Regulatory Analysis

Notice of Intended Action to be published: 11—Chapters 117 and 118
"Procurement of Goods and Services of General Use; Purchasing Standards for Service Contracts"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 8A.104(5)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, House File 2708

Public Hearing

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

December 3, 2024 11 a.m.	Via Google Meet Phone Number: 1.575.567.3149 PIN: 657 223 287#

Public Comment

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

Tami Wiencek
Hoover State Office Building, Third Floor
1305 East Walnut Street
Des Moines, Iowa 50319
Email: tami.wiencek@iowa.gov

Purpose and Summary

2024 Iowa Acts, House File 2708, relates to the powers, duties, and responsibilities of state government entities associated with information technology, among other items. 2024 Iowa Acts, House File 2708, provides that the Department of Management shall be the sole authority in state government for the procurement of information technology goods and services for supported entities. The same goes for establishing information technology master agreements and for determining whether a procurement is an information technology procurement. These proposed amendments comport with 2024 Iowa Acts, House File 2708, by rescinding references to information technology within the scope of the DAS central procurement enterprise.

Analysis of Impact

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

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

There are no costs associated with this rulemaking since the authority for information technology procurement is transferring to another department.

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

Any entity seeking to procure information technology goods and services from the State of Iowa will benefit from these rescissions through enhanced clarity of rules.

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:**

There are no anticipated impacts.

- **Qualitative description of impact:**

There are no anticipated impacts.

3. **Costs to the State:**

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

This shifts costs from DAS Central Procurement to Department of Management Procurement.

- **Anticipated effect on state revenues:**

There is no impact on state revenues.

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

The benefit is that this aligns DAS procurement rules with updated procurement authority. The cost of inaction would be inconsistency between DAS procurement rules and the Iowa Code.

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

This is the most direct method for achieving the purpose of the proposed rulemaking.

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

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

There were no alternative methods considered.

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

DAS has an obligation to comport with the law.

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?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind paragraph **117.1(1)"c".**

ITEM 2. Rescind the definitions of "Board," "Information technology device," "Information technology services," "Material modification," "Negotiated contract," "Operational standards," "Participating agency," "Software," "Systems software" and "Upgrade" in rule **11—117.2(8A)**.

ITEM 3. Rescind subparagraph **117.5(5)"a"(5)**.

ITEM 4. Renumber subparagraph **117.5(5)"a"(6)** as **117.5(5)"a"(5)**.

ITEM 5. Amend subparagraph **117.9(7)"a"(1)** as follows:

(1) ~~Information technology consulting~~ Consulting services,

ITEM 6. Rescind paragraph **117.9(7)"i".**

ITEM 7. Rescind and reserve rule **11—117.11(8A)**.

ITEM 8. Rescind paragraph **117.14(4)"a".**

ITEM 9. Reletter paragraphs **117.14(4)"b"** to **117.14(4)"e"** as **117.14(4)"a"** to **117.14(4)"d"**.

ITEM 10. Rescind and reserve subrule **118.2(1)**.

ITEM 11. Amend rule **11—118.3(8A)**, definition of "Service," as follows:

"Service" or *"services"* means work performed for a state agency or for its clients by a service provider and includes, but is not limited to:

1. Professional or technical expertise provided by a consultant, advisor or other technical or service provider to accomplish a specific study, review, project, task, or other work as described in the scope of work. By way of example and not by limitation, these services may include the following: accounting services; aerial surveys; aerial mapping and seeding; appraisal services; land surveying services; construction manager services; analysis and assessment of processes, programs, fiscal impact, compliance, systems and the like; auditing services; communications services; services of peer reviewers, attorneys, financial advisors, and expert witnesses for litigation; ~~information technology~~ consulting services; services of investment advisors and managers; marketing services; policy development and recommendations; program development; public involvement services and strategies; research services; scientific and related technical services; software development and system design; and services of underwriters, physicians, and pharmacists; or

2. No change.

ITEM 12. Amend paragraph **118.7(1)"g"** as follows:

g. ~~The procurement is an information service that is systems software or an upgrade, or compatibility~~ Compatibility is the overriding consideration, ~~or~~ the procurement would prevent voidance or termination of a warranty, or the procurement would prevent default under a contract or other obligation.