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DPS-TACIP

MINNESOTA DEPARTMENT OF PUBLIC SERVICE
TELECOMMUNICATIONS ACCESS FOR
COMMUNICATION-IMPAIRED PERSONS

THE NEW
MINNESOTA RELAY SERVICE



1996 ANNUAL REPORT TO THE
MINNESOTA PUBLIC UTILITIES COMMISSION
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EXECUTIVE SUMMARY

In 1987, the Minnesota Legislature passed legislation creating the Telecommunications Access for Communication Impaired Persons (TACIP) Board for the purpose of making the telephone network in Minnesota accessible to communication-impaired persons (speech-, hearing- and mobility-impaired). Two programs were established to accomplish this goal: the Equipment Distribution Program (EDP) and the Minnesota Relay Service (MRS).

In 1995 the Minnesota Legislature eliminated the TACIP Board and transferred the responsibility for EDP to the Minnesota Department of Human Services (DHS) and the responsibility for the MRS to the Minnesota Department of Public Service.

The Equipment Distribution Program provides specialized telecommunications equipment to eligible deaf, hard-of-hearing, speech-impaired and mobility-impaired persons which enables them to access the telephone network. The Minnesota Relay Service allows a person using a specialized telecommunications device called a Telecommunications Device for the Deaf (TDD) or Teletypewriter (TTY) to communicate with a person using a standard telephone. Since the inception of the two programs, more than 12,000 households and over 6 million calls have been placed through the relay service to and from communication-impaired callers. These programs, as well as the administrative expenses of DPS-TACIP, are funded by a statewide \$0.17 surcharge on access lines, including cellular communications lines and other non-wire line telephone access services, in the State of Minnesota.

Shortly after the DPS accepted responsibility for oversight of the TACIP program, relay users were informed of the Department's commitment to establish an all new relay service that would meet, if not exceed, TRS services available in any other state. DPS-TACIP has successfully negotiated two new three-year contracts with Communication Service for the Deaf (CSD) and Sprint Communications Company, and believes it is well on the way to achieving its goal of establishing one of the best relay centers in the nation.

This report presents information on the major activities of DPS-TACIP during 1996. This is comprised of operating information on the two TACIP programs, and financial and statistical data. The attachments provide details on the TACIP statute, the current organizational structure of DPS-TACIP's service providers, and program operations.

TACIP ADMINISTRATION

In 1987, the Minnesota Legislature passed legislation creating the Telecommunications Access for Communication Impaired Persons (TACIP) Board for the purpose of making the telephone network in Minnesota accessible to communication-impaired persons (speech-, hearing- and mobility-impaired). Legislation passed by the Minnesota Legislature in 1995 eliminated the TACIP Board and transferred the responsibility for EDP to the Minnesota Department of Human Services and the responsibility for the MRS to the Minnesota Department of Public Service (DPS or DPS-TACIP). The DPS also coordinates funding for the two MRS programs.

DPS-TACIP ADMINISTRATION

As of July 1, 1995, the TACIP Board was eliminated, with the administrative and MRS responsibilities transferred to the Department of Public Service and the responsibility for the Equipment Distribution Program assigned to the Department of Human Services. The DPS-TACIP Administrator is Jim Alan. The Administrative Assistant position, left vacant by the resignation of Ms. Sonya Guggemos, is not scheduled to be filled at this time.

ADVISORY COMMITTEES

When the TACIP Board was eliminated in 1995 (see Attachment A), the Legislature transferred the responsibility for gathering citizen input regarding EDP and the MRS to the Department of Human Services (Deaf and Hard of Hearing Services Division). Each of the Division's Regional Service Centers (RSC) advisory committees has added a mobility or speech-impaired member. Feedback gathered from the meetings is then forwarded to DPS-TACIP.

Communication between DPS-TACIP and its RSC advisory committees is excellent. RSC input will be discussed later in this report.

Additionally, one of the state's new MRS vendors, Communication Service for the Deaf (CSD), has established a consumer relations office which is located in downtown St. Paul. Activities of the CSD Consumer Relations office, which provides advice to DPS-TACIP, will be discussed later in this report. Sprint has established a 24-hour toll free hotline to assist consumers.

PURPOSE OF REPORT AND ROLE OF THE PUBLIC UTILITIES COMMISSION (PUC)

By statute, DPS-TACIP must submit a report to the Commission by January 31 of each year. Each report must review the accessibility of the telephone system for users of the Minnesota Relay Service and the Equipment Distribution Program. In addition, the report includes a description of services provided by both the MRS and EDP, funds received and disbursed annually for each component of the program, and plans for future operations.

DPS-TACIP must annually submit its budget for the upcoming year to the Commission. The Commission reviews the TACIP budget for reasonableness and may modify the budget to the extent it is unreasonable. Within 60 days of receipt of a recommendation from the TACIP Administrator, the PUC determines the funding mechanism and orders the imposition of surcharges.

During 1996, DPS-TACIP submitted the following reports to the Commission:

- February 2DPS-TACIP Quarterly Report to the Commission
(2nd Quarter FY 1996)
- April 8.....DPS-TACIP Annual Report to the Commission
- May 20DPS-TACIP Budget and Surcharge Recommendations for
Fiscal Year 1997
- September 13.....DPS-TACIP Quarterly Report to the Commission
(3rd Quarter FY 1996)
- October 14.....DPS-TACIP Quarterly Report to the Commission
(4th Quarter FY 1996)
- October 31.....DPS-TACIP Quarterly Report to the Commission
(1st Quarter 1996)

MAJOR ACTIVITIES OF DPS-TACIP IN 1996

- On February 2, 1996, DPS-TACIP informed the Commission of the Deafness Education Awareness Foundation's (D.E.A.F.) (the former MRS vendor) request to increase the Cash Advance Fund from \$144,000 to \$175,000. In response to D.E.A.F.'s request, DPS-TACIP conducted a detailed review of all transactions itemized in the Cash Advance Fund bank statements. During the course of that review, it appeared to DPS-TACIP that there was at the very least, co-mingling of state funds. Additionally, it also appeared that dedicated funds from the Cash Advance Fund were transferred, at times, to D.E.A.F.'s payroll account for their

Florida Relay Center. Once this determination was made, Kris Sanda, Commissioner of the Department of Public Service, reported the apparent discrepancy to the Office of the Legislative Auditor as required by law.

- While awaiting advice from the Legislative Auditor, DPS-TACIP worked closely with D.E.A.F.'s Controller in order to re-establish the Cash Advance Fund and to clarify all requirements related to its use, both contractually and legislatively. D.E.A.F. conformed to all necessary requirements. On May 31, 1996, the Office of the Legislative Auditor issued a Letter of Determination regarding this matter (see Attachment B).
- On February 29, 1996, the Minnesota Department of Administration, on behalf of DPS-TACIP, issued two request for proposals (RFPs). One of the RFPs solicited competitive proposals for the operation and maintenance of the MRS by a local consumer organization serving communication-impaired persons. The second RFP solicited competitive proposals for the provision of all MRS facilities and state-of-the-art telecommunications relaying equipment and technical support staff.
- On April 22, 1996, the Department of Administration received proposals from D.E.A.F. and CSD for the operation and maintenance of the MRS by a local consumer organization. Proposals were received from MCI and Sprint for the provision of the facility, equipment and maintenance of the MRS.
- Sprint and CSD were the MRS vendors selected by the Department of Public Service.
- Beginning at midnight on June 30, 1996, relay traffic originating in Minnesota was forwarded to relay centers operated jointly by CSD and Sprint.
- On September 9, 1996, the access number 1-800-627-3529, became the sole access number for the MRS and all calls to the local Twin Cities access number were forwarded to a voice/TTY recording which directs callers to use the 800 access number.
- On December 16, 1996, the new Minnesota Relay Service located in Moorhead, Minnesota opened and began relaying all calls originating in Minnesota.

REVISED QUARTERLY REPORTS TO PUC

Consistent with the new MRS contracts with Communication Service for the Deaf (CSD) and Sprint Communication Company (Sprint), DPS-TACIP will cease to provide oversight of many MRS functions for FY 1997. These functions include: MRS billing status; staffing levels; employee efficiency; and personnel matters.

CASH ADVANCE FUND

The State of Minnesota 's contract with Deafness Education and Advocacy Foundation, Inc. (D.E.A.F.) ended on June 30, 1996. On July 12, 1996, D.E.A.F. returned the MRS Cash Advance, plus interest, in the amount of \$152,684.87. The remaining interest of \$29.66 on the fund was returned on September 13, 1996. Both checks were deposited into the TACIP surcharge account.

MANAGEMENT SERVICES LINE ITEM

On September 11, 1996, D.E.A.F. returned to the state all unused funds from the Management Services line item. The unused funds, totaling \$47,143.79, were also returned to the TACIP Surcharge Account.

OUTSTANDING FISCAL 1996 INVOICES

All outstanding invoices submitted by D.E.A.F and other vendors associated with MRS operations in FY 1996 have been reconciled.

CYBERNETICS - WORK FORCE MANAGEMENT SOFTWARE

Following several months of litigation, D.E.A.F. was able to settle its lawsuit against Cybernetics (software company) for an undisclosed amount. The Department greatly appreciates D.E.A.F.'s independent pursuit of the software company. D.E.A.F has agreed to forward the settlement amount, less attorney's fees, to DPS-TACIP. Upon receipt of the settlement monies, the funds will be deposited into the TACIP surcharge account.

MCI LAWSUIT AGAINST THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF PUBLIC SERVICE

On October 31, 1996, the Honorable James Campbell of the Ramsey County District Court issued his order denying MCI's lawsuit against the Department of Public Service and the Department of Administration in its entirety. The order, in effect, exonerated the State's actions in selecting CSD and Sprint to run the Minnesota Relay Service. MCI moved for amended findings of fact. After a hearing on the matter, Judge Campbell issued a second order denying MCI's motion and reaffirming his earlier order in favor of the State (see Attachment C).

