withdrawn Rules
- Executive Orders of the Governor
- Appointments
- Proclamations
- Vetoed Rules
- Commissioners' Orders
- Revenue Notices
- Official Notices
- State Grants and Loans
- Contracts for Professional, Technical and Consulting Services
- Non-State Public Bids, Contracts and Grants

## Printing Schedule and Submission Deadlines

Vol. 46 Issue Number	Publish Date	Deadline for: all Short Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical- Consulting Contracts, Non-State Bids and Public Contracts	Deadline for LONG, Complicated Rules (contact the editor to negotiate a deadline)
#46	Monday 16 May	Noon Tuesday 10 May	Noon Thursday 5 May
#47	Monday 23 May	Noon Tuesday 17 May	Noon Thursday 12 May
#48	Tuesday 31 May	Noon Tuesday 24 May	Noon Thursday 19 May
#49	Monday 6 June	Noon Tuesday 31 May	Noon Thursday 26 May

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# Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The State Register is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the State Register. Published every Monday, the State Register makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific Minnesota Rule chapter numbers. Every odd-numbered year the Minnesota Rules are published. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the State Register.

An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (Minnesota Statutes §§ 14.101). It does this by publishing a notice in the State Register at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as Proposed Rules, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules, and withdrawn proposed rules, are also published in the State Register. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the State Register as Adopted Rules. These final adopted rules are not printed in their entirety, but only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the State Register, the issue the rule appeared in as proposed, and later as adopted.

The State Register features partial and cumulative listings of rules in this section on the following schedule: issues #1-26 inclusive (issue #26 cumulative for issues #1-26); issues #27-52 inclusive (issue #52, cumulative for issues #27-52 or #53 in some years). A subject matter index is updated weekly and is available upon request from the editor. For copies or subscriptions to the State Register, contact the editor at 651-201-3204 or email at sean.plemmons@state.mn.us

**Volume 46 - Minnesota Rules**  
**(Rules Appearing in Vol. 46 Issues #1-26 are**  
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# Expedited Emergency Rules

Provisions exist for the Commissioners of some state agencies to adopt expedited emergency rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Expedited emergency rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions.

Expedited emergency rules are effective for the period stated or up to 18 months. Specific *Minnesota Statute* citations accompanying these expedited emergency rules detail the agency's rulemaking authority.

**KEY: Proposed Rules** - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

**Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

## Department of Natural Resources

### Expedited Emergency Game and Fish Rules: Mille Lacs Lake Fishing

Notice is hereby given that the above-entitled rules have been adopted through the process prescribed by *Minnesota Statutes*, sections 97A.045, subds. 1 through 3; 97C.005, subd. 3; and 97C.401.

The conditions that do not allow compliance with Minnesota Statutes, sections 97A.0451 to 97A.0459 and require use of the Commissioner's expedited emergency rule authority set forth in *Minnesota Statutes*, section 84.027, subd. 13a are as follows:

1. Each year a harvestable surplus is set for walleye in Mille Lacs Lake pursuant to the procedures set forth in the 1996 Stipulated Settlement and Federal Consent Decree adopted by the Minnesota Federal District Court in 1997 and affirmed by the U.S. Supreme Court in 1999. The harvestable surplus is the volume of fish that can be harvested safely from Mille Lacs Lake while ensuring sufficient remaining walleye in the lake for a healthy fishery. The harvestable surplus is then divided between the State of Minnesota and the eight Chippewa Tribal Bands that were signatories of the 1837 Treaty, including the Mille Lacs Band, Fond Du Lac Band, and six Wisconsin Bands of Chippewa (Bands). The state share of the harvestable surplus is determined in January of each year, and modeling of viable regulations and gathering public input is not completed until March. The harvestable surplus for 2022 is 135,000 pounds and the state's share of the harvestable surplus is 80,300 pounds.

2. Walleye angling regulations are generally designed to maximize sustainable fishing opportunities, including some opportunity for harvest, while minimizing the likelihood of an unplanned closure of the fishery should the state approach taking its share of the harvestable surplus prior to the end of the season. Specific regulations were developed using applicable biological data, including the previous year's angler harvest, hooking mortality estimates, and walleye population status. On a recurring annual basis, there is not enough time between the steps necessary to develop the recommended fishing regulation and the beginning of the open water angling season to set angling regulations following Minn. Stat. section 14.05 through 14.36 governing the adoption of state rules.

3. Management of northern pike, yellow perch, cisco, and burbot follow the same timeline and collaborative approach with the Bands as walleye management. Therefore, the same time constraints exist for setting angling regulations for northern pike, yellow perch, cisco, and burbot.

