

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

**Rulemaking related to competition with private enterprise**

The Transportation Department hereby rescinds Chapter 25, “Competition with Private Enterprise,” Iowa Administrative Code, and adopts a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 23A.2 and 307.12(1) “j.”

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 23A.1 and 23A.2.

*Purpose and Summary*

This rulemaking repromulgates Chapter 25 in compliance with Executive Order 10. Chapter 25 defines exemptions from Iowa Code section 23A.2(1). The intended benefit is cost savings to the Department by allowing competition with private enterprise in some circumstances.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8483C**. Two public hearings were held on the following date:

- January 7, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on March 11, 2025.

*Fiscal Impact*

The Department is unable to determine the fiscal impact of this rulemaking due to lack of historical data and unpredictable market. However, the Department believes the impact will be positive.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on May 21, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25  
COMPETITION WITH PRIVATE ENTERPRISE

**761—25.1(23A) Interpretation.** This chapter is not to be interpreted to mean that the department will provide a good or service with or without qualification, restriction, or charge.

**761—25.2(23A) Exemptions.** Activities related to the items listed in this rule are exempted from the provisions of Iowa Code section 23A.2(1).

**25.2(1)** Transportation-related printing, publications and electronically generated materials, including but not limited to: forms; brochures; booklets; manuals; directories; periodicals; county, city and state transportation maps; video and audio materials; computer tapes and discs; microfilm and other instructional and informative materials.

**25.2(2)** Copies of records or other services provided to meet the standards of Iowa Code chapter 22.

**25.2(3)** Transportation-related studies, planning and research.

**25.2(4)** Disposal of surplus, obsolete or junked materials and supplies and equipment.

**25.2(5)** Matters of intergovernmental cooperation. Cooperating with other government bodies does not involve providing goods or services to the public except in the broadest sense. The term “government bodies” includes regional transit systems. Activities that involve intergovernmental cooperation include but are not limited to the following:

*a.* Use or consumption of departmental facilities, equipment, materials or supplies by other government bodies, including loans, rentals and sales of equipment, materials and supplies.

*b.* Services provided to or performed for other government bodies. These services include:

(1) Vehicle maintenance and repair services provided to other state agencies.

(2) Purchasing services provided to other government bodies.

(3) Purchases made by other government bodies through state contracts.

(4) Disposal of surplus, obsolete or junked materials and supplies and equipment belonging to other state agencies, counties or cities.

(5) Other services performed for government bodies. These services cover a wide range of activities and are performed primarily for county and city highway departments, agencies having park or institutional roads, county treasurers, public transit systems, publicly owned airports, law enforcement agencies, regional planning agencies, and transportation-related boards.

**25.2(6)** Acquisition and disposal of land and improvements or mitigation banks acquired for highways or facilities use.

**25.2(7)** Lease of right-of-way.

**25.2(8)** Design, construction, reconstruction, inspection and maintenance of highways, including but not limited to signs erected in the right-of-way and acknowledgment signs used in the adopt-a-highway program.

**25.2(9)** Use or consumption of specialized departmental equipment, materials, supplies or services to complete a contract with the department if the goods or services are not readily available on the open market and the department can provide the goods or services at a competitive price.

**25.2(10)** Use of departmental facilities to complete a contract with the department.

**25.2(11)** Activities related to emergencies, including but not limited to providing assistance to the public.

**25.2(12)** Goods or services for use or consumption by the department.

**25.2(13)** Use of departmental facilities or services by persons providing services to or representing departmental employees, including but not limited to the following services or persons: food, credit union and employee organizations.

**25.2(14)** Use of departmental conference rooms or grounds by civic groups and nonprofit organizations.

**25.2(15)** Personal protective items purchased by departmental employees through state contracts.

**25.2(16)** Goods or services promoting transportation or transportation safety.

**25.2(17)** Development, implementation, and licensing of software for use by governmental agencies, whether in Iowa or elsewhere, designed for crash data reporting and analysis; generating uniform citations and other forms for use in public safety; and transmission of such data, analysis, and forms to the appropriate agencies.

**25.2(18)** Development, implementation, and licensing of systems for use by governmental agencies, whether in Iowa or elsewhere, designed for situational incident response, resource management, and interagency communications.

**25.2(19)** Any other activity permitted or required by law.

These rules are intended to implement Iowa Code sections 23A.1 and 23A.2.

[Filed 3/17/25, effective 5/21/25]

[Published 4/16/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/25.