SURPLUS OF MRS EQUIPMENT

Following the shutdown of the MRS in St. Paul, personnel from DPS and the Plant Management Division of the Department of Administration moved all state-owned property to a warehouse operated by State Surplus Property. While much of the property has been sold to governmental entities offering the highest bid, it is likely that it will take several months to surplus all of the equipment. It is the goal of State Surplus to sell the equipment at the highest price possible. State Surplus will then split the proceeds 50/50 with DPS-TACIP. The DPS-TACIP share of the proceeds are being deposited, on an ongoing basis, in the TACIP surcharge account.

MINNESOTA RELAY SERVICE

The new MRS facility, provided by Sprint, uses the Rockwell Galaxy ISS 3000 switching system. The switch is an all digital, state-of-the-art system which provides caller accessibility in excess of 99.99 percent. All major systems and components are redundant which limits the dropping of calls to those not currently in progress. Calls will not be dropped if they have been answered by a Communication Assistant (CA).

Sprint and CSD are currently relaying all calls including local, intraLATA toll and intrastate intraLATA calls. Billing options include non coin-sent-paid, third-party, calling card, and collect calls for any calls originating or terminating in Minnesota.

Persons who are not deaf, hard-of-hearing, or speech disabled are able to access expanded calling services through Extended Area Service (EAS), Metropolitan Area Plans or other discounted toll plans that, in some instances, allow calls to cross state lines. Sprint has engineered the MRS to allow the same calling services used by persons without disabilities to be expanded to persons who are deaf, hard-of-hearing, or speech-disabled. Calls placed across state lines that would be considered local intrastate calls if the MRS was not used are completed without additional toll charges. This is in keeping with the DPS-TACIP Requests for Proposals which require equal communication access of the intrastate telecommunications network to persons who are deaf, hard-of-hearing or speech disabled. Specially trained CAs are available 24 hours a day, seven days a week, to relay calls. There is no extra charge to the user of the relay service.

TRANSMISSION CIRCUITS

Sprint is a certified interexchange carrier in all 50 states. Using Sprint's nationwide all digital fiber-optic network, transmission circuits will at least meet, if not exceed, industry interexchange performance standards for circuit loss and noise.

The implementation of Sprint's Synchronous Optical Network (SONET) provides the MRS with the ability to operate on transmission circuits that form a "self healing" ring. The SONET ring is a portion of Sprint's fiber-optic network set-up in a ring, loop or circle to provide survivability for that portion of the Sprint network. The MRS is, therefore, linked to a coast-to-coast telecommunications route, which ensures voice, data, and video services without interruption, even if there is a cable cut or an electronics failure. If a Sprint cable is cut, SONET is designed to send a call in the opposite direction without interrupting the call. This ensures that the MRS calls are safeguarded by automatically rerouting service around disruptions in approximately 60 milliseconds, which is roughly the blink of an eye.

ACCESSING THE MRS

In order to minimize confusion among MRS users, DPS-TACIP elected to temporarily maintain use of previous access numbers. Prior to the July 1, 1996 cutover, MRS users calling from the metropolitan area accessed the MRS by calling 297-5353 while callers in greater Minnesota dialed 1-800-627-3529. Metropolitan area callers who continued to use the 297-5353 access number had their calls automatically forwarded into the 800 number. After allowing several months for relay users to transition to using the 800 number, the forwarding capability was removed from the seven digit metropolitan area number and was replaced with a voice/TTY recording directing users to the 800 number.

MRS LOCATION

The new MRS which began operations two weeks ahead of schedule on December 16, 1996, is located in Moorhead, Minnesota at 2410 8th Street South, #44, 56560. Prior to the completion of the facility, MRS calls were handled utilizing the Sprint National Call Distribution Network. Relay traffic was routed to relay locations operated jointly by Communication Service for the Deaf and Sprint in Sioux Falls, South Dakota and Lubbock, Texas.

Located in the Holiday Mall in the former Ethan Allen furniture store, the MRS is adjacent to the intersection of Interstate-94 and Highway 75. Not only does the location provide easy access to and from the greater Fargo-Moorhead area, it is also adjacent to three hotels or motels, a 24-hour restaurant and an existing day care center. As in the past, many MRS employees require day care services for their children.

The center was constructed to position 72 workstations. As of January 31, 1997, the MRS is staffing an average of 45 positions. It is the expectation of Sprint, CSD and DPS-TACIP that the MRS will, in the near future, begin taking all Iowa TRS traffic. The transformation of the MRS from a state relay center to regional

relay center is a boon to economic-development in Minnesota. Given the increased efficiency attainable through higher call volumes, DPS-TACIP also expects that the operation of a regional relay center will ultimately decrease the per minute cost of handling Minnesota calls. An organizational chart depicting the MRS administrative structure is provided in Attachment D.

CSD CONSUMER RELATIONS

Since July 1, 1996, the emphasis of CSD's consumer relations efforts have been focused on increasing public awareness regarding the necessary usage of a new MRS access number for metropolitan area users. Previously, metropolitan area relay users accessed the MRS by calling a local number while relay users in greater Minnesota accessed the relay by using an 800 number. A summary of the activities of the CSD Consumer Relations Office is found in Attachment E.

IMMEDIATE BENEFITS TO MRS USERS

Although all of the calling features provided by the former vendor were readily available at the cutover point, some of the new MRS features will become available over the next several weeks.

ANI

Perhaps the most noticeable improvement for relay users in greater Minnesota is utilization of Automatic Number Identification (ANI). Previously relay users had to supply Communication Assistants with their telephone number. With ANI, the originating number appears automatically on the CA's monitor. In addition, ANI prevents call fraud that was previously associated with people intentionally giving incorrect originating numbers for billing purposes.

VOICE CARRYOVER WITHOUT INITIAL TYPING

A hearing-impaired person with understandable speech may request voice carryover which allows him-her to speak directly to hearing persons and receive the response conversation typed back on the TTY. The MRS now has the technological capability to allow a TTY user to speak through his/her voice carryover without any initial TTY typing involved in the process of calling the relay service.

VOICE CARRYOVER TO VOICE CARRYOVER (VCO TO VCO)

This feature allows MRS access to VCO users at both ends of relay call.

MOBILE RADIO AND PAGING

The MRS is capable of receiving and transmitting voice and Baudot/ASCII calls through mobile radio and paging.

VARIABLE TIME STAMP MACRO

The variable time stamp macro feature is sent by the CA to notify a TTY user via a macro message that a voice party has disconnected and indicates the time of disconnection. Because the MRS may not be capable of interrupting the TTY relay user's transmission of text, significant time may elapse after the non-TTY user disconnects before the macro is received. The time of disconnection will allow the TTY relay user to determine at what point the conversation was terminated.

ERROR CORRECTION AUTOMATION

The feature automatically corrects many of a CA's typographical errors and spells out non-TTY abbreviations that may be used by the CA in voice-to-text translation.

BRANDING OF CALL TYPE

The MRS now has the ability to record technical information (e.g. Baudot, ASCII, voice, VCO, or HCO) determined by the most recent call placed by the relay user. The relay user's next call is then automatically answered and set-up using pre-recorded information.

LAST NUMBER REDIAL

The last number redial feature allows the MRS user to call the last person dialed through the MRS without having to provide the telephone number to the CA.

VCO TO TTY

This feature allows VCO users to communicate with TTY users through the MRS when both parties are using TTY devices. To process this type of call, the CA types the VCO user's message to the TTY user and the TTY user types directly back to the VCO user.

ACCESS TO RESTRICTED "800" AND "888" NUMBERS

TTY users are able to reach, through the MRS, regionally restricted 800 and 888 numbers and the business offices of local telephone companies which have special prefixes, all of which would normally be accessible to the TTY user in his/her calling area.

FUTURE MRS FEATURES

ADVANCED INTELLIGENT NETWORK (AIN) ROUTING

AIN routing, or call forwarding, allows TTY users who receive a voice call at their home or office to automatically route the call to the MRS. To use this feature, MRS users will have to purchase call forwarding and a second telephone line from their Local Exchange Carrier and establish a customer profile with the MRS that registers their telephone number as one that will be forwarded back to the MRS. TTY users will have the option of overriding the default routing to the MRS, if desired, by disengaging the LEC provided call forwarding feature.

HEARING CARRYOVER TO HEARING CARRYOVER (HCO TO HCO)

A speech-impaired person with hearing capability may request Hearing Carryover which will enable the speech-impaired person to directly hear what the other party is saying and type back his/her message which will be spoken by the Communication Assistant. HCO to HCO allows MRS access to HCO users at both ends of a relay call.

CALL BLOCK

MRS users will be able to include in their customer database telephone numbers they want blocked.

CALLER ID VIA DATABASE

Beginning February 26, 1997, this feature will simulate a local exchange carrier's Caller ID feature in that the CA will inform the receiving party of the calling party's telephone number.

ACCESS TO 900 NUMBER SERVICE

This feature will allow MRS users to access 900 number pay-per-call services.

TOUCHTONE CARRYOVER

Touchtone carryover allows a TTY user to use their touchtone telephone to directly interact with automated response systems.

TEXT-TO-VOICE SERVICE (SPEECH SYNTHESIZER)

This is a feature which would automatically convey text-to-voice via a speech synthesizer. The implementation of this feature is to be determined between DPS-TACIP and the vendors based on consumer demand and added costs.

CALL VOLUMES

During the six months prior to the July 1, 1996 cutover, the MRS operated by D.E.A.F. handled an average of 72,223 calls per month. During the six months following the July 1, 1996 cutover, CSD and Sprint handled an average of 72,010 calls per month. DPS-TACIP estimates the growth in call volumes for FY 1997 to be at least one percent, as shown in the graph below.

Call Volume

Comparison of Incoming and Outgoing Calls - FY 1989-1996



MRS STAFFING EFFICIENCY

Under the new contracts with Communication Service for the Deaf and Sprint, DPS-TACIP will pay for the provision of relay services on a price-per-session minute basis rather than as a direct reimbursement for actual costs incurred as under the previous contract. As a result of this change in payment structure, DPS-TACIP is no longer as concerned with the staffing levels and employee efficiency. This is because payment is made only for time Communication Assistants are actually handling calls.