Dated: April 27, 2022

Sarah Strommen  
Commissioner of Natural Resources

# Expedited Emergency Rules

## 6264.0400 DESIGNATED SPECIAL MANAGEMENT WATERS.

*[For text of subparts 1 to 3, see Minnesota Rules]*

### Subp. 4. Mille Lacs Lake and associated tributaries special management regulations.

A. ~~This item applies~~ while a person is on or fishing in Mille Lacs Lake or its associated tributaries to the posted boundaries. ~~The angling season for northern pike begins at 12:01 a.m. May 14, 2022, and continues to 11:59 p.m. on March 31, 2023. The daily and possession limit for northern pike is three. All northern pike in possession must be less than 24 30 inches in length or greater than 36 inches in length. All northern pike that are 24 to 36 30 inches or greater in length, inclusive, must be immediately returned to the water. A person's possession limit may not include more than one northern pike over 36 inches in length.~~

B. ~~The possession limit for smallmouth bass is one. This item applies~~ while a person is on or fishing in Mille Lacs Lake or its associated tributaries to the posted boundaries. ~~Unless otherwise authorized by special permits for fishing tournaments, the angling season for largemouth and smallmouth bass begins at 12:01 a.m. May 14, 2022, and continues to 11:59 p.m. February 26, 2023. All largemouth and smallmouth bass caught before the Saturday of Memorial Day weekend must be immediately returned to the water. Beginning at 12:01 a.m. September 12, 2022, all smallmouth bass must be immediately returned to the water. Except as otherwise provided in this subpart, the daily and possession limit for largemouth and smallmouth bass in aggregate is three. All largemouth and smallmouth bass in possession must be 21 inches or greater less than 17 inches in length. All largemouth and smallmouth bass less than 21 inches 17 inches or greater in length must be immediately returned to the water. Waiver of the size, possession, and season restrictions for largemouth and smallmouth bass under this item is permitted for a limited number of bass-fishing tournaments each year. When determining whether to grant a waiver, the commissioner must consider:~~

- ~~(1) tournament size;~~
- ~~(2) expected participation;~~
- ~~(3) potential to generate public interest and local economic activity; and~~
- ~~(4) conservation and biological health of the fishery.~~

C. ~~Except as provided in subitems (1) and (2), Mille Lacs Lake is closed to the taking of fish between the hours of 10 p.m. and 6 a.m. daily during the period commencing (summer night closure) beginning at 10 p.m. on the Monday following the Saturday two weeks prior to the Saturday of Memorial Day weekend May 16, 2022, and ending at 12:01 a.m. on Monday, four weeks after the date of commencement 6:00 a.m. September 1, 2022. During the closure, no person shall be on the waters of Mille Lacs Lake while having in possession any equipment whereby fish may be taken. Spearfishing is prohibited from December 1 through April 30. A person may not have a spear in possession while on or fishing in Mille Lacs Lake during this period. Beginning September 2, 2022, at 12:01 a.m., Mille Lacs Lake is closed to taking fish between the hours of 12:01 a.m. and 6:00 a.m. daily (fall night closure) until 11:59 p.m. November 30, 2022, at which time the ban on night fishing is lifted.~~

~~(1) Beginning June 4, 2022, at 10:00 p.m., fishing for muskellunge and northern pike is allowed between 10:00 p.m. and 6:00 a.m. daily. Angling for, harvesting, and possessing species other than muskellunge and northern pike during these hours is prohibited. Only artificial muskellunge and northern pike lures greater than eight inches in length, measured from the front of the eye of the lure to the end of the trailing hook, or sucker minnows greater than eight inches in length may be used or in possession.~~

~~(2) Beginning June 4, 2022, at 10:00 p.m., bowfishing for rough fish is allowed between 10:00 p.m. and 6:00 a.m. No person shall have in possession any angling equipment while bowfishing under this subitem. Angling for, harvesting, and possessing species other than rough fish while bowfishing during these hours is prohibited.~~

*[For text of item D, see Minnesota Rules]*

E. While a person is on or fishing in Mille Lacs Lake or its associated tributaries to the posted boundaries, the

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# Expedited Emergency Rules

possession and daily limit for Northern cisco (tullibee) is ~~ten~~ five fish.

F. The walleye restrictions under subitems (1) to (5) apply while a person is on or fishing in Mille Lacs Lake or its associated tributaries to the posted boundaries.

(1) Beginning at 12:01 a.m. May 14, 2022, the daily and possession limit for walleye is one fish, which must be either between 21 and 23 inches in length or over 28 inches in length. All walleye less than 21 inches in length or greater than 23 inches but less than 28 inches in length must be immediately returned to the water. This subitem is effective until 11:59 p.m. May 31, 2022.

(2) Beginning at 12:01 a.m. June 1, 2022, angling for walleye is catch and release only. All walleye must be immediately returned to the water. This subitem is effective until 11:59 p.m. June 30, 2022.

(3) Beginning at 12:01 a.m. on July 1, 2022, angling for walleye is prohibited. All walleye caught must be immediately returned to the water. This subitem is effective until 11:59 p.m. July 15, 2022.

(4) Beginning at 12:01 a.m. July 16, 2022, angling for walleye is catch and release only. All walleye must be immediately returned to the water. This subitem is effective until 11:59 p.m. August 31, 2022.

(5) Beginning at 12:01 a.m. September 1, 2022, the daily and possession limit for walleye is one fish, which must be either between 21 and 23 inches in length or over 28 inches in length. All walleye less than 21 inches in length or greater than 23 inches but less than 28 inches in length must be immediately returned to the water. This subitem is effective until 11:59 p.m. February 26, 2023.

G. While a person is on or fishing in Mille Lacs Lake or its associated tributaries to the posted boundaries, angling for burbot is catch and release only. All burbot must be immediately returned to the water.

F. H. While a person is on or fishing in Mille Lacs Lake or its associated tributaries to the posted boundaries, fish that are taken by angling and not immediately released into the water after capture are considered to be in possession and part of the bag limit. Once a fish has been reduced to possession, culling or live-well sorting (the act of exchanging one fish for another) is not allowed, except that culling or live-well sorting before meeting a bag limit of fish reduced to possession is allowed for largemouth and smallmouth bass.

