

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

**Adopted and Filed**

**Rule making related to procurement of standard modular office systems**

The Department of Administrative Services hereby amends Chapter 100, “Capitol Complex Operations,” and Chapter 117, “Procurement of Goods and Services of General Use,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 17A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 8A.311 and 904.808.

*Purpose and Summary*

2017 Iowa Acts, House File 293, provides for the Director to promulgate rules regarding procurement of goods manufactured in Iowa as that relates to bidding and to Iowa Prison Industries. An agency can award a bid to a company if the good being procured is manufactured or formulated in Iowa and represents the lowest bid instead of being required to procure the good from Iowa Prison Industries.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3574C**. A public hearing was held on February 6, 2018, at 1 p.m. at Conference Room 5, A Level, Hoover State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on February 21, 2018.

*Fiscal Impact*

The fiscal impact of this rule making is indeterminable because the anticipated demand on products, the type of products, and the price of those products cannot be determined.

*Jobs Impact*

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

*Waivers*

The waiver provisions are covered by 11—Chapter 9.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on April 18, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 11—100.1(8A) as follows:

**11—100.1(8A) Definitions.** The definitions contained in Iowa Code sections 8A.101 and 8A.301 shall be applicable to such terms when used in this chapter. In addition, the following definitions apply:

“*Assignment of office space*” means space allocated by the department to a state agency for its use.

“*Capitol complex*” means an area within the city of Des Moines in which the Iowa state capitol building is located. This area includes the state capitol building and all real property and appurtenances thereto owned by the state of Iowa within an area bounded on the north by Interstate Highway 235, on the east by East 14th Street, on the south by the northernmost railroad tracks south of Court Avenue and on the west by East 6th Street.

“*Control of assigned office space*” means the ability of an agency to modify its use of assigned space without consultation with the department as long as changes do not include relocating wiring, replacing, adding or deleting modular office components, or making other modifications that would affect the floor plan.

“*Dangerous weapon*” means any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the person possessing the instrument or device intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon as defined in Iowa Code section 724.1, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, or knife having a blade exceeding five inches in length. Pistols and revolvers are exempted from the definition of “dangerous weapons” only as set forth in subrule 100.2(2).

“*Facilities*” means the capitol complex buildings, grounds, and all related property.

“*Memorandum of understanding*” or “*MOU*” means a written agreement that specifies terms, conditions and any related costs.

“*Modular office components*” means parts of a modular office system.

“*Modular office systems*” means standard cubicle furniture; generally, two-foot, three-foot and four-foot sections that have attached work surfaces and file storage space. Modular office systems are available in new, remanufactured and recycled condition.

“*Nonstandard Standard modular office systems*” means modular office systems that do not meet standards set by the department of administrative services, expressed by function and connectivity, for use by state agencies. These standards are for the purpose of facilitating reuse of modular office system components.

“*Office furniture*” means any furnishing that is free standing and does not require installation with component parts. Examples are desks, chairs, file cabinets, tables, lounge seating, and computer desks.

“*Public*” means a person on the capitol complex who is not employed by the state of Iowa.

“*Recycled modular office components*” means used components that have been cleaned and have had broken parts replaced, but have not been disassembled and rebuilt.

“*Remanufactured modular office components*” means used components that have been disassembled, repainted or reupholstered, rebuilt, and have had broken parts replaced. Remanufactured components are intended to be like new.

“*Seat of government*” means office space at the capitol, other state buildings and elsewhere in the city of Des Moines for executive branch agencies, except those areas exempted by law.

“*Waiver*” means a waiver or variance as defined in 11—Chapter 9, Iowa Administrative Code.

ITEM 2. Amend subrule 100.6(6) as follows:

**100.6(6)** *Purchase of standard modular office systems and components.* ~~To obtain~~ If Iowa Prison Industries (IPI) manufactures office furniture and standard modular office systems and related components, an agency may shall purchase standard modular office components and other furniture items them from Iowa Prison Industries IPI or obtain a written waiver in accordance with Iowa Code section 904.808 without further competition., except as otherwise permitted in paragraphs “a” and “b.”

*a. Purchase from a targeted small business.* ~~To obtain office furniture and modular office components, an~~ An agency may purchase standard modular office systems and related components and other furniture items from a targeted small business (TSB) without further competition when the purchase will not exceed \$5,000 \$10,000, per 2003 as provided in Iowa Code Supplement section 8A.311, without further competition. 8A.311(10)“a.”

~~Use of a competitive selection process is required for all purchases, unless the agency chooses to use one of the procedures above. However, competitive selection may be used for any purchase. When an agency elects to obtain standard office modular components and other furniture items through the department of administrative services’ competitive procurement process, IPI and TSBs shall be part of the bidding process.~~

*b. Procurement of standard modular office systems and components and other furniture items manufactured in Iowa.* An agency may conduct a competitive procurement for standard modular office systems and related components and other furniture items that IPI manufactures if the competitive procurement requires that the products must be manufactured in Iowa. In such procurements, IPI shall be allowed to submit a bid to provide the products. If a bidder other than IPI is the lowest bidder, the agency shall obtain written verification from the bidder that the bidder’s product is manufactured in Iowa before making the award.

~~The portion of the work plan for purchasing modular office systems or office furniture shall allow for the issuance of purchase orders at least 30 days prior to the desired delivery date.~~

~~Regardless of how an agency purchases or obtains modular office components, the department of administrative services shall retain responsibility for management and coordination of office space planning.~~

ITEM 3. Amend subrule 117.5(3) as follows:

**117.5(3)** *Iowa Prison Industries (IPI) procurement.*

*a. Justification for IPI procurement.* ~~Agencies~~ If IPI manufactures or formulates a product, agencies shall purchase products the product from IPI or obtain a written waiver in accordance with Iowa Code section 904.808., except as otherwise permitted in paragraphs “b” and “c.” See <http://www.iaprisonind.com> for IPI catalog.

*b. Purchase of standard modular office systems and related components.* Purchase of standard office modular office systems and related components and other furniture items shall be in accordance with 11—subrule 100.6(6).

*c. Procurement of product manufactured in Iowa.* An agency may conduct a competitive procurement for a product that IPI manufactures or formulates if the competitive procurement requires that the product must be manufactured in Iowa. In such procurements, IPI shall be allowed to submit a bid to provide the product. If a vendor other than IPI is the lowest responsible bidder, the agency shall obtain written verification that the vendor’s product is manufactured in Iowa before making the award.

~~*b. d. Special procedures for IPI purchases.*~~ An agency may contact IPI directly.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/14/18.