MINNESOTA RELAY SERVICE BILLING SYSTEM UPDATE

Sprint is now providing the billing service for the Minnesota Relay Service (MRS) as part of the new contract for the provision of the MRS facility, equipment and maintenance. DPS-TACIP no longer has a separate contract for billing services.

EQUIPMENT DISTRIBUTION PROGRAM (EDP)

The Equipment Distribution Program (EDP) is responsible for distributing telecommunication devices to eligible Minnesota citizens, informing communication-impaired persons of services available through the program, providing training in the use of the telecommunications devices and maintaining the devices. Minnesota statute defines "communication-impaired" to mean "certified as deaf, severely hearing-impaired, hard-of-hearing, speech-impaired, deaf and blind, or mobility impaired if the mobility impairment significantly impedes the ability to use standard customer premises equipment."

The EDP is administered through an interagency agreement with the Department of Human Services, Deaf and Hard of Hearing Services Division (DHHSD). Services are provided through six of DHHSD's regional offices. The map provided in Attachment E shows the makeup of the regions and the number of households served to date by EDP. The organizational chart for EDP is included in this report as Attachment F.

AUTHORITY TO PROVIDE EQUIPMENT

Subdivision 5 (3) of Minnesota Statute § 237.51 provides the Department of Human Services (DHS) with the authority to establish specifications for special communication devices to be purchased under Section 237.53, subdivision 3. This authorizes the Department to evaluate and purchase communication devices that may be beneficial to eligible persons under its distribution program.

POLICY AND ADOPTION OF ADMINISTRATIVE RULES

From the beginning of the TACIP programs, it was clear that there was a dramatic need to provide appropriate telephone access equipment to communication-impaired persons in Minnesota. The EDP committee of the TACIP Board worked with a number of individuals and organizations to identify communication-impaired populations, the kind of telecommunications equipment needed, and the eligibility criteria for the program. Terms such as "severely hearing-impaired," "residency," and "appeal process" were defined and a priority system for distribution was established. An update to these rules was completed in 1995 reflecting the 1993 changes in the TACIP statute.

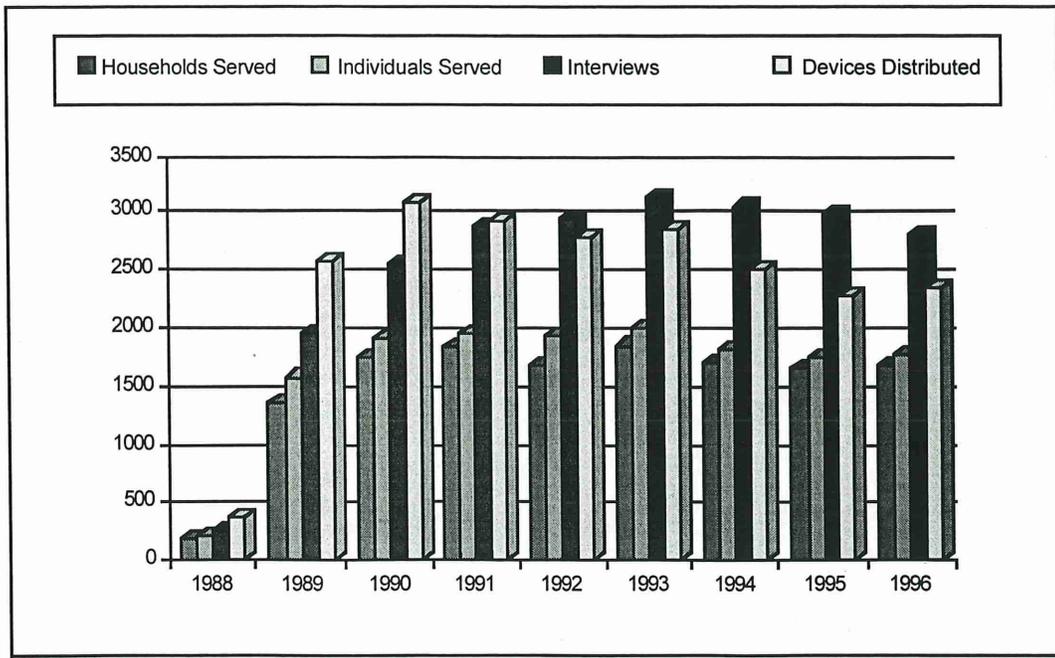
Although the responsibility for the Equipment Distribution Program was transferred to the Department of Human Services, rulemaking authority for EDP remains with the Department of Public Service (DPS).

EDP CONTRACT

The Deaf and Hard of Hearing Services Division (DHHSD) of the Department of Human Services provides access to an established network of regional service centers around the state and has professional staff experienced in working with communication-impaired persons. According to statute, the Minnesota Department of Human Services (DHS) administers the Equipment Distribution Program under an interagency agreement with the Department of Public Service. The interagency agreement is renewed each fiscal year; the current contract runs through June 30, 1997.

STATISTICAL INFORMATION

A report of EDP activities is submitted quarterly to DPS by the DHHSD. The report fully documents outreach activity, the number of interviews conducted, the number of households receiving equipment, the number of individuals served and the kinds of equipment distributed. Distribution data from the beginning of the program in October 1988 through December 1996 is shown below and also in Attachment G.



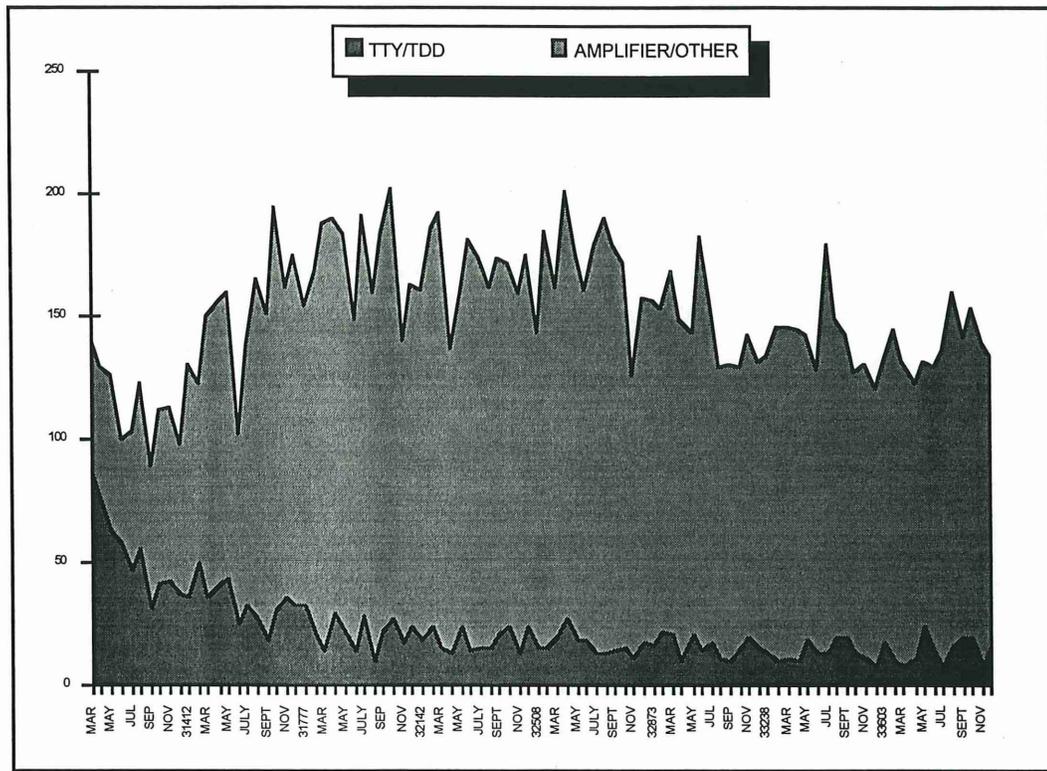
PROGRAM PROMOTION

DHHS is responsible for the promotion of EDP services and activities. EDP staff presentations explain the program, outline the eligibility requirements, demonstrate types of equipment available, explain the availability of the statewide telecommunications relay service, and provide other pertinent information. Since the program began in 1988, over 2,000 presentations have been given to more than 48,000 participants statewide. Subdivision 5b of Minnesota Statute 237.51 provides the Department of Human Services with the authority to establish an advisory board to advise the department in carrying out the duties specified. Under this authority, the four Regional Service Center advisory committees added a member to represent their regions in the areas of telecommunication. These advisory committee meetings took place quarterly during the year and telecommunication issues were routinely discussed. The 1996 meeting dates and membership roster are provided in Attachment H.

TRENDS IN SERVICE PROVISION

The demand for equipment for those who are hard of hearing remains strong and is reflected in our referral numbers. The graph below indicates the number of telecommunication devices for the deaf (TDDs) or teletypewriters (TTYs) and other equipment distributed since the beginning of the program. The largest EDP consumer group continues to be senior citizens (over the age of 65). This population experiences an extremely high incidence of hearing loss and is most in need of telephone services to access health, safety and social services to maintain

self-support and self-sufficiency. Since hearing loss is much more prevalent as people grow older, and as the baby boom generation continues to mature, this upward trend is expected to continue.



Another trend is reflected in repeat interviews, as more consumers statewide are either returning their equipment to be repaired or requesting that their telecommunication needs be assessed again in order to determine their equipment needs due to their gradual hearing loss.

Since its inception in 1988, EDP has distributed nearly 22,400 devices. The equipment continues to age, and the time and resources processing repairs continues to increase.

REIMBURSEMENT FOR INTERSTATE TRS

The Americans with Disabilities Act of 1990 (ADA) directed the FCC to establish requirements, guidelines, procedures and minimum state standards for Telecommunications Relay Service (TRS). The FCC conducted a proceeding (CC Docket 90-571) to examine and resolve a variety of TRS issues, one of which was the recovery of costs of providing interstate TRS by service providers. The FCC order released on July 20, 1993 established rules requiring a nationwide fund to recover the costs of providing interstate TRS, and named the National Exchange Carrier

Association (NECA) as the funds administrator. The fund became operational on July 26, 1993. NECA was reappointed Fund Administrator in 1995.