I. The bait restrictions under subitems (1) to (3) apply while a person is on or fishing in Mille Lacs Lake or its associated tributaries to the posted boundaries. For purposes of this item, "bait" means whole or parts of fish; minnows; annelid worms, such as night crawlers and garden worms; leeches; or crayfish and includes live, dead, or preserved items.

(1) There are no bait restrictions for angling between 12:01 a.m. May 14, 2022, through 11:59 p.m. June 30, 2022, except as provided in item C, subitem 1.

(2) From 12:01 a.m. July 1, 2022, until 11:59 p.m. July 15, 2022, no person may use or have in possession bait, except for northern pike or muskellunge anglers who may use sucker minnows greater than eight inches in length.

(3) There are no bait restrictions for angling between 12:01 a.m. July 16, 2022, through 11:59 p.m. November 30, 2022, except as provided in item C, subitem 1.

G. J. This subpart applies to the following waters.

	Name	Location	County
(1)	Mille Lacs	T.42-45, R.25-28, S.Various	Aitkin, Mille Lacs
(2)	Borden Creek	T.44, R.25, S.5	Aitkin
(3)	Seastade Creek	T.45, R.26, S.22	Aitkin

# Expedited Emergency Rules

	Name	Location	County
(4)	Marmon (Twenty) Creek	T.45, R.25, S.32	Aitkin
(5)	Grave Creek	T.45, R.25, S.8	Aitkin
(6)	Peterson Creek	T.43, R.25, S.5	Mille Lacs
(7)	Thains River (Malone Creek)	T.42, R.25, S.2	Mille Lacs
(8)	West Sucker Creek	T.42, R.25, S.18	Mille Lacs
(9)	South Sucker Creek	T.42, R.25, S.18	Mille Lacs
(10)	Garrison (Borden) Creek	T.44, R.28, S.12	Crow Wing
(11)	Seguchie Creek	T.44, R.28, S.36	Crow Wing
(12)	Reddy Creek	T.45, R.26, S.23	Aitkin
(13)	Whitefish Creek	T.43, R.27, S.7	Mille Lacs
(14)	Seventeen Creek	T.44, R.25, S.17,18,29	Aitkin
(15)	Cedar Creek	T.43, R.25, S.15	Mille Lacs
(16)	McCleans Creek	T.45, R.27, S.34	Aitkin
(17)	unnamed	T.43, R.25, S.8	Mille Lacs
(18)	unnamed	T.42, R.26, S.11	Mille Lacs
(19)	unnamed	T.42, R.26, S.22	Mille Lacs
(20)	unnamed	T.43, R.27, S.8	Mille Lacs
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(25)	unnamed	T.44, R.27, S.4	Aitkin
(26)	unnamed	T.45, R.27, S.25	Aitkin
(27)	unnamed	T.44, R.25, S.29	Aitkin
(28)	unnamed	T.44, R.25, S.31,32	Aitkin
(29)	unnamed	T.44, R.28, S.24	Crow Wing
(30)	unnamed	T.44, R.28, S.13	Crow Wing
(31)	Rum River Outlet	T.43, R.27, S.33	Mille Lacs

*[For text of subparts 5 to 151, see Minnesota Rules]*

**REPEALER.** The expedited emergency amendment to Minnesota Rules, part 6264.0400, subpart 4, published in the State Register, volume 45, page 1203, May 10, 2021, is repealed.

**EFFECT OF RULE.** The expedited emergency amendment to Minnesota Rules, part 6264.0400, subpart 4, supersedes the Commissioner's Orders issued by the commissioner of natural resources on December 6, 2021, and February 28, 2022.

## Department of Natural Resources

### Adopted Expedited Emergency Game and Fish Rules: Upper Red Lake Fishing

Notice is hereby given that the above entitled rules have been adopted through the process prescribed by Minn. Stat. § 84.027, subd. 13(b). This rule is adopted pursuant to the authority set forth in Minn. Stat. § 97C.005 authorizing the commissioner to set seasons and limits and Minn. Stat. § 97C.401 requiring the commissioner to set walleye limits. This rule is adopted as an emergency rule pursuant to the commissioner's authority set forth in Minn. Stat. § 84.027, subd. 13(b) authorizing the commissioner to use expedited emergency rulemaking authority in a timeframe that does not allow



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# Expedited Emergency Rules

compliance with the rulemaking provisions of Minn. Stat. Ch. 14 or the expedited emergency rulemaking procedures set forth in Minn. Stat. §§ 97A.0451 to 97A.0459.

The conditions that do not allow compliance with Minn. Stat. Ch. 14 and Minn. Stat. §§ 97A.0451 to 97A.0459 are as follows:

1. As a result of the joint efforts of the Minnesota Department of Natural Resources (DNR) and the Red Lake Band of Chippewa (Red Lake Band), the Red Lake walleye fishery recovered after near collapse in the mid-1990s. Since the fishery's recovery, the DNR, the Red Lake Band, and the United States Bureau of Indian Affairs have jointly developed a harvest plan for Upper Red Lake and its tributaries in accordance with the requirements of their 1999 Memorandum of Understanding (MOU), as revised most recently in 2019.
2. The MOU states that both the DNR and the Red Lake Band agree to maintain walleye harvest levels within an annual target harvest range and avoid an associated harvest cap to prevent a future decline in the fishery. Walleye possession and size limits for state anglers must be adjusted annually in accordance with the MOU and harvest plan and cover the harvest year extending from December 1 through November 30 in the following year.
3. In accordance with the harvest plan, the target harvest range and harvest cap are set by the spawning stock biomass of walleye, estimated by fall gill netting conducted in state and tribal waters. On a recurring annual basis, there is not enough time between the conclusion of fall gill netting and the beginning of the winter angling season to set angling regulations following Minn. Stat. Ch. 14.
4. It is possible, though not anticipated, that a midseason adjustment of open water angling regulations may be necessary to avoid reaching the harvest cap. Midseason adjustments are also incompatible with following the rulemaking process under Minn. Stat. Ch. 14. Any necessary midseason adjustment to this rule necessitated by changes in spawning stock biomass will be made pursuant to the Commissioner's Authority set forth in Minn. Stat. § 97C.005, subd. 3.
5. At least five days prior to the effective date of changes to the fishing regulations as outlined herein, a notice will also be posted on the DNR's website and at all public water access sites throughout Upper Red Lake and its tributaries in addition to the publication requirements set forth in Minn. Stat. § 87C.005, subd. 3..

Dated: April 27, 2022

Sarah Strommen  
Commissioner of Natural Resources

## **6264.0400 DESIGNATED SPECIAL MANAGEMENT WATERS.**

*[For text of subparts 1 to 58, see Minnesota Rules]*

### **Subp. 59. Upper Red Lake and listed tributaries.**

*[For text of item A, see Minnesota Rules]*

B. This item applies while a person is on or fishing in the waters listed under item C. The angling season for walleye begins May 14, 2022, at 12:01 a.m. and continues to February 26, 2023, at 11:59 p.m. The following daily and possession limits apply:

- (1) the daily and possession limit for walleye is two fish, of which not more than one walleye shall be over 26 inches in length;
  - (2) all walleye in possession must be less than 17 inches or greater than 26 inches in length;
  - (3) all walleye that are 17 inches to 26 inches in length, inclusive, must be immediately returned to the water;
- and

# Expedited Emergency Rules

(4) a person's statewide bag limit shall not include more than two walleye taken from Upper Red Lake and the tributaries listed under item C:

(1) beginning at 12:01 a.m. May 14, 2022, the daily and possession limit for walleye is four fish, of which not more than one walleye may be over 20 inches in length. This subitem is effective until 11:59 p.m. October 31, 2022; and

(2) beginning at 12:01 a.m. November 1, 2022, the daily and possession limit for walleye is three fish, of which not more than one walleye may be over 17 inches in length. This subitem is effective until 11:59 p.m. February 26, 2023.

*[For text of item C, see Minnesota Rules]*

*[For text of subparts 60 to 151, see Minnesota Rules]*

**REPEALER.** The expedited emergency amendment to Minnesota Rules, part 6264.0400, subpart 59, published in the State Register, volume 45, page 1207, May 10, 2021, is repealed.

## Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§ 14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule. If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed. If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

**KEY: Proposed Rules** - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

**Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

## Department of Agriculture

### Adopted Repeal of Obsolete Rules: Grain, Seed, and Wholesale Rules

The rules proposed and published at State Register, Volume 46, Number 22, pages 667-669, November 29, 2021 (46 SR 667), are adopted as proposed.

## Department of Revenue

### Adopted Permanent Rules Relating to Sales and Use Taxes; Returns and Records

The rules proposed and published at State Register, Volume 46, Number 13, pages 317-323, September 27, 2021 (46 SR 317), are adopted with the following modifications:

#### 8130.7501 RETURNS AND RECORDS.

##### Subp. 5. **Hardcopy records.**

D. A taxpayer required to produce a hardcopy record under this part satisfies the requirement if the taxpayer produces a digital version of the hardcopy record, such as a portable document format or PDF, that is verifiably identical to the hardcopy record.

Subp. 8. **Failure to maintain records.** The department ~~shall~~ may consider a taxpayer's failure to maintain accurate and complete records as evidence of the taxpayer's negligence or intent to evade tax.

# Executive Orders

The governor has the authority to issue written statements or orders, called Executive Orders, as well as Emergency Executive Orders. The governor's authority is specified in the Constitution of the State of Minnesota, Article V, and in *Minnesota Statutes* § 4.035. Emergency Executive Orders, for protection from an imminent threat to health and safety, become effective immediately, are filed with the secretary of state, and published in the *State Register* as soon as possible after they are issued. Other Executive Orders become effective 15 days after publication in the *State Register* and filing with the secretary of state. Unless otherwise specified, an executive order expires 90 days after the date the governor who issued the order vacates office.

## Office of the Governor

### Emergency Executive Order 22-10: Providing Assistance to the State of North Dakota

I, **Tim Walz, Governor of the State of Minnesota**, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order.

The State of North Dakota is facing significant overland and riverine flooding within the Sheyenne and Red River basins caused by the rapid melt of the record-breaking snowfall of April 12-14, 2022, and the heavy spring rains during April 22-24, 2022.

The resources of affected local, county, and state governments are inadequate to meet the demands caused by the flooding, and the Governor of North Dakota has declared a statewide emergency.

The State of North Dakota has requested Minnesota Army National Guard helicopter support under the Emergency Management Assistance Compact.

