

MANAGEMENT DEPARTMENT[541]

[Created by 1986 Iowa Acts, chapter 1245, section 103]
Divisions under this "umbrella" include: Appeal Board, State[543], City Finance Committee[545],
and County Finance Committee[547].

CHAPTER 1 ORGANIZATION AND OPERATION

- 1.1(8) Purpose
- 1.2(8) Scope of the rules
- 1.3(8) Waiver
- 1.4(8) Duties of the department
- 1.5(8) Definitions
- 1.6(8) Central office and communications

CHAPTERS 2 and 3 Reserved

CHAPTER 4 CONTRACT COMPLIANCE

- 4.1(19B) Responsibilities
- 4.2(19B) Purpose and scope
- 4.3(19B) Policy
- 4.4(19B) Definitions
- 4.5(19B) Contract compliance
- 4.6(19B) Monitoring
- 4.7(19B) Sanctions
- 4.8(19B) Reporting

CHAPTER 5 PETITIONS FOR RULE MAKING (Uniform Rules)

- 5.1(17A) Petition for rule making
- 5.3(17A) Inquiries

CHAPTER 6 DECLARATORY ORDERS (Uniform Rules)

- 6.1(17A) Petition for declaratory order
- 6.2(17A) Notice of petition
- 6.3(17A) Intervention
- 6.4(17A) Briefs
- 6.5(17A) Inquiries
- 6.6(17A) Service and filing of petitions and other papers
- 6.7(17A) Consideration
- 6.8(17A) Action on petition
- 6.9(17A) Refusal to issue order
- 6.12(17A) Effect of a declaratory order

CHAPTER 7 AGENCY PROCEDURE FOR RULE MAKING (Uniform Rules)

- 7.5(17A) Public participation
- 7.6(17A) Regulatory analysis

- 7.10(17A) Exemptions from public rule-making procedures
- 7.11(17A) Concise statement of reasons

CHAPTER 8

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

- 8.1(17A,22) Definitions
- 8.2(17A,22) Public record retention and access
- 8.3(17A,22) Requests for access to records
- 8.9(17A,22) Disclosures without the consent of the subject
- 8.10(17A,22) Routine use
- 8.11(17A,22) Consensual disclosure of confidential records
- 8.12(17A,22) Release to subject
- 8.13(17A,22) Availability of records
- 8.14 Reserved
- 8.15(17A,22) Other records
- 8.16(17A,22) Applicability

CHAPTER 9

FISCAL OVERSIGHT OF THE EARLY CHILDHOOD IOWA INITIATIVE

- 9.1(256I) Definitions
- 9.2(256I) Purpose
- 9.3(256I) Scope of the rules
- 9.4(256I) Fiscal oversight

CHAPTER 10

IOWA TARGETED SMALL BUSINESS INTERIM GUIDELINES

- 10.1(73GA,ch315) Certification
- 10.2(73GA,ch315) Procurement
- 10.3(73GA,ch315) Reporting

CHAPTER 11

GRANTS ENTERPRISE MANAGEMENT SYSTEM

- 11.1(80GA,SF438) Purpose
- 11.2(80GA,SF438) Definitions
- 11.3(80GA,SF438) GEMS coordinator
- 11.4(80GA,SF438) Grants network
- 11.5(80GA,SF438) GEMS competitive grants review system

CHAPTER 12

DAS CUSTOMER COUNCIL

- 12.1(82GA,SF2400) Definitions
- 12.2(82GA,SF2400) Purpose
- 12.3(82GA,SF2400) Utility determination
- 12.4(82GA,SF2400) Customer council established
- 12.5(82GA,SF2400) Customer council membership
- 12.6(82GA,SF2400) Organization of customer council
- 12.7(82GA,SF2400) Powers and duties of customer council
- 12.8(82GA,SF2400) Customer input
- 12.9(82GA,SF2400) Annual service listing

CHAPTERS 13 and 14

Reserved

CHAPTER 15

LOCAL GOVERNMENT INNOVATION FUND COMMITTEE

- 15.1(80GA,ch178) Purpose
- 15.2(80GA,ch178) Membership
- 15.3(80GA,ch178) Responsibilities of officers
- 15.4(80GA,ch178) Meeting
- 15.5(80GA,ch178) Compensation
- 15.6(80GA,ch178) Office location
- 15.7(80GA,ch178) Committee responsibilities
- 15.8(80GA,ch178) Quorum and majority vote
- 15.9(80GA,ch178) Eligibility
- 15.10(80GA,ch178) Application process
- 15.11(80GA,ch178) Application contents
- 15.12(80GA,ch178) Application review
- 15.13(80GA,ch178) Award process
- 15.14(80GA,ch178) Project management
- 15.15(80GA,ch178) Performance reviews

CHAPTER 1
ORGANIZATION AND OPERATION

541—1.1(8) Purpose. This chapter describes the organization and operation of the department of management (hereafter referred to as the “department”), including the coordination of the policy planning, management of interagency programs, economic reports and program development.

