

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 19B.7(1)“b,” the Department of Administrative Services (DAS) proposes to adopt new Chapter 121, “Contract Compliance,” Iowa Administrative Code.

The Department in accordance with Iowa Code section 19B.7 proposes to adopt new Chapter 121 to administer and promote equal opportunity in all state contracts and services and to prohibit discrimination in the provision of state contracts.

The Department does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department’s general rules concerning waivers.

Interested persons may make written comments on the proposed amendment until 4:30 p.m. on October 6, 2015. Comments should be directed to Caleb Hunter, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by e-mail to [Caleb.Hunter@iowa.gov](mailto:Caleb.Hunter@iowa.gov).

A public hearing will be held on October 6, 2015, from 9 to 10 a.m. in Room 8, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of specific needs by calling (515)281-3351.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 19B.7.

The following amendment is proposed.

Adopt the following **new** 11—Chapter 121:

CHAPTER 121  
CONTRACT COMPLIANCE

**11—121.1(19B) Policy.** It is the policy of the state of Iowa to promote equal opportunity in all state contracts and services and to provide leadership in affirmative action to ensure fair and equitable participation within all programs receiving or benefiting from state financial assistance in whole or in part. Therefore, no individual, except as specifically authorized by law, shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program receiving or benefiting from state financial assistance because of race, creed, color, religion, sex, national origin, age, or physical or mental disability as authorized by rule.

**121.1(1) Nondiscrimination in employment by contractors and subcontractors.**

*a.* Every official who is authorized to enter into contracts or subcontracts for public works or for goods or services shall cause to be inserted into every contract or subcontract a clause prohibiting the contractor or subcontractor from engaging in discriminatory employment practices forbidden by federal and state law, executive orders and rules of the department of administrative services, which pertain to equal employment opportunity and affirmative action.

*b.* Every state official who is responsible to the governor and who is authorized to enter into contracts or subcontracts for public works or for goods or services shall cause to be inserted into every contract a clause which states that the contractor or subcontractor may be required to have on file a copy

of the affirmative action program, containing goals and time specifications. These contractual provisions shall be fully enforced. Any breach of the provisions shall be regarded as a material breach of contract.

c. Each state contract shall provide that compliance with the provisions of Iowa Code section 19B.7 and all applicable rules of the department of administrative services prior to the execution of the contract shall be a condition of the contract or agreement binding upon the contractor or service provider, its successors, and assignees. The contract shall further provide that failure to fulfill the nondiscrimination requirements of this contract or any of the rules and orders may cause the contract to be canceled, terminated, or suspended in whole or in part, and the contractor or service provider may be declared ineligible for future state contracts in accordance with authorized procedure or the contractor may be subject to other sanctions as provided by law or rule.

**121.1(2) Monitoring.** Central procurement shall monitor procurement by state agencies to ensure compliance with this chapter.

This rule is intended to implement Iowa Code section 19B.7.