For these reasons, I order as follows:

1. The Adjutant General will order to state active duty on May 6, 2022 the people, equipment, and facilities needed to support emergency aerial operations in North Dakota.
2. The Adjutant General is authorized to procure the goods and services needed to accomplish the mission.
3. The costs of this assistance will be paid from the general fund as allowed by Minnesota Statutes 2021, section 192.52.

This Executive Order is effective immediately under Minnesota Statutes 2021, section 4.035, subdivision 2, and remains in effect until May 11, 2022.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on May 6, 2022.

**Tim Walz**  
Governor

Filed According to Law:

**Steve Simon**  
Secretary of State

# Revenue Notices

The Department of Revenue began issuing Revenue Notices in July of 1991. Revenue Notices are statements of policy made by the department that provide interpretation, detail, or supplementary information concerning a particular statute, rule, or departmental practice. The authority to issue Revenue Notices is found in *Minnesota Statutes*, Section 270C.07.

**KEY:** Underlining indicates additions to existing language. ~~Strikeouts~~ indicate deletions from existing language.

## Minnesota Department of Revenue

### Revenue Notice # 22-02: Tobacco Products Tax – Delivery Seller Collection Responsibility – Revocation and Replacement of Revenue Notice # 20-03

#### Introduction

This Revenue Notice revokes and replaces Revenue Notice 20-03. Effective March 28, 2021, Congress made the federal Prevent All Cigarette Trafficking Act (PACT Act) applicable to all “electronic nicotine delivery system” products, which are commonly known as vapor products. The PACT Act requires that retailers making delivery sales of certain tobacco products pay state excise taxes and meet other state payment obligations. In addition, Minnesota enacted legislation, effective after December 31, 2021, that clarifies and expands the obligations of retailers to collect and pay use tax on delivery sales of products subject to use tax under *Minnesota Statutes*, Chapter 297F (“tobacco products”). A “delivery sale” is a sale of tobacco products where: 1) the consumer is not in the presence of the retailer and submits the order via the phone, internet, or other means of communication; or 2) the products are delivered by mail or other delivery service. Retailers that make delivery sales are “tobacco delivery sellers.”

#### Department Position

*Minnesota Statutes*, section 297F.05, subdivision 4b, states that tobacco delivery sellers “must, for any delivery sale, collect and pay to the state any use tax imposed by [*Minnesota Statutes*, section 297F.05].” This provision is referred to in this Revenue Notice as the “Ensure-Payment Provision.”

In addition, among other PACT Act obligations, 15 *United States Code*, section 376(a)(3) requires tobacco delivery sellers of PACT Act products to comply with “all State, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if the delivery sales occurred entirely within the specific State and place, including laws imposing . . . excise taxes . . . and . . . other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco . . .”

Under Minnesota’s Ensure-Payment Provision, all tobacco delivery sellers must collect and pay any use tax imposed on products under *Minnesota Statutes*, Chapter 297F. For out-of-state tobacco delivery sellers that make delivery sales to Minnesota consumers and have no physical presence in Minnesota, the Department is applying sales thresholds to the collection and payment requirements that are consistent with the U.S. Supreme Court’s decision in *South Dakota v. Wayfair, Inc., et al.*, 138 S.Ct. 2080 (2018) (“*Wayfair*”). This application of *Wayfair* sales thresholds is for administrative purposes.

Applying *Wayfair* thresholds, a tobacco delivery seller with no physical presence in Minnesota is subject to the Ensure-Payment Provision and has nexus with Minnesota if, during the prior 12-month period, the tobacco delivery seller made:

1. 200 or more delivery sales of tobacco products from outside Minnesota to destinations in Minnesota by common carrier or otherwise; or
2. Delivery sales of tobacco products totaling more than \$100,000 from outside Minnesota to destinations in Minnesota by common carrier or otherwise.

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# Revenue Notices

An out-of-state tobacco delivery seller with no physical presence in Minnesota:

1. Must determine on a monthly basis whether it meets either of the *Wayfair* thresholds within the last 12-month period;
2. Must, if it meets either *Wayfair* threshold within the last 12-month period, begin collecting and remitting tax on the first day of a calendar month occurring no later than 60 days after such tobacco delivery seller meets either of the *Wayfair* thresholds;
3. Must file a return and pay, on or before the 18th day of the following calendar month, all taxes it collected under the Ensure-Payment Provision.
4. Must continue to collect and remit tax until at least the last day of the 12th calendar month following the calendar month in which such tobacco delivery seller began collecting and remitting tax under paragraph (2);
5. May cease such activities after the 12-month period described in paragraph (4), if such tobacco delivery seller no longer meets either of the *Wayfair* thresholds and satisfies the requirements of paragraph (6); and
6. May cease collection and remittance of tax under paragraph (5) only after notifying the Department that such tobacco delivery seller no longer meets either of the *Wayfair* thresholds. If the tobacco delivery seller subsequently requalifies under either of the *Wayfair* thresholds, the tobacco delivery seller shall again comply with the requirements of paragraphs (1), (2), (3), and (4).

When a tobacco delivery seller is not obligated to collect and remit use tax because it does not meet either *Wayfair* threshold, others, including a consumer that purchased tobacco products from an out-of-state tobacco delivery seller, may be liable for use tax.

Regardless of *Wayfair* thresholds, all tobacco delivery sellers must register with the Department prior to making any delivery sales to Minnesota consumers.

Effective for all delivery sales occurring after December 31, 2021.