541—1.2(8) Scope of the rules. The rules for the department are promulgated under Iowa Code chapter 8 and 1986 Iowa Acts, chapter 1245, sections 101 to 121 and shall apply to all matters before the department. No rule shall, in any way, relieve a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various divisions of the department from any duty under the law of this state.

541—1.3(8) Waiver. The purpose of these rules is to facilitate the business before the department and to promote a just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise provided for by law, may be waived by the department to prevent undue hardship to a party, to a departmental proceeding, or to a person transacting business with the department. The reasons for granting a waiver of an administrative rule shall be stated in writing and shall be made a part of the record of the proceeding or a part of the departmental file in other matters.

541—1.4(8) Duties of the department. The department of management plans, develops, and recommends policy decisions for management of state government; administers local budget laws (cities, counties, and schools); oversees and ensures compliance with affirmative action; implements policies through coordination and budget processes; and monitors and evaluates the consistent, efficient, and effective operation of state government. The department consists of the director’s office, the Iowa Washington, D.C. office, administrative services division, five planning/budgeting divisions, and the following agencies or boards: state appeal board, criminal and juvenile justice planning agency, city finance committee, county finance committee, and the Iowa advisory commission on intergovernmental relations.

541—1.5(8) Definitions.

“*City budget*” means the budget adopted by city officials which incorporates specified requirements as stated in Iowa Code section 384.16.

“*Contract compliance director*” means the individual designated to oversee and impose sanctions in connection with state programs emphasizing equal opportunity through affirmative action, contract compliance policies and procurement set-aside requirements.

“*County budget*” means the budget adopted by the board of supervisors pursuant to Iowa Code chapter 331.

“*Department*” means the department of management.

“*Director*” means the director of the department of management as appointed by the governor and subject to senate confirmation.

“*Employing agency*” means an agency or department of the state of Iowa.

“*History of the state employment data*” means the agencies, salaries, job classifications, and dates of employment by the state of Iowa of a named individual.

“*Individual data*” means all personally identifiable information not included in the definition of “history of the state employment data.”

“*Management director*” means the director of designated clusters of state agencies and the director of local budgets, as appointed by the director of the department of management.

“*Summary data*” means the information that is presented in such a manner as to preclude the identification of an individual by name or other identifier.

1.5(1) State appeal board—fees. The state appeal board considers the protests of local government budgets, as well as all general and tort claims against the state, as interpreted by the three members:

treasurer of state, auditor of state and director of the department of management which implements proper procedures as assigned by Iowa Code chapter 24.

The processing fee for filing a general claim with the state appeal board is \$5 which shall be billed and paid quarterly by the state agency which incurred the liability of the claim. This fee shall not be reimbursable from the vendor to the state agency.

1.5(2) *Criminal and juvenile justice planning agency.* Rescinded IAB 9/1/93, effective 8/9/93.

1.5(3) *City finance committee.* The city finance committee promulgates rules relating to city budget amendments, establishes guidelines for the capital improvement program, reviews and comments on city budgets and conducts studies of municipal revenues and expenditures as specified in Iowa Code section 384.15.

1.5(4) *County finance committee.* The county finance committee establishes guidelines for program budgeting and accounting, reviews and comments on county budgets, and conducts studies of county revenues and expenditures. In addition, the committee performs other duties as assigned by law pursuant to Iowa Code section 333A.4.

1.5(5) *Iowa advisory commission on intergovernmental relations.* Rescinded IAB 9/1/93, effective 8/9/93.

This rule is intended to implement Iowa Code section 8.6 and section 25.1 as amended by 1993 Iowa Acts, chapter 180, section 72.

541—1.6(8) Central office and communications. Correspondence and communications with the department of management shall be addressed or directed to the department's office located in Room 12, State Capitol Building, Des Moines, Iowa 50319; telephone (515)281-3322.

1.6(1) Correspondence and communication with the state board of appeals shall be addressed to its central office in Room 12, State Capitol Building, Des Moines, Iowa 50319; telephone (515)281-3322.