In November 1996, the responsibility of fulfilling all NECA reporting retirements was transferred to Sprint Communications Company. Therefore, each month's invoice from Sprint shows a dollar-for-dollar reduction in the state's monthly costs which is commensurate with the NECA reimbursement formally received by the state directly from NECA.

FISCAL YEAR 1996 ACTUAL AND FISCAL YEAR 1997 ESTIMATED REVENUES AND EXPENDITURES	
FY 1996	
Revenues:	
Income from Surcharge	\$5,941,184
Income from NECA	261,699
Income from Long Distance Billing	43,799
Balance Forward	1,457,925
Income from Investments/Interest	93,341
Total Revenue	\$6,340,222
Expenses:	
TACIP Administration	\$222,206
TACIP Direct MRS Service	487,413
Equipment Distribution Program	824,314
Minnesota Relay Service	3,182,482
Balance Forward	\$3,081,532
FY 1997	
Revenues (projected):	
Income from Surcharge	\$6,079,200
Income from NECA	75,710
Income from Long Distance Billing	33,035
Return of Advance Funding	199,858
Sale of Equipment	25,000
Balance Forward	3,081,532
Income from Investments/Interest	106,000
Total Revenue	\$9,600,335
Expenses:	
TACIP Administration	\$254,551
Equipment Distribution Program	937,122
Minnesota Relay Service	5,375,476
TACIP Direct MRS Expenses	112,360
Total Expenses	\$6,679,509
Balance Forward	\$2,814,826

Attachment I provides a visual aide which depicts past and future revenues and expenses.

APPENDIX A

*TACIP Statute
Minnesota Statute 237.50.237.56 (1995)*

237.50 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 237.50 to 237.56 have the meanings given them in this section.

Subd. 2. Repealed, 1995 c 190 s 17

Subd. 3. **Communication impaired.** "Communication impaired" means certified as deaf, severely hearing impaired, hard-of-hearing, speech impaired, deaf and blind, or mobility impaired if the mobility impairment significantly impedes the ability to use standard customer premises equipment.

Subd. 4. **Communication device.** "Communication device" means a device that when connected to a telephone enables a communication-impaired person to communicate with another person utilizing the telephone system. A "communication device" includes a ring signaler, an amplification device, a telephone device for the deaf, a Braille device for use with a telephone, and any other device the department of human services deems necessary.

Subd. 4a. **Deaf.** "Deaf" means a hearing impairment of such severity that the individual must depend primarily upon visual communication such as writing, lip reading, manual communication, and gestures.

Subd. 5. **Exchange.** "Exchange" means a unit area established and described by the tariff of a telephone company for the administration of telephone service in a specified geographical area, usually embracing a city, town, or village and its environs, and served by one or more central offices, together with associated facilities used in providing service within that area.

Subd. 6. **Fund.** "Fund" means the telecommunication access for communication-impaired persons fund established in section 237.52.

Subd. 6a. **Hard-of-hearing.** "Hard-of-hearing" means a hearing impairment resulting in a functional loss, but not to the extent that the individual must depend primarily upon visual communication.

Subd. 7. **Interexchange service.** "Interexchange service" means telephone service between points in two or more exchanges.

Subd. 8. **Inter-LATA interexchange service.** "Inter-LATA interexchange service" means interexchange service originating and terminating in different LATAs.

Subd. 9. **Local access and transport area.** "Local access and transport area (LATA)" means a geographical area designated by the Modification of Final Judgment in U.S. v. Western Electric Co., Inc., 552 F. Supp. 131 (D.D.C. 1982), including modifications in effect on the effective date of sections 237.51 to 237.54.

Subd. 10. **Local exchange service.** "Local exchange service" means telephone service between points within an exchange.

Subd. 11. Telecommunication relay service.

"Telecommunication relay service" means a central statewide service through which a communication-impaired person, using a communication device, may send and receive messages to and from a non-communication-impaired person whose telephone is not equipped with a communication device and through which a non-communication-impaired person may, by using voice communication, send and receive messages to and from a communication-impaired person.

HIST: 1987 c 308 s 1,8; 1988 c 621 s 2; 1993 c 272 s 2-6,17; 1995 c 190 s 1

237.51 BOARD.

Subdivision 1. Creation. The department of public service shall administer through interagency agreement with the department of human services a program to distribute communication devices to eligible communication-impaired persons and contract with a local consumer group that serves communication-impaired persons to create and maintain a telecommunication relay service. For purposes of sections 237.51 to 237.56, the department of public service and any organization with which it contracts pursuant to this section or section 237.54, subdivision 2, are not telephone companies or telecommunications carriers as defined in section 237.01.

Subd. 2. Repealed, 1995 c 190 s 17

Subd. 3. Repealed, 1995 c 190 s 17

Subd. 4. Repealed, 1995 c 190 s 17

Subd. 5. Department of public service duties. In addition to any duties specified elsewhere in sections 237.51 to 237.56, the department of public service shall:

- (1) prepare the reports required by section 237.55;
- (2) administer the fund created in section 237.52; and
- (3) adopt rules under chapter 14 to implement the provisions of sections 237.50 to 237.56.

Subd. 5a. Department of human services; duties. (a) In addition to any duties specified elsewhere in sections 237.51 to 237.56, the department of human services shall:

- (1) define economic hardship, special needs, and household criteria so as to determine the priority of eligible applicants for initial distribution of devices and to determine circumstances necessitating provision of more than one communication device per household;
- (2) establish a method to verify eligibility requirements;
- (3) establish specifications for communication devices to be purchased under section 237.53, subdivision 3;
- (4) inform the public and specifically the community of communication-impaired persons of the program; and
- (5) notwithstanding any provision of chapter 16B, develop guidelines for the purchase of some communication devices from local retailers and dispensers if the department determines that

otherwise they will be economically harmed by implementation of sections 237.50 to 237.56.

(b) The department may establish an advisory board to advise the department in carrying out the duties specified in this section and to advise the department of public service in carrying out its duties under section 237.54. If so established, the advisory board must include, at a minimum, the following communication-impaired persons:

- (1) at least one member who is deaf;
- (2) at least one member who is speech impaired;
- (3) at least one member who is mobility impaired; and
- (4) at least one member who is hard-of-hearing.

The membership terms, compensation, and removal of members and the filling of membership vacancies are governed by section 15.059. Advisory board meetings shall be held at the discretion of the commissioner.

Subd. 6. Repealed, 1995 c 190 s 17

HIST: 1987 c 186 s 15; 1987 c 308 s 2,8; 1988 c 621 s 3; 1990 c 571 s 41; 1990 c 598 s 3; 1992 c 430 s 1,2; 1992 c 518 s 1; 1993 c 272 s 7-11,17; 1995 c 190 s 2-4

237.52 FUND; ASSESSMENT.

Subdivision 1. **Fund.** A telecommunication access for communication-impaired persons fund is established as an account in the state treasury. Earnings, such as interest, dividends, and any other earnings arising from fund assets, must be credited to the fund.

Subd. 2. **Assessment.** The department of public service shall annually recommend to the commission an adequate and appropriate surcharge and budget to implement sections 237.50 to 237.56. The public utilities commission shall review the budget for reasonableness and may modify the budget to the extent it is unreasonable. The commission shall annually determine the funding mechanism to be used within 60 days of receipt of the recommendation of the department and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than 20 cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

Subd. 3. **Collection.** Every telephone company or communications carrier that provides service capable of originating a telecommunications relay call, including cellular communications and other nonwire access services, in this state shall collect the charges established by the commission under subdivision 2 and transfer amounts collected to the commissioner of administration in the same manner as provided in section 403.11, subdivision 1, paragraph (c). The commissioner of administration must deposit the receipts in the fund established in subdivision 1.

Subd. 4. **Appropriation.** Money in the fund is appropriated to the department of public service to implement sections 237.51 to 237.56.

Subd. 5. **Expenditures.** Money in the fund may only be used for:

(1) expenses of the department of public service, including personnel cost, public relations, advisory board members' expenses, preparation of reports, and other reasonable expenses not to exceed ten percent of total program expenditures;

(2) reimbursing the commissioner of human services for purchases made or services provided pursuant to section 237.53;

(3) reimbursing telephone companies for purchases made or services provided under section 237.53, subdivision 5; and

(4) contracting for establishment and operation of the telecommunication relay service required by section 237.54.

All costs directly associated with the establishment of the program, the purchase and distribution of communication devices, and the establishment and operation of the telecommunication relay service are either reimbursable or directly payable from the fund after authorization by the department of public service. The department of public service shall contract with the message relay service operator to indemnify the local exchange carriers of the relay service for any fines imposed by the Federal Communications Commission related to the failure of the relay service to comply with federal service standards. Notwithstanding section 16A.41, the department of public service may advance money to the contractor of the telecommunication relay service if the contractor establishes to the department's satisfaction that the advance payment is necessary for the operation of the service. The advance payment may be used only for working capital reserve for the operation of the service. The advance payment must be offset or repaid by the end of the contract fiscal year together with interest accrued from the date of payment.

HIST: 1987 c 308 s 3,8; 1988 c 621 s 4; 1992 c 518 s 2; 1993 c 272 s 12,13,17; 1995 c 190 s 5-7; 1995 c 201 s 1

237.53 COMMUNICATION DEVICES.

Subdivision 1. **Application.** A person applying for a communication device under this section must apply to the program administrator on a form prescribed by the department of human services.

Subd. 2. **Eligibility.** To be eligible to obtain a communication device under this section, a person must be:

(1) able to benefit from and use the equipment for its intended purpose;

(2) communication impaired;

(3) a resident of the state;

(4) a resident in a household that has a median income at or below the applicable median household income in the state,

except a deaf and blind person applying for a telebraille unit may reside in a household that has a median income no more than 150 percent of the applicable median household income in the state; and

(5) a resident in a household that has telephone service or that has made application for service and has been assigned a telephone number; or a resident in a residential care facility, such as a nursing home or group home where telephone service is not included as part of overall service provision.

