

Legislative Changes to Preference Points and Equity Select

The State made two major contracting changes in the 2023 legislative session to help promote certified, small Minnesota-owned businesses that have historically experienced economic challenges. These changes increased preference point percentages and the Equity Select threshold, effective July 1, 2023. The new legislation can be found in Minnesota Statutes 16C.16, subdivisions 6, 6a, and 7, as seen via the links on the Minnesota Revisor's website to the Laws of Minnesota 2023, Chapter 62, Article 2, Sections 77 – 79.

What kinds of small businesses qualify?

- Targeted Group (TGB) – owned by women, certain minorities, or persons with substantial physical disabilities.
- Veteran-Owned or Service-Disabled Veteran-Owned (VO) – owned by veterans.
- Economically Disadvantaged (ED) –for which the owner or business resides in one of the counties with a low median income or a labor surplus.
- Must be certified as a Minnesota based TGB/ED/VO small business. The directory of certified businesses can be found here: [Equity in Procurement \(TG/ED/VO\) Directory / Minnesota Office of State Procurement \(mn.gov\)](#).

What does this mean?

A certified TGB/ED/VO business may receive up to 12% preference points (up from 6%) to sell their goods, commodities, materials, or general services to the state. In addition, Professional/Technical consultant contracts and building construction contracts may also receive up to a 12% preference to provide these select businesses with an increased opportunity when bidding/proposing for state contracts.

Under the Equity Select Program, an agency can directly select a vendor without going through a competitive solicitation process for awards up to a total contract value of \$100,000 (up from \$25,000).

MnDOT reviews proposals to ensure TGB/ED/VO businesses are performing a commercially useful function. These opportunities are not to be used by TGB/ED/VO businesses to act as brokers of services.

What is the purpose of increased preference points and Equity Select threshold?

- Works towards remediating past harms of discrimination by assisting MnDOT in diversifying its contracting pool.

- Acknowledges and honors Minnesota’s veteran business community.
- Increases MnDOT’s contractor pool/competition on bids/proposals.

How are preference points applied?

TGB/ED/VO preferences are not cumulative. A responder that is certified in multiple categories will receive only a 12% preference.

- 1) Quality based – Cost is not an evaluation criteria. The State evaluates proposals and calculates a score based on a 100-point scale. 12% points can now be added to scores for TGB/ED/VO businesses.
- 2) Best Value – Takes into consideration both quality and cost. These criteria are scored followed by an addition up to 12% preference points.

What types of contracts are not included in the threshold and preference point increases?

- Highway construction contracts are not included in this new legislation. Preferences for highway construction contracts are found at [Minnesota Statutes Section 161.321, subdivisions 2 & 2b](#).
- Projects that are not solely owned by MnDOT.
- Projects that are only partially (not wholly) state funded, e.g., projects with federal financial assistance.