Regulatory Analysis

Notice of Intended Action to be published: 265—Chapter 15
"Purchasing"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5
State or federal law(s) implemented by the rulemaking: Iowa Code section 16.5(1)"f"

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 11, 2025	1963 Bell Avenue
11:30 to 11:45 a.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Iowa Finance Authority no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 15 and adopt a new chapter in lieu thereof. The new chapter eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms, and updates outdated language.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Persons who participate in the Authority's purchasing processes will bear the costs of the proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Persons who participate in the Authority's purchasing processes may benefit from the improved clarity of the chapter.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Persons who participate in the Authority's purchasing processes may incur costs to submit bids or proposals.

- **Qualitative description of impact:**

The proposed rulemaking will provide clarity about the Authority's processes for purchasing.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Authority incurs staff time to administer and oversee purchasing.

- **Anticipated effect on state revenues:**

The proposed rulemaking has no anticipated effect on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The proposed rulemaking does not impose any additional costs on persons who participate in the Authority's purchasing processes compared to the existing Chapter 15.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Authority has not identified any less costly methods or less intrusive methods that exist for addressing its purchasing processes.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any alternative methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any alternative methods because the Authority did not identify a less costly or less intrusive method.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rules do not have a substantial impact on small business. The rules do not establish compliance or reporting requirements. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
PURCHASING

265—15.1(16) Applicability of competitive bidding. Goods or services expected to cost more than $50,000 in the aggregate will be obtained through a formal or informal competitive bidding process conducted by the authority or through the department of administrative services whenever such procurement is in the best interests of the authority as determined by the authority. Goods or services expected to cost $50,000 or less in the aggregate may be obtained in any manner deemed appropriate by the authority.

Notwithstanding the foregoing, the authority may exempt any item from competitive bidding if the item is noncompetitive or is purchased in quantities too small to be effectively purchased through

competitive bidding; if there is an immediate or emergency need for the item; if the purchase of the item facilitates compliance with set-aside procurement provisions; or if the director of the authority determines, in the director's sole discretion, that the authority's best interests will be served by exemption from the bidding process.

265—15.2(16) Methods of obtaining bids or proposals used by the authority. Formal or informal bids or proposals may be obtained by one of the following methods.

15.2(1) *Request for bids.*

a. The authority may prepare a request for bids for providing the goods or services sought by the authority. The request may be shared on the state website for bid opportunities, shared on the authority's website, sent directly to vendors, or distributed in other means determined by the authority. The authority may use reverse auction methods to obtain goods and services.

b. The request for bids will include the due date and time of the bid opening, a description of the goods or services needed, and other information deemed necessary by the authority.

c. The authority will tabulate results as bids are opened.

d. The authority will make an award by the date identified in the request for bids. The price quoted by the vendors shall remain binding for the time period indicated in the request for bids. If an award is not made within the time frame indicated by the authority when requesting bids, all bids may be deemed rejected.

15.2(2) *Informal bids.*

a. The authority may obtain informal bids through use of a written bid form, in electronic format, or in other manners determined appropriate by the authority. The authority will describe the goods or services sought by the authority, the date by which bids must be submitted, the anticipated award date and other information deemed necessary by the authority. The authority may use reverse auction methods to obtain goods and services.

b. The authority will tabulate results as bids are opened.

c. If an award is not made within the time frame indicated by the authority when requesting bids, all bids may be deemed rejected.

15.2(3) *Request for proposals.* The authority may issue a request for proposals when cost is not the sole criterion for selection.

a. The authority will prepare a written request for proposals and submit the request to the department of administrative services for submission on the state website for bid opportunities. The authority may publicize a request through other means, including the authority's website or sending the request for proposals to selected vendors.

b. Requests for proposals will generally include the purpose of the request, the scope of work to be performed, submission requirements and due date, terms and conditions of an award, review criteria and the anticipated time frame for awarding a contract.

c. The authority will evaluate and rank proposals according to review criteria identified in the request for proposals. If an award is not made within the applicable time frame indicated by the authority when requesting proposals, all proposals may be deemed rejected.

265—15.3(16) Contract purchases. The authority may enter into contract purchase agreements for items, groups of items, or services. Contract purchase agreements are subject to the competitive bidding requirements previously outlined, where applicable.

265—15.4(16) Blanket purchase agreements. The authority may establish blanket purchase agreements. Blanket purchase agreements are subject to the competitive bidding requirements previously outlined, where applicable.

265—15.5(16) Bids and proposals to conform to specifications. All bids and proposals must conform to the specifications provided by the authority, including deadlines for submission of bids or proposals. Bids and proposals that do not conform to the specifications stated may be rejected. The

authority reserves the right to waive deficiencies in the bids or proposals if the authority's best interests would be served by the waiver.

265—15.6(16) Modification or withdrawal of bids. Bids or proposals may be modified or withdrawn prior to the time and date set for the bid or proposal opening. Modifications or withdrawals must be submitted to the authority in writing. A bid or proposal may be withdrawn after opening with the approval of the authority.

265—15.7(16) Financial security. The authority may require bid security, litigation security, and performance security on formal bids or proposals if specified in the request for bids or request for proposals.

265—15.8(16) Rejection of bids and proposals. The authority reserves the right to reject any or all bids or proposals. Bids and proposals may be rejected because of faulty specifications, abandonment of the project, insufficient funds, evidence of unfair or flawed bidding procedures, failure of a vendor to meet the authority's requirements or follow submission instructions, or for any other reason if the authority determines that its best interests will be served by rejecting any or all bids. New bids may be requested by the authority at any time.

265—15.9(16) Vendor appeals. Any vendor whose bid or proposal has been timely filed may appeal the decision by filing a written notice of appeal before the authority board within three business days of the date of the award. The notice of appeal shall state the grounds upon which the vendor challenges the authority's award. Following receipt of a notice of appeal, the authority board will notify the appealing vendor and the vendor who received the contract award of the procedures to be followed in the appeal. The authority board may appoint a designee to proceed with the appeal on its behalf.

These rules are intended to implement Iowa Code section 16.5(1)*"f."*