Subd. 3. **Distribution.** The commissioner of human services shall purchase and distribute a sufficient number of communication devices so that each eligible household receives an appropriate device. The commissioner of human services shall distribute the devices to eligible households in each service area free of charge as determined under section 237.51, subdivision 5a.

Subd. 4. **Training; maintenance.** The commissioner of human services shall maintain the communication devices until the warranty period expires, and provide training, without charge, to first-time users of the devices.

Subd. 5. **Wiring installation.** If a communication-impaired person is not served by telephone service and is subject to economic hardship as determined by the department of human services, the telephone company providing local service shall at the direction of the administrator of the program install necessary outside wiring without charge to the household.

Subd. 6. **Ownership.** All communication devices purchased pursuant to subdivision 3 will become the property of the state of Minnesota.

Subd. 7. **Standards.** The communication devices distributed under this section must comply with the electronic industries association standards and approved by the Federal Communications Commission. The commissioner of human services must provide each eligible person a choice of several models of devices, the retail value of which may not exceed \$600 for a communication device for the deaf, and a retail value of \$7,000 for a telebraille device, or an amount authorized by the department of human services for a telephone device for the deaf with auxiliary equipment.

Subd. 8. Repealed, 1988 c 621 s 19

HIST: 1987 c 308 s 4,8; 1988 c 621 s 5-8; 1993 c 272 s 17; 1995 c 190 s 8-11; 1995 c 201 s 2

237.54 TELECOMMUNICATION RELAY SERVICE.

Subdivision 1. Repealed, 1995 c 190 s 17

Subd. 2. **Operation.** The department of public service shall contract with a local consumer organization that serves communication-impaired persons for operation and maintenance of the telecommunication relay system. The department may contract

with other than a local consumer organization if no local consumer organization is available to enter into or perform a reasonable contract or the only available consumer organization fails to comply with terms of a contract. The operator of the system shall keep all messages confidential, shall train personnel in the unique needs of communication-impaired people, and shall inform communication-impaired persons and the public of the availability and use of the system. The operator shall not relay a message unless it originates or terminates through a communication device for the deaf or a Braille device for use with a telephone.

HIST: 1987 c 308 s 5,8; 1993 c 272 s 14,17; 1995 c 190 s 12

237.55 REPORTS; PLANS.

The department of public service must prepare a report for presentation to the commission by January 31 of each year. Each report must review the accessibility of the telephone system to communication-impaired persons, review the ability of non-communication-impaired persons to communicate with communication-impaired persons via the telephone system, describe services provided, account for money received and disbursed annually for each aspect of the program to date, and include predicted future operation.

HIST: 1987 c 308 s 6,8; 1993 c 272 s 15,17; 1995 c 190 s 13

237.56 ADEQUATE SERVICE.

The services required to be provided under sections 237.50 to 237.55 may be enforced under section 237.081 upon a complaint of at least two communication-impaired persons within the service area of any one telephone company, provided that if only one person within the service area of a company is receiving service under sections 237.50 to 237.55, the commission may proceed upon a complaint from that person.

HIST: 1987 c 308 s 7,8; 1993 c 272 s 17

APPENDIX B

Office of the Legislative Auditor Letter of Determination



STATE OF MINNESOTA
OFFICE OF THE LEGISLATIVE AUDITOR
CENTENNIAL BUILDING, 658 CEDAR STREET • ST. PAUL, MN 55155 • 612/296-4708 • TDD RELAY 612/297-5353
JAMES R. NOBLES, LEGISLATIVE AUDITOR

Attachment P

May 31, 1996

Kris Sanda, Commissioner
Department of Public Service
121 7th Place East
St. Paul, Minnesota 55101-2145

Dear Commissioner Sanda:

I am writing in response to your letter, dated January 25, 1996, to Jim Nobles, Legislative Auditor. Your correspondence indicated that you had concerns regarding possible misuse of state funds by the Deafness Education and Advocacy Foundation (D.E.A.F.), an independent contractor that operates the state's Minnesota Relay Service (MRS). Specifically, you were concerned the D.E.A.F. had transferred funds from its MRS advance fund account to its Florida Relay Service (FRS) to fund FRS payroll.

I am writing to inform you that we conducted a preliminary review and gathered evidence relevant to your concerns. The purpose of the preliminary review was to determine whether this matter warrants further investigation by our office. It is our judgment, after reviewing the available evidence, that the matter does not justify us conducting a further investigation. Unless additional evidence comes to our attention, we will consider the matter closed. In the course of our preliminary review, we did, however, accumulate information that should help answer many of your questions concerning D.E.A.F.'s accounting of the MRS fund.

Our preliminary review did not constitute an audit of D.E.A.F.'s activity. The scope of our preliminary review was to address the concerns which TACIP Administrator Jim Alan identified in a January 26, 1996 letter to D.E.A.F. As part of the preliminary review, we obtained additional information from D.E.A.F.'s Executive Director and Controller. We analyzed D.E.A.F. reconciliations of the MRS money market account for the period from August 1994 through February 1996. We also obtained supporting documentation from the Department of Public Service.

As a result of our preliminary review, we found several instances where D.E.A.F. did not comply with certain contract terms agreed upon by the Telecommunications Access for Communication Impaired Persons Board (TACIP) and D.E.A.F. We determined that D.E.A.F. inappropriately commingled state funds with other D.E.A.F. program funds. Because of this commingling of funds, program activity did not correspond directly to MRS bank transactions. However, with the exception of the over reimbursements cited below, we did not find evidence that state funds were ultimately used for improper purposes. Specifically, the following practices did not comply with contract provisions:

1. D.E.A.F. routinely commingled MRS advance funds with funds from other D.E.A.F. programs. D.E.A.F. used these commingled funds in the MRS account to pay expenses for other programs. However, when D.E.A.F. received reimbursements from the state, the money was properly deposited into the MRS account. Contract provision 4.2 states: "The entire amount of the advance funds . . . must be segregated from all other bank accounts. . . ." The Department of Public Service staff indicated the intent of this contract provision was to have a separate MRS bank account to record only MRS activity. Contract provision 4.2.4. goes on to say: "The funds are never to be used for any other purpose or any other program of D.E.A.F. If the funds are used for any other purpose or program, such use shall be immediately reported to the TACIP Administrator. The funds shall be immediately repaid."

It appears that D.E.A.F. occasionally used its state advance to temporarily subsidize other activities. D.E.A.F.'s reconciliations for certain months showed the MRS account cash balance was less than the MRS activity balance on that date. This indicates that D.E.A.F. had used MRS cash for other purposes. In other months, the reconciliations show that D.E.A.F. financed MRS expenditures with borrowings from its other programs. D.E.A.F.'s representatives stated that the MRS account has experienced cash flow problems resulting from an insufficient advance and delays in the reimbursement process. D.E.A.F. indicated the transfers to the FRS, questioned in Jim Alan's letter, were actually repayments of MRS expenses that D.E.A.F. had paid from other accounts. Because D.E.A.F. routinely commingled its funds and borrowed money between accounts, we were unable to trace many of the interfund transactions directly. However, based on our analysis, it appears likely that the transfers were, in fact, repayments.

Beginning in February 1996, D.E.A.F. and the Department of Public Service agreed that D.E.A.F. would maintain a separate bank account reflecting only MRS activity.

2. D.E.A.F. has been unable to determine the actual amount of interest earned by the MRS advance funds since D.E.A.F. commingled various program funds in this account. Contract provision 4.4 requires D.E.A.F. to reimburse the state both for the advance funds and for the interest earned on the advance funds. Since D.E.A.F. deposited other program funds into this account and paid MRS expenditures out of other D.E.A.F. program accounts, the actual interest earned on the advance funds cannot be easily identified. D.E.A.F. and Department of Public Service staff agreed to resolve this matter by permitting D.E.A.F. to pay the department the actual interest earned by the MRS account from January 1993, through February 1996.
3. D.E.A.F. did not submit monthly summaries of management service fees and supporting invoices to TACIP, as contract provision 3.1.5 requires. Rather, D.E.A.F. provided the documentation at the end of the fiscal year. We did not see any evidence of improper billings of management service fees. However, in order for Public Service to adequately monitor these fees and verify that they were allowable, D.E.A.F. should have submitted the documentation on a monthly basis.
4. TACIP over reimbursed D.E.A.F. by about \$63 for certain travel related expenses. The over reimbursement related to expenses incurred for alcoholic beverages, mileage and telephone charges. Contract provision 3.1.3. requires D.E.A.F. to comply with the State of Minnesota's travel reimbursement guidelines. State travel reimbursement guidelines prohibit expense reimbursement for alcoholic beverages. In addition, the guidelines set reimbursement limits

for mileage and telephone expenses. It is important that the relay contractor clearly understand the travel expense guidelines when submitting reimbursement requests.

5. Finally, we determined the Department of Public Service also over reimbursed D.E.A.F. \$3,000. The over reimbursement occurred as a result of a difference between D.E.A.F.'s request for reimbursement and supporting documentation. We found no evidence that D.E.A.F. intentionally overstated the request for reimbursement. Both agencies are aware of the over reimbursement and D.E.A.F. has adjusted a recent request for reimbursement to correct the situation.

We hope the information in this letter is helpful. We have other additional public information that is available in our office for your review. If you should want to review it or if you have any further questions or concerns, please contact me at 296-4708.

Sincerely,



Marla Conroy
Director of Investigations

cc: Lori Breslow, D.E.A.F.

APPENDIX C

Order Denying MCI's Motion

FYI

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT
CASE TYPE: Other Civil

MCI Telecommunications Corporation,)
)
 Plaintiff,)
)
 vs.)
)
 Elaine Hansen as Commissioner of the)
 Department of Administration, Kris Sanda)
 as Commissioner of the Department of)
 Public Service, Sprint Communications)
 Company, L.P., and South Dakota)
 Association of the Deaf, doing business)
 as Communication Services for the Deaf,)
)
 Defendants.)