Publication Date: May 9, 2022

Terese Mitchell  
Director  
Appeals and Legal Services Division

## Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

## Investment Advisory Council Official Meeting Notice

The Investment Advisory Council of the Minnesota State Board of Investment will meet on Monday, May 16, 2022 at 12:00 p.m. in-person and via teleconference or video conference. The meeting will be held at the Retirement Systems

# Official Notices

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Building, Room 106 (Main Floor), 60 Empire Drive, St. Paul, Minnesota.

Notice, including any instructions for public access to the meeting, will be posted at the SBI office and on the SBI Website at <http://mn.gov/sbi>. For more information, the State Board of Investment can be reached at [minn.sbi@state.mn.us](mailto:minn.sbi@state.mn.us).

## **Minnesota Department of Transportation (MnDOT) Modal Planning and Program Management Division, Office of Transportation System Management Notice of Public Comment Period for the Revised Public Participation Plan for the 20-Year Minnesota State Highway Investment Plan Update**

**NOTICE IS HEREBY GIVEN** that the public is invited to review and provide comments through June 1<sup>st</sup> on the Public Participation Plan for the 20-Year Minnesota State Highway Investment Plan Update. The Minnesota State Highway Investment Plan creates a fiscally constrained, performance-based investment direction for the state highway system.

Public engagement is key to ensuring the investment direction reflects Minnesotans' priorities for investment on the state highway system. The revised Public Participation Plan outlines how MnDOT plans to connect with the public, stakeholders and partners to update the 20-Year Minnesota State Highway Investment Plan.

The Public Participation Plan can be accessed electronically at <http://www.minnesotago.org>. A hard copy is available by mail with written request to the contact shared below.

Written comments will be accepted through June 1<sup>st</sup> and should be addressed to:

Josh Pearson  
Email: [joshua.pearson@state.mn.us](mailto:joshua.pearson@state.mn.us)  
651-366-3773

For more information, contact Josh Pearson at 651-366-3773 or [joshua.pearson@state.mn.us](mailto:joshua.pearson@state.mn.us), or visit <http://www.minnesotago.org>. Follow the planning process on Twitter, [@MnDOT](https://twitter.com/MnDOT), or Facebook, [www.facebook.com/MnDot](https://www.facebook.com/MnDot).

# State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts Section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the State Register, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

SEE ALSO: Office of Grants Management (OGM) at: <http://www.grants.state.mn.us/public/>

## Department of Employment and Economic Development (DEED) Notice of Grant Opportunity

NOTICE IS HEREBY GIVEN that the Minnesota Department of Employment and Economic Development (DEED) places notice of any available grant opportunities online at <https://mn.gov/deed/about/contracts/open-rfp.jsp>

## Department of Human Services Behavioral Health Division Second Addendum to Request for Proposals to Provide Evidence Based Opioid Response Services

The Minnesota Department of Human Services through its Behavioral Health Division has published an Addendum to its Request for Proposal to Provide Evidence Based Opioid Response Services that was published in the April 18th, 2022, State Register. In the Addendum, the proposal submission date is being revised to June 6, 2022, a change from the original date of May 17, 2022, an additional Responder's Conference will be held on May 16, 2022 and responder's questions due date has been revised to May 23, 2022, a change from the original date of May 4, 2022

The text of the RFP Addendum can be viewed by visiting the Minnesota Department of Human Services RFP web site: <https://mn.gov/dhs/partners-and-providers/grants-rfps/open-rfps/>.

For more information please contact:

Alexia Reed Holtum,  
Department of Human Services  
Behavioral Health Division  
540 Cedar Ave  
444 Lafayette Road North, St. Paul, MN 55155  
[Alexia.A.ReedHoltum@state.mn.us](mailto:Alexia.A.ReedHoltum@state.mn.us)

This is the only person designated to answer questions by potential responders regarding this request.

To obtain this information in a different format, please email [Emily.Waymire@state.mn.us](mailto:Emily.Waymire@state.mn.us).

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

# State Grants & Loans

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## Minnesota Department of Human Services

### Behavioral Health Division

#### Request for Proposals for a Grantee to develop and provide specialized trainings to Minnesota's Assertive Community Treatment and Intensive Rehabilitative Mental Health Services (aka Youth ACT) teams

The Minnesota Department of Human Services, through its Behavioral Health Division (STATE), is seeking Proposals from qualified Responders to provide a series of specialized trainings for Adult and Youth ACT teams.

For more information contact:

Mayata White  
Department of Human Services  
Behavioral Health Division  
Phone: (651) 431-4960  
*Mayata.N.White@state.mn.us*

This is the only person designated to answer questions by potential responders regarding this request.

To obtain this information in a different format, please email *Emily.Waymire@state.mn.us*.

Proposals submitted in response to this Request for Proposals (RFP) must be received at the email address listed in the RFP no later than **4:00 p.m., Central Time, on May 20, 2022**. **Late proposals will not be considered**. Proposals received via other methods will not be considered.

The RFP can be viewed by visiting the Minnesota Department of Human Services Grants, Requests for Proposals (RFP) and Requests for Information (RFI) web site: <https://mn.gov/dhs/partners-and-providers/grants-rfps/open-rfps/>.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

## Department of Human Services

### Disability Services Division

#### Notice of Request for Proposals for Grants for Technology for Home and Community-Based Services Recipients

The Minnesota Department of Human Services (DHS or State) is requesting proposals from home and community-based service providers to provide technology assistance to older adults and people with disabilities who do not have access to technology resources necessary to use remote service delivery and telehealth.

