

**641—176.8 (135,17A) Appeals.**

**176.8(1) *Appeal.*** Letters of intent and applications received by the department after the due date and time stated in the competitive selection application will be rejected and will not be reviewed by the department, and a notice will be sent to the applicant. An applicant may appeal the denial of a timely submitted application. The appeal shall be submitted in writing within ten business days of receipt of notification of the adverse decision. The appeal shall be addressed to the contract administrator cited in the competitive selection application guidance, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. In the event of an appeal, the department will continue working with the applicant awarded funding pending the outcome of the appeal.

**176.8(2) *Contested case.*** Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals (DIA) pursuant to the administrative rules adopted by DIA regarding transmission of cases.

**176.8(3) *Hearing.*** Parties shall receive notice of the hearing in advance. The administrative law judge shall schedule the time, place, and date of the hearing so that the hearing is held as expeditiously as possible. The hearing shall be conducted according to the procedural rules for contested case hearings found at 481—Chapter 10.

**176.8(4) *Decision of administrative law judge.*** The administrative law judge's decision shall be issued within 60 days from the date of the hearing. The administrative law judge's proposed decision shall be served by certified mail, return receipt requested, or delivered by personal service. The proposed decision and order becomes the department's final decision without further proceedings 10 days after it is received by the aggrieved party unless an appeal to the director is filed by either of the parties as provided in subrule 176.8(5) or the director serves notice on the parties of the director's intent to review the decision.

**176.8(5) *Appeal to director.*** Any appeal to the director for review of a proposed decision shall be in writing and submitted to the director by electronic mail; delivered by certified mail, return receipt requested; or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge and the other parties. A request for appeal shall include the specific grounds for appeal.

**176.8(6) *Record of hearing.*** Upon receipt of an appeal request, the administrative law judge shall prepare a record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules;
- b. All evidence received or considered and all other submissions by recording or transcript;
- c. All statements of matters officially noticed;
- d. All questions and offers of proof, objections, and rulings thereon;
- e. All proposed findings and exceptions; and
- f. The proposed decision and order of the administrative law judge.

**176.8(7) *Decision of director.*** Upon receipt of a properly filed appeal, the director shall establish a briefing schedule and, at the discretion of the director, an opportunity for oral argument. An appeal to the director shall be based on the record made at the hearing. The director may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law the director finds to be in error. The decision and order of the director shall be issued within 90 days of the date of the receipt of the appeal and delivered by certified mail, return receipt requested, or by personal service, and becomes the department's final decision upon receipt by the aggrieved party.

**176.8(8) *Exhausting administrative remedies.*** It is not necessary to file an application for rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19.

**176.8(9) *Judicial review.*** The aggrieved party to the final decision of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A. Petitions for judicial review shall be filed within 30 days after the decision becomes

final. The party who appeals a final agency action to district court shall pay the costs of the preparation of a transcript of the contested case hearing for the district court.

**176.8(10)** *Applicability of rule.* This rule governs the appeal process for a competitive selection process if the specific administrative rules of the relevant program do not contain a process for appeal.

[ARC 1750C, IAB 12/10/14, effective 1/14/15]