FILE NUMBER: C2-96-6604

FINDINGS OF FACT AND
CONCLUSIONS OF LAW
AND ORDER FOR JUDGMENT

The above-captioned matter came on for trial before the Honorable James M. Campbell on July 29 - 30, 1996. Thomas Darling, Esq. and Kathryn Bergstrom, Esq., Gray, Plant Mooty appeared on behalf of Plaintiff MCI Telecommunications Corporation ("MCI"); Scott Wilensky, Esq. and Julia Anderson, Esq., Minnesota Attorney General's Office, appeared on behalf of Defendants Hansen and Sanda; Perry Wilson, III, Dorsey & Whitney, appeared on behalf of Defendant Sprint Communications Company, L. P. ("Sprint"); John Wilka, Esq., Wilka, Haugen & Kirby, P.C., appeared on behalf of Defendant South Dakota Association for the Deaf doing business as Communication Services for the Deaf ("CSD").

The Court, having considered the evidenced introduced at trial, the arguments of counsel and the entire record and file herein, makes the following Findings of Fact, Conclusions of Law and Order for Judgment.

FINDINGS OF FACT

1. On February 29, 1996, the Department of Public Service ("DPS") and the Department of Administration ("DOA") issued two Requests for Proposal ("RFP") for the Minnesota Relay System ("MRS"). One RFP related to the Facilities and Equipment contract for the MRS ("Facilities RFP"). The other RFP related to the Operation and Maintenance of the MRS ("Services RFP") (Ex. 1, DOA 1074-75, DOA 1008; Ex. 6, DOA 1772).

2. Both the Facilities RFP and the Services RFP requested vendors to respond to mandatory service requirements and desirable service requirements: Vendors were required to respond to the mandatory service requirements. Vendors had the option to respond to the desirable service requirements (Ex. 1, DOA 1036; Ex. 6, DOA 1801-1802).

3. Both the Facilities RFP and the Services RFP contained a requirement that the vendors responding to the RFPs execute an affidavit of non-collusion (Ex. 1, DOA 1001, 1007).

4. DPS and DOA allowed facilities and services vendors to submit separate but partnered responses to the RFPs (Ex. 1, DOA 1074-75).

5. Paragraph 4.41 of the Facilities RFP listed Caller I.D. as a desirable service as follows:

Caller ID: Desirable

This service would transmit available caller identification information to the called party. The Vendor must explain how blocking options that are required by the Minnesota Public Utilities Commission will be effected.

(Ex. 1, DOA 1035).

6. In response to vendor questions, DPS further clarified Caller I.D. as follows:

"Available Caller - -ID Information" refers to the Caller I.D. information that would be available to the recipients of a call if the call was placed directly to the recipients.

(Ex. 1, DOA 1095)

7. Both the Facilities RFP and the Services RFP stated that DPS would evaluate responses to the Facilities RFP separately from and independently of the responses to the Services RFP (Ex. 1, DOA 1074).

8. Paragraph 8 of the RFP listed the factors by which DPS would evaluate the responses as follows:

- a. Ability of the Vendor to provide a Relay system as outlined;
- b. Ability of the vendor to meet and/or exceed the standards contained in the RFP;
- c. Ability of the vendor to comply with accompanying rules and orders governing the Relay System;
- d. Service or technological enhancements proposed by the vendor to improve the Relay system and
- e. Ability of the vendor to meet the implementation date in the RFP.

(Ex. 1, DOA 1059-60; Ex. 6, DOA 1825-1826).

9. The RFP stated that the contracts for the MRS would be awarded "to the Vendor whose proposal is the most advantageous to the State of Minnesota, considering price, the interests of the deaf, hard of hearing and speech-impaired communities in having access to a high quality and technologically-advanced telecommunication system, and all other factors listed in the RFP" (Ex. 1, DOA 1059; Ex. 6, DOA 1825).

11. Vendors had the opportunity to ask questions of DPS and DOA regarding the RFPs (Ex. 1, DOA 1015). DPS and DOA issued two addenda to the RFPs which contained questions submitted by vendors and the answers provided by DPS and DOA (Ex. 1, DOA 1067; Ex. 6, DOA 1123-24).

12. DPS and DOA did not define local consumer organization to the vendors until April 18, 1996. DPS and DOA defined "local consumer organization" as an organization which serves the hearing-impaired and deaf community, and which is located anywhere in any city, state, or region of the United States of America (Ex. 1, DOA 1126).

13. DPS and DOA did not explain in writing the effect of the non-collusion requirement on partnered proposals until April 18, 1996. DPS and DOA determined that the non-collusion requirement did not preclude vendors from discussing teaming arrangements and strategies (Ex. 1, DOA 1125-26).

14. DPS and DOA had ex parte contact with Sprint prior to April 18, 1996 to explain the effect of the non-collusion requirement on partnered proposals (Ex. 91, DPS 889-890).

15. MCI and Sprint submitted responses to the Facilities RFP on the due date, April 22, 1996 (Ex. 2, DOA 1129-1133; Ex. 3, DOA 1304-1305).

16. CSD and D.E.A.F. submitted responses to the Services RFP on the due date, April 22, 1996 (Ex. 5, DOA 1545-47; Ex. 4, DOA 1428-32).

17. CSD's response to the Services RFP was contingent upon Sprint being awarded the contract for the Facilities RFP. CSD is a South Dakota Corporation (Ex. 4, DOA 1428).

18. MCI's response to the Caller I.D. element proposed a Caller I.D. system that is the functional equivalent of the Caller I.D. used by the hearing community; that is, relay users would be able to obtain available Caller I.D. information which would be available to the recipient of a call if the call was placed directly to the recipient (Ex. 2, DOA 1240).

19. Sprint's response to the Caller I.D. element did not propose a Caller I.D. system that is the functional equivalent of the Caller I.D. used by the hearing community; that is, in the Sprint system relay users would not be able to obtain available Caller I.D. information which would be available to the recipient of a call if the call was placed directly to the recipient (Ex. 3, DOA 1386).

20. DPS designated Jim Alan, JoAnn Hanson and Ruth Grendahl (collectively, "Evaluators") as the evaluators of the responses to the RFPs (Ex. 14, DPS 292; Ex. 16, DPS 300; Ex. 18, DPS 308).

21. The Evaluators were not biased against D.E.A.F. However, based upon past involvement with D.E.A.F., it appears that Mr. Alan should have recused himself to avoid even the appearance of impropriety. In this regard, the Court expressly finds that Mr. Alan was not biased against D.E.A.F.

22. The Evaluators evaluated the responses to the Facilities RFP, cognizant of the responses to the Services RFP. This process cannot fairly be said to have led the Evaluators to allow the Services RFP to govern the contract award for the Facilities RFP.

23. The interval between April 18, 1996 and April 22, 1996 was not too short for the vendors to incorporate DPS's definition of local consumer organization

or DPS's understanding of the effect of the non-collusion requirement on partnered proposals into the responses to the RFPs. The manner in which MCI, and all other vendors planned to proceed was not, in any fashion, predicated upon the definition of local consumer organization.

24. The Evaluators were qualified to evaluate the responses to the Facilities RFP or the Services RFP.

25. The difference between MCI's and Sprint's responses to the Caller I.D. element were irrelevant to decision, save and except as to pricing. It was unnecessary for the Evaluators to contact MCI or Sprint to determine the difference between the responses to the Caller I.D. element.

26. Sprint's response to the Caller I.D. element was a responsive proposal required pursuant to the Facilities RFP.

27. The Evaluators did consider pricing or cost, among the other criteria, in arriving at their recommendation for the contract awards.

28. The Evaluators properly included MCI's price for Caller I.D. in the scoring evaluation.

29. The Evaluators allowed vendor references the appropriate amount of time to respond to the Evaluators requests for information.

30. The Evaluators were consistent, fair or impartial in their efforts to contact references or to evaluate references.

31. The Evaluators used RFP standards developed by DPS specifically for this RFP, and did not utilize competitive bidding standards to evaluate all or portions of the vendor responses to the RFP. Even had it done so, that fact is irrelevant to

decision.

CONCLUSIONS OF LAW

1. MCI bears the burden of proving that it is entitled to a permanent injunction in this case. North Central Pub. Serv. Co. v. Village of Circle Pines, 302 Minn. 53, 224 N.W.2d 741 (Minn.1974); Thompson v. Barnes, 294 Minn. 528, 200 N.W.2d 921, 926 (Minn.1972).

2. The Court must presume that the governmental functions of the State are carried out lawfully and correctly, unless evidence is presented to the contrary. It is impermissible for a court to simply substitute its judgment for that of State officials whose job it is to make administrative decisions such as those in this procurement case. The applicable standard of review is whether the agency decision was arbitrary or capricious. Griswold v. Ramsey County, 65 N.W.2d 647 (Minn.1954).

3. CSD is a local consumer organization that serves communications impaired persons through telecommunications relay system pursuant to Minn. Stat. §237.54, subd. 2 (1994).

4. The State officials had the discretion to determine whether to bid this particular contract for TRS services or to issue a request for proposals, as permitted by Minn. Stat. §16B.08, subd. 4 (1994). Having utilized a request for proposals, there is no obligation for the State to award the contract to the "lowest responsive bidder."

5. The Caller ID solution proposed by Sprint in its response to the State's request for proposal is the functional equivalent of Caller ID as provided to the hearing community, given the technical and budgetary limitations of such services.

Accordingly, the Court concludes, based that fact, and upon all of the evidence, that Sprint was the lowest cost proposer with respect to the facilities contract in this case.

6. MCI is not entitled to either injunctive relief or monetary damages from any Defendant.

Upon the foregoing Findings of Fact and Conclusions of Law, IT IS

ORDERED:

1. That Plaintiff's Motion for Permanent Injunction may be, and the same hereby is, denied.
2. That Plaintiff's Complaint may be, and the same hereby is, dismissed on the merits, with prejudice.

THERE BEING NO JUST CAUSE FOR DELAY, LET JUDGMENT BE ENTERED FORTHWITH, AND WITHOUT STAY.