DHS is seeking proposals for the grant period June 30, 2022 through March 31, 2024.

For more information contact:

Sharlonda Pierce  
Department of Human Services  
Disability Services Division  
*Sharlonda.D.Pierce@state.mn.us*

This is the only person designated to answer questions by potential responders regarding this request.

To obtain this information in a different format, please email *Emily.Waymire@state.mn.us*.



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# State Grants & Loans

Proposals submitted in response to this solicitation must be received at the online application portal listed in the solicitation no later than **4:00 p.m., Central Time, on Friday, June 3, 2022. Late proposals will not be considered.** Proposals received via other methods will not be considered.

The solicitation can be viewed by visiting the Minnesota Department of Human Services Grants, Requests for Proposals (RFP) and Requests for Information (RFI) web site: <https://mn.gov/dhs/partners-and-providers/grants-rfps/open-rfps/>.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

## Department of Human Services

### Economic Assistance and Employment Supports (EAESD) Division

#### Notice of Request for Proposals to Expand Digital SNAP Campaign and Customize Web-Based Referral System

The Minnesota Department of Human Services (DHS or State) is requesting proposals from qualified responder(s) for two projects:

1. Expand Digital SNAP Campaign.
2. Customize Web-Based Referral System.

DHS is seeking proposals for the grant period from (estimated) July 01, 2022 through June 30, 2023 (12 Months).

For more information contact:

Betty Balan  
Department of Human Services  
Economic Assistance and Employment Supports (EAESD) Division  
Email: [betty.d.balan@state.mn.us](mailto:betty.d.balan@state.mn.us)

This is the only person designated to answer questions by potential responders regarding this request.

To obtain this information in a different format, please email [Emily.Waymire@state.mn.us](mailto:Emily.Waymire@state.mn.us).

Proposals submitted in response to this Request for Proposals (RFP) must be received at the email listed in the RFP no later than **4:00 p.m., Central Time, on June 06, 2022. Late proposals will not be considered.** Proposals received via other methods will not be considered.

The RFP can be viewed by visiting the Minnesota Department of Human Services Grants, Requests for Proposals (RFP) and Requests for Information (RFI) web site: <https://mn.gov/dhs/partners-and-providers/grants-rfps/open-rfps/>.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

# State Contracts

**Informal Solicitations:** Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Website at [www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us) for informal solicitation announcements.

**Formal Solicitations:** Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

**Requirements:** There are no statutes or rules requiring contracts to be advertised for any specific length of time, but the Materials Management Division strongly recommends meeting the following requirements: \$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600 \$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days; \$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar days.

## Minnesota State Colleges and Universities (Minnesota State) Non-Construction Related Bid and Contracting Opportunities

Minnesota State is now placing additional public notices for P/T contract opportunities, goods/commodities, and non-construction related services on its Vendor and Supplier Opportunities website (<http://minnstate.edu/vendors/index.html>). New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

If you have any questions regarding this notice, or are having problems viewing the information on the Vendor and Supplier Opportunities website, please call the Minnesota State Procurement Unit at 651-201-1444, Monday-Friday, 9:00 am – 4:00 pm.

## Minnesota State Colleges and Universities (Minnesota State) System Office, Marketing and Communications Request for Proposals for a Media Buyer to Support Marketing and Communication Efforts

Minnesota State Colleges and Universities (Minnesota State) is requesting proposals for a media buying agency to assist with making media purchases during fiscal years 2023 and 2024, as well as assisting with creative. The selected vendor will supply media recommendations and proposals to assist Minnesota State in promoting the network of 33 state colleges and state universities.

Minnesota State must receive all responses to this RFP no later than 4:00 P.M. Central Time on Friday, June 10, 2022. Proposal must be emailed to:

Barbara Hein, Director of Marketing  
[Barbara.Hein@MinnState.edu](mailto:Barbara.Hein@MinnState.edu)

Inquiries about this RFP must be directed to:

Barbara Hein, Director of Marketing  
Telephone: 651-201-1429  
E-mail: [Barbara.hein@minnstate.edu](mailto:Barbara.hein@minnstate.edu)

For a complete copy of the RFP and required submission materials, please visit the RFP website at <https://www.minnstate.edu/vendors/>. Click on General Opportunities and Follow the Media Buying Link for Minnesota State.

## Minnesota Historical Society and Oversight Board of the Statewide Survey of Historical and Archaeological Sites Request for Proposals for Continued Study of Archaeological Radiocarbon Dating

The Minnesota Historical Society and the Oversight Board of the *Statewide Survey of Historical and Archaeological Sites* seek a qualified consultant to assist with continuing a radiocarbon dating study focused on Minnesota natural and cultural contexts. The Board requests proposals to obtain additional radiocarbon dates from Board-selected archaeological sites, to perform statistical analyses of particular sites and complexes, and to continue examining complications with dates on different types of materials from different settings. No fieldwork is required for the current project. The project cost may not exceed \$75,000.

The Request for Proposal is available by contacting Mary Green Toussaint, Contract Manager, Minnesota Historical Society, by e-mail only: [mary.green-toussaint@mnhs.org](mailto:mary.green-toussaint@mnhs.org)

All bids must be received by Mary Green Toussaint, Contract Manager, by email only at [mary.green-toussaint@mnhs.org](mailto:mary.green-toussaint@mnhs.org) by 2:00 p.m. Local Time Tuesday, May 24, 2022.