1.6(2) Correspondence and communications with the criminal and juvenile justice planning agency shall be addressed to Executive Hills East, Suite 205, Des Moines, Iowa 50319; telephone (515)281-3241.

1.6(3) Correspondence and communications with the county finance committee shall be addressed to Room 12, State Capitol Building, Des Moines, Iowa 50319; telephone (515)281-3322.

1.6(4) Correspondence and communications with the advisory commission on intergovernmental relations shall be addressed to Room 12, State Capitol Building, Des Moines, Iowa 50319; telephone (515)281-3322.

1.6(5) Correspondence and communications with the city finance committee shall be addressed to Room 12, State Capitol Building, Des Moines, Iowa 50319; telephone (515)281-3322.

541—1.7(8) Access to official records and information. Rescinded IAB 2/2/05, effective 3/9/05.

541—1.8(8) Access to data in the personnel management information system. Rescinded IAB 2/2/05, effective 3/9/05.

These rules are intended to implement Iowa Code sections 8.6 and 25.1.

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CHAPTERS 2 and 3
Reserved

CHAPTER 4
CONTRACT COMPLIANCE

541—4.1(19B) Responsibilities. The department of management is responsible for the administration and promotion of equal opportunity in all state contracts and services. It is also responsible for the prohibition of discriminatory and unfair practices within any program receiving or benefiting from state financial assistance in whole or in part.

4.1(1) The department of management shall:

- a.* Establish for all state agencies and departments a contract compliance policy applicable to state contracts, services, and programs receiving or benefiting from state financial assistance.
- b.* Adopt administrative rules to implement the contract compliance policy.
- c.* Monitor the actions of state agencies to ensure compliance in
 - (1) The equitable provision of services within state programs;
 - (2) Nondiscrimination in employment by state contractors and subcontractors;
 - (3) The utilization of minority and women business enterprises and disadvantaged business enterprises as sources of supplies, equipment, construction, and services.
- d.* Consider appropriate sanctions on individual state agencies and departments including the state board of regents and its institutions to ensure compliance with state programs emphasizing equal opportunity through affirmative action, contract compliance policies, and procurement set-aside programs.
- e.* Report results of contract compliance to the governor and the general assembly annually.

4.1(2) Reserved.

541—4.2(19B) Purpose and scope. The rules set forth in this part contain the procedures established by the department of management for carrying out the responsibilities stated in Iowa Code section 19B.7 and Executive Order Number 15, Article VIII[1973].

Equal opportunity functions and responsibilities by the director of the department of management are hereby delegated to the appropriate staff.

541—4.3(19B) Policy. It is the policy of the state of Iowa to promote equal opportunity in all state contracts and services and to provide leadership in affirmative action to assure fair and equitable participation within all programs receiving or benefiting from state financial assistance in whole or in part.

4.3(1) Therefore, no individual, except as specifically authorized by law, shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program receiving or benefiting from state financial assistance because of race, creed, color, religion, sex, national origin, age, physical or mental disability as authorized by rule.

4.3(2) Rescinded, IAB 7/27/88, effective 8/31/88.

4.3(3) As authorized by rule, departments utilizing “state financial assistance,” as defined in rule 4.4(19B), must develop and submit a plan to utilize women and minority business enterprises in the purchase of supplies, equipment, construction, and services.

541—4.4(19B) Definitions. Words and terms not defined below shall have the ordinary meaning given to them in Iowa Code chapter 4, unless the construction would be inconsistent with the manifest intent of the general assembly.

“*Affirmative action*” means action appropriate to overcome the effects of past or present practices, policies or other barriers to equal employment opportunity.

“*Contract compliance*” means to conform with the applicable state equal opportunity rules and laws while performing a state contract or agreement.

“*DBE*” means disadvantaged business enterprise.

“*DOM*” means department of management.

“*MBE*” means minority business enterprise.

“Minority, women’s, and disadvantaged business enterprises” shall have the same meaning as the term is used in Iowa Code section 15.102(5): a small business which is 51 percent or more owned, operated, and actively managed by one or more women or minority persons. As used in this subsection, “minority person” means an individual who is a Black, Hispanic, Asian, or Pacific Islander, or American Indian or Alaskan native.

“Protected class” means racial or ethnic minorities, sex, age, creed, color, national origin, religion, or mental and physical disability.

“State financial assistance” means any state moneys which pass through a state department to other entities for the purpose of funding public improvements or programs providing a public service where there may be opportunities for purchasing supplies, equipment, construction, and services.