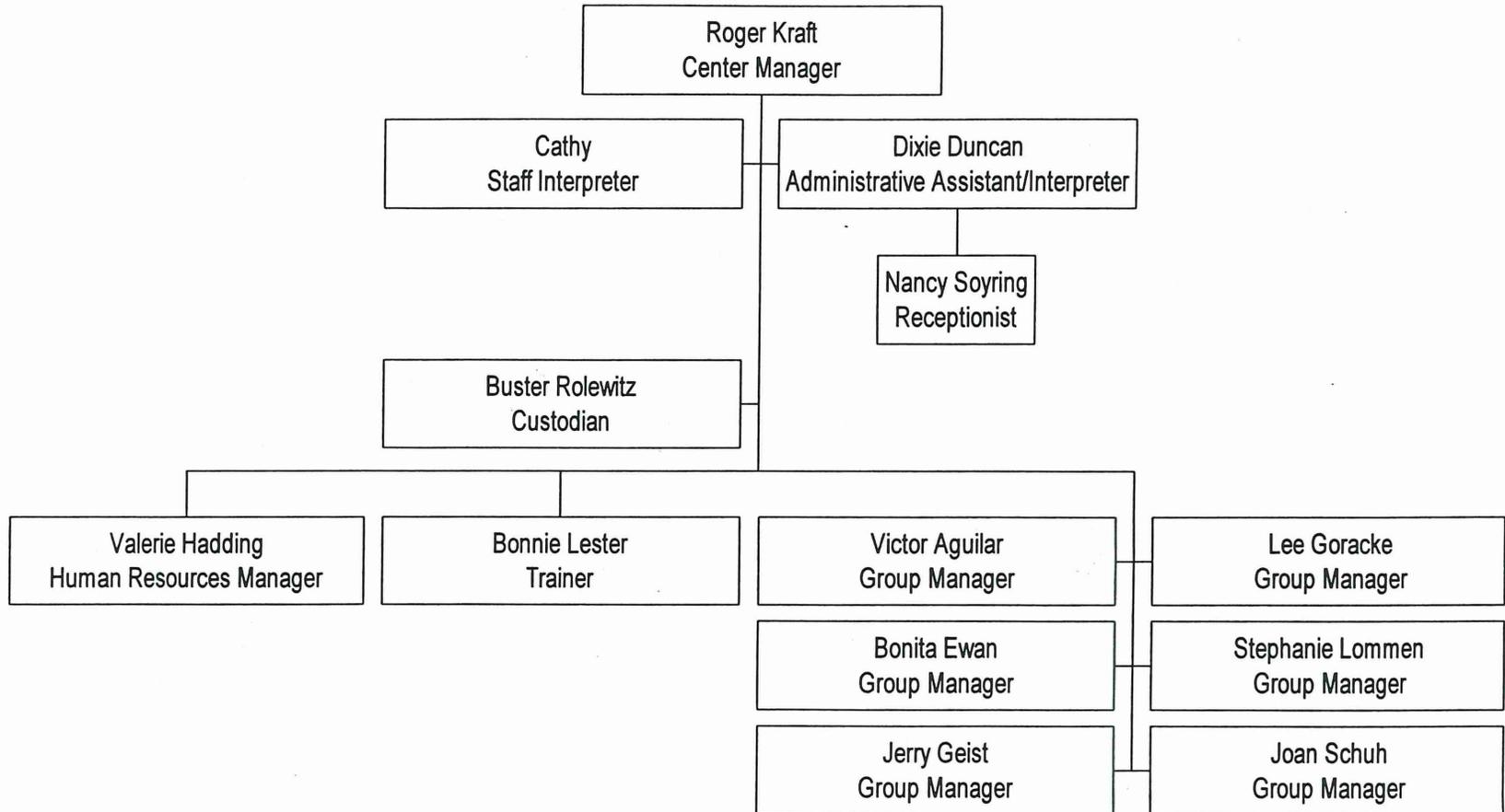
Dated: OCT 28, 1996

151
James M. Campbell
Judge of District Court

APPENDIX D

MRS Administrative Structure

MRS Organization Chart



APPENDIX E

CSD Consumer Relations Office

Minnesota Relay Service
Customer Contact Summary
 December 1996

	CRO	CTR	IND	AM	CS	AL	SF	Total
Commendations								
Agent	1	5	0	0	0	0	0	6
Service	0	0	0	0	0	0	0	0
Total	1	5	0	0	0	0	0	6

Policy Complaints								
0	Everything Relayed	0	0	0	0	0	0	0
1	Problems Answer Machine	1	1	0	0	0	0	2
2	Feelings Not Described	0	0	0	0	0	0	0
3	Request Service Block	0	0	0	0	0	0	0
4	Miscellaneous	0	0	0	0	0	0	0

Scope of Service Complaint								
10	No 900 Number	0	0	0	0	0	0	0
11	Limited LD Service	0	0	0	0	0	0	0
12	Miscellaneous	1	0	0	0	0	1	2

Misc. Complaints								
20	Rates	0	0	0	0	0	0	0
21	Improper Agent Protocol	2	5	0	0	2	2	11
22	Typing Speed/Accuracy	0	0	0	0	0	0	0
23	Answer Wait Time	0	0	0	0	2	0	2
24	Line Disconnected	1	0	0	0	1	1	3
25	Trouble Linking Up	6	0	0	0	0	0	6
Total		11	6	0	0	5	4	26

Other Calls								
26	Request Branding	1	0	0	0	4	0	5
27	Brand Questions/Explanation	3	0	0	0	0	1	4
28	Request Directory Assistance	0	0	0	0	5	0	5
29	Test Calls	0	0	0	0	6	0	6
30	Instruction/Explain Service	1	0	0	0	42	0	43
31	Send Information	7	0	0	0	9	0	16
32	General Information	3	0	0	0	38	0	41
33	Billing Question	0	0	0	0	9	0	9
34	Purchase TDD	0	0	0	0	8	0	8
35	Referred to LEC	0	0	0	0	9	0	9
36	Wanted Sprint Customer Service	0	0	0	0	0	0	0
37	Employment Inquiry	0	0	0	0	0	0	0
38	Computer Setting	0	0	0	0	2	0	2
39	Other	1	4	0	0	0	0	5
Total		16	4	0	0	132	1	153

Non State Reported								
40	Rate	0	0	0	0	4	0	4
41	Request Relay Number	0	0	0	0	31	0	31
42	Charged for Local Call	0	0	0	0	0	0	0
Total		0	0	0	0	35	0	35

Total Contact	28	15	0	0	172	5	0	220
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CRO Minnesota Relay Service Consumer Relations Office
 CTR Minnesota Relay Service Center
 IND Sue Fulson
 AM Greg Gantt
 CS Sprint Customer Service
 AL New Mexico
 SF Nancy Feekes

**MRS Customer Relations Office
Outreach Summary**

December 1996

Presentations Completed:

December

December 3 - Metro - RSC Advisory Group - 5 people
December 17 - Duluth - Senior Linkage (Postponed due to inclement weather)
December 18 - Duluth - Washington Family Resource Center (Postponed due to inclement weather)
December 18 - Duluth - Sexual Abuse Hotline - PAVSA (2 presentations) (Postponed due to inclement weather)
December 19 - Duluth - St. Louis County Social Services (Postponed due to inclement weather)
December 19 - Duluth - Women's Coalition (Postponed due to inclement weather)
December 19 - Duluth - United Way (with other organizations joining) (Postponed due to inclement weather)
December 20 - Duluth - Human Development Center/Mental Crisis Line (Postponed due to inclement weather)

January

January 7 - Moorhead - Clay County Adult Services - 12 people
January 7 - Moorhead - Freedom Resource Center - 7 people
January 8 - Moorhead - Family Services Center - 13 people
January 9 - Metro - RSC Hearing Impaired Program Advisors (Consultants) - 8 people
January 10 - Moorhead - Clay County Social Services (Postponed due to inclement weather)

Presentations Scheduled:

January

January 11 - Moorhead - Deaf Community Wide Meeting
January 13 - St. Peter - Smiles
January 13 - St. Peter - RSC Advisory Committee Meeting
January 13 - St. Peter - Domestic Violence
January 13 - St. Peter - Nicolette County Social Services
January 14 - St. Peter - MRCI - Rehabilitation Center
January 18 - Granite Falls/Marshall - Deaf Community Wide Meeting
January 24 - Rochester - RSC Advisory Committee Meeting