Late proposals will not be considered.

## Legislative Coordinating Commission Contract Available for Accessibility Consulting Services for the Minnesota Legislature's Employee Working Group on the Legislature's Accessibility Measures

The Minnesota Legislative Coordinating Commission is requesting proposals from qualified parties interested in providing accessibility consulting services for the Minnesota Legislature's employee working group on the legislature's accessibility from approximately June 2022 through January 2023. The contract may be extended through approximately September 2024 to implement the accessibility measures recommended through the consulting services. **For a copy of the full text of the RFP, please go to <https://www.lcc.mn.gov/RFPs.html> or contact:**

Emma Meyer  
Attn: Accessibility Consulting Services  
Legislative Coordinating Commission  
600 State Office Building  
100 Rev Dr. Martin Luther King Jr. Blvd  
St. Paul, MN 55155  
(651) 296-8432 (voice)  
[emma.meyer@lcc.mn.gov](mailto:emma.meyer@lcc.mn.gov)

All proposals must satisfy the criteria as outlined in the full text of the RFP.

**Proposals must be received by 4:00 p.m. (CT) on Monday, May 16, 2022.** Late applications may not be accepted. The responder must pay for all expenses incurred by responding to this notice.

## Department of Military Affairs Request for Proposals for Consultant Services for Facility Condition Assessments (FCA) for Department of Military Affairs Minnesota Facilities (Project No. 22122)

**PROJECT NAME:** Consultant Services for Facility Condition Assessments (FCA) for Department of Military Affairs Minnesota Facilities (Project No. 22122)

**DETAILS:** The Minnesota Department of Military Affairs is soliciting proposals from interested qualified consultants to provide Facility Condition Assessments (FCA) on MN Army National Guard buildings using the US Army

# State Contracts

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Corps of Engineer (USACE) BUILDER SMS (Sustainment Management System) process. Work is anticipated to start ASAP.

**COPY REQUEST:** A full Request for Proposal (RFP) is available on the Minnesota National Guard's website:  
<http://minnesotanationalguard.ng.mil/requests-for-proposal>

**PROPOSAL DEADLINE:** Proposals in response to the Request for Proposals in this advertisement must be received via email not later than **2:00 p.m., Central Time, May 24, 2022. Late proposals will not be considered.** Fax and mailed proposals will not be considered.

This request does not obligate the State of Minnesota to award a contract or complete the proposed program, and the State reserves the right to cancel this solicitation if it is considered in its best interest. All costs incurred in responding to this solicitation will be borne by the responder.

## Minnesota Department of Transportation (MnDOT) Engineering Services Division Notices Regarding Professional/Technical (P/T) Contracting

**P/T Contracting Opportunities:** MnDOT is now placing additional public notices for P/T contract opportunities on the MnDOT's Consultant Services website. New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

**Taxpayers' Transportation Accountability Act (TTAA) Notices:** MnDOT is posting notices as required by the TTAA on the MnDOT Consultant Services website.

**MnDOT's Prequalification Program:** MnDOT maintains a Pre-Qualification Program in order to streamline the process of contracting for highway related P/T services. Program information, application requirements, application forms and contact information can be found on MnDOT's Consultant Services website. Applications may be submitted at any time for this Program.

**MnDOT Consultant Services website:** [www.dot.state.mn.us/consult](http://www.dot.state.mn.us/consult)

If you have any questions regarding this notice, or are having problems viewing the information on the Consultant Services website, please call the Consultant Services Help Line at 651-366-4611, Monday – Friday, 9:00am – 4:00pm.

# Non-State Public Bids, Contracts & Grants

The State Register also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

Besides the following listing, readers are advised to check: <http://www.mmd.admin.state.mn.us/solicitations.htm> as well as the Office of Grants Management (OGM) at: <http://www.grants.state.mn.us/public/>.

## Metropolitan Airports Commission (MAC) Notice of Call for Bids for 2022 Landside Utility Rehabilitation

<b>Airport Location:</b>	<b>Minneapolis-St. Paul International Airport</b>
<b>Project Name:</b>	<b>2022 Landside Utility Rehabilitation</b>
<b>MAC Contract No.:</b>	<b>106-3-639</b>
<b>Bids Close At:</b>	<b>2:00 p.m., Tuesday, May 17, 2022</b>
<b>Bid Opening At:</b>	<b>3:00 p.m., Tuesday, May 17, 2022 via teleconference</b>
<b>Teleconference Dial In #:</b>	<b>+6124056798</b>
<b>Conference ID #:</b>	<b>681090675#</b>

**Notice to Contractors:** Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040-28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of Targeted Group Businesses on this project is 7%.

**Bid Security:** Each bid shall be accompanied by a "Bid Security" in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the QuestCDN website indicated below and at the Minnesota Builders Exchange; Dodge Data and Analytics; and NAMC-UM Plan Room. Bidders desiring bidding documents for personal use may secure a complete digital set at <http://www.questcdn.com>. Bidders may download the complete set of digital bidding documents for \$15.00 by entering eBidDoc™ #8191101 in the "Search Projects" page. Contact Quest Construction Data Network at (952) 233-1632 or [info@questcdn.com](mailto:info@questcdn.com) for assistance. Hard copy bidding documents will not be made available to Bidders.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on May 2, 2022, at MAC's web address of <https://metroairports.org/doing-business/solicitations>.



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