

## Compliance in State Contracting (HF441)

### What is the Proposal?

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Compliance in State Contracting allows the department to levy small fines up to \$5,000 on state contractors who are noncompliant with the department's Workforce (363A.36) and Equal Pay (363A.44) Certificates for large state contracts and are unresponsive with the department. These certificates create hiring opportunities for people of color and women on state projects and ensure contractors abide by existing state and federal equal pay for equal work laws.

### Why is HF441 Needed?

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In order to combat the racial and gender disparities that exist in Minnesota, the department needs appropriate enforcement tools to ensure that contractors are fulfilling the state's equity hiring goals and equal pay protections on large state projects.

The majority of state contractors are in full compliance with the department. However, when the department does face a noncompliant and unresponsive contractor, the only recourse method beyond a warning is to revoke the contractor's certificates, which results in the cancelation of contracts. This is rarely used and not always the most appropriate response to issues. HF441 would give the department a moderate, intermediate option to help bring a state contractor into compliance.

### How does HF441 Work?

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- When the State of Minnesota contracts for a large project, the contractor is often required to obtain Workforce and/or Equal Pay Certificates from the department.
- After a contractor obtains their necessary certificates, the department monitors and supports their work to evaluate if they are making good faith efforts to create hiring opportunities for women and people of color on the project, and that they are not committing gender-based pay discrimination.
- HF441 would come into play if a contractor is noncompliant with their commitments and are unresponsive when the department attempts to provide support. In this scenario, the department would be allowed to levy fines up to \$5,000 per violation until the contractor comes back into compliance.
- Under HF441, the project can still continue as the department works with the contractor to achieve compliance.

## Frequently Asked Questions

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### 1. When could a penalty be levied under HF441?

A contractor could receive a penalty if they are non-compliant with their certificate and unresponsive when the department attempts to provide support. A contractor could be considered non-compliant if they have not made any good faith effort to achieve equity hiring goals or are violating gender-based equal pay protections.

### 2. How many contractors could be affected by HF441?

The department partners with many contractors that fulfill their agreements. Yet, the department does still face situations where a specific contractor is noncompliant and unresponsive with the department. When these situations occur the department's only existing enforcement tools are to revoke or suspend the contractor's certificates. HF441 gives the department a moderate, intermediate enforcement tool to bring a contractor into compliance.

### 3. When are Workforce Certificates and Equal Pay Certificates required?

A Workforce Certificate (Minn Stat. 363A.36-363A.37) is required when the project is over \$100,000 with an employer who has more than 40 employees. An Equal Pay Certificate (Minn. Stat 363A.44) is required for projects over \$500,000 with an employer who has more than 40 employees.

### 4. What happens when a fine is collected?

Any fines collected would go to the state's general fund.

### 5. Why doesn't the department simply revoke a noncompliant business's certificate?

Revoking a business's certificate is an extreme tool that is not always an appropriate option. The department would rather work and support a contractor throughout the compliance process. HF441 equips the department with a more moderate enforcement tool to help bring a state contractor into compliance.

## Contact

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