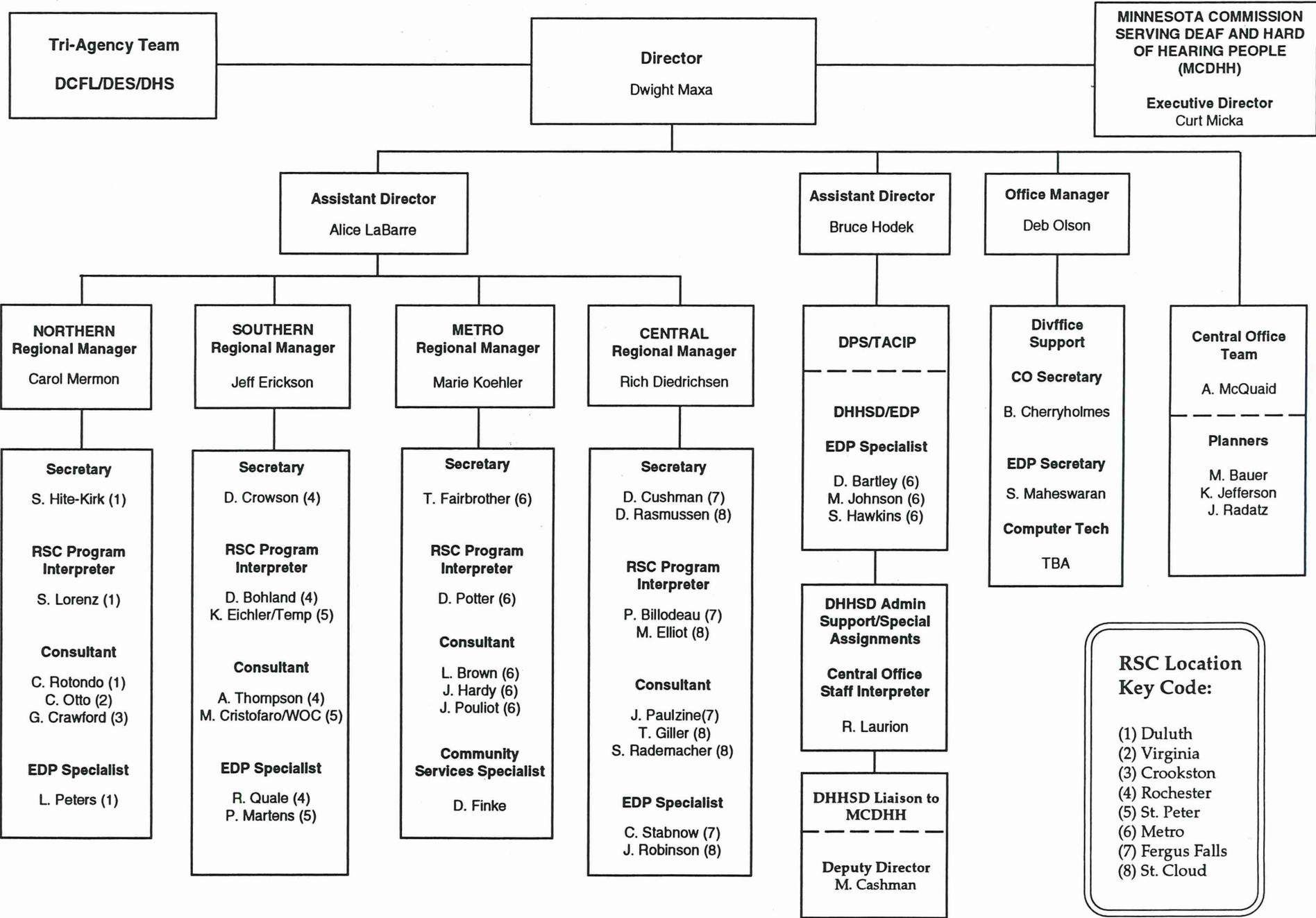
February

February 10 - Willmar - Parent Support Group
February 11 - Duluth - Women's Coalition
February 11 - Duluth - United Way & Cancer Society
February 11 - Duluth - Senior Linkage

APPENDIX F

EDP Organizational Chart

**Minnesota Department of Human Services
Deaf and Hard of Hearing Services Division**



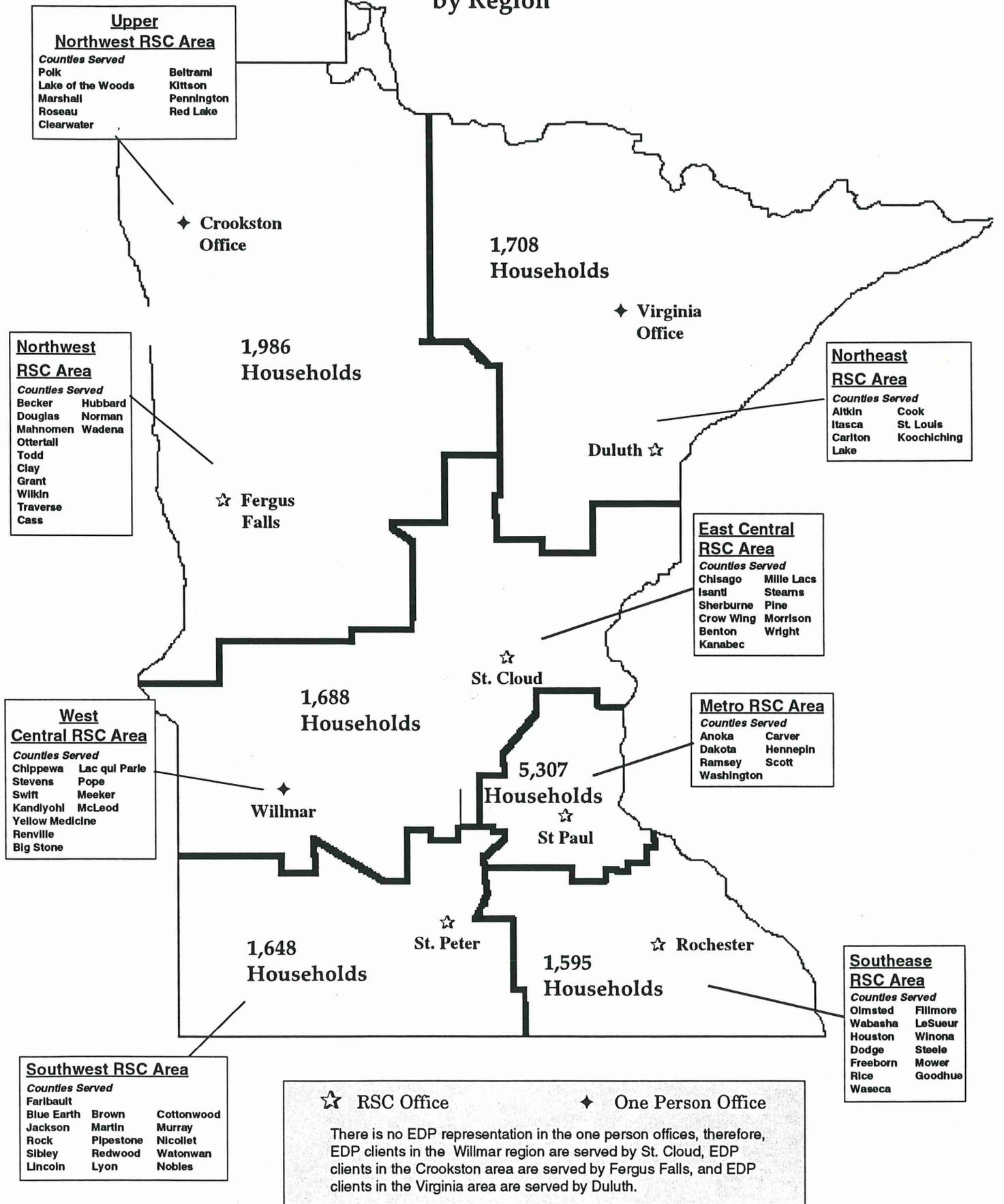
**RSC Location
Key Code:**

- (1) Duluth
- (2) Virginia
- (3) Crookston
- (4) Rochester
- (5) St. Peter
- (6) Metro
- (7) Fergus Falls
- (8) St. Cloud

APPENDIX G

Number of Households Served by EDP

Number of Households Served by EDP October 1988 thru December 1996 by Region



APPENDIX H

RCS Advisory Committee Members 1996

RSC ADVISORY COMMITTEE MEMBERS - 1996

NORTHERN AREA Carol Mermon, Regional Manager 218/723-4963 v/tty	
Upper Northwest RSC (Crookston)	
Janet Enger	Audiologist
Jean Craigmile	Interpreter
Gladys Peterson	HH Consumer
Meryl Rasmussen	HH Consumer
Nick Smieja	Special Ed. Director
Kathy Smith	Deaf Consumer
Tom Fogarty	Courage North
Lola Wiskow	Hearing Aid Center
1996 Meetings: May 7, 1996 August 13, 1996 November 12, 1996	
Northeast RSC (Duluth)	
<i>Vinette Dorree</i>	Deaf/Mobility Consumer
Diann Carroll	HH Consumer
Sue Lauseng	Deaf Consumer
Pat Castellano	Children's Museum
Joann Wiltshack	Hearing & Vision Specialist
1996 Meetings: May 22, 1996 August 28, 1996 November 27, 1996	

SOUTHERN AREA Jeff Erickson, Regional Manager 507/285-7304 v/tty	
Southeast RSC (Rochester)	
Cindy Burt	Center for Independent Living
Lydia Christesen	Deaf Consumer
Judy Johnson	HH Consumer
<i>Cris Ramaker</i>	Speech/Mobility Consumer
Terry Schwalbach	Olmsted Cty Social Services
1996 Meetings: March 29, 1996 June 28, 1996	
Southwest RSC St. Peter	
Roger Berg	Deaf Consumer
Richard Hansen	Deaf Consumer
Donna Thompson	Deaf Consumer
Lynda Urban	Parent
1996 Meetings: April 1, 1996 June 24, 1996	

CENTRAL AREA Rich Diedrichsen, Regional Manager 612/255-3599 tv	
Northwest RSC (Fergus Falls)	
Julie Budke	Interpreter
Dee Pretty	Teacher of D/HH Consumers
Elizabeth Merz	HH Consumer
Janice Stenger	Dept. Of Health
1996 Meetings: April 16, 1996 July 16, 1996 November 12, 1996	
East Central (St. Cloud)	
Maria Breitbach	Deaf Consumer
Russel Pudas	Deaf Consumer
<i>Haxel Youngmann</i>	HH/Mobility Consumer
Ann Sherman	Parent
1996 Meetings: April 10, 1996 June 20, 1996 Sept. 12, 1996 Nov. 14, 1996	
West Central (Willmar)	
Sharilyn Bates	Parent
Debra Brufat	Deaf Consumer
Carol Herberg	Deaf Consumer
Don Schultz	Consumer
Jill Wotzka	Teacher of D/HH
1996 Meetings: March 21, 1996 June 27, 1996 Sept. 26, 1996 Dec. 5, 1996	

METRO AREA Marie Koehler, Regional Manager 612/296-3640 v. 612/297-1384 tv	
Metro RSC (St. Paul)	
Carolyn Anderson	Parent
Lynn Fumuso	Public Human Service Provider
Thomas Hawkins	Hard of Hearing Consumer
Amy Hile	Deaf Consumer
<i>Lynda Peterson</i>	Speech/Mobility Consumer
Frank Stoderl	Hard of Hearing Consumer
Judy Wolff	Education Service Provider
Michael Zeledon	Deaf Consumer
1996 Meetings: March 25, 2996 (Canceled) April 25, 1996 September 9, 1996 December 3, 1996	

APPENDIX I
Revenues and Expenses

Revenues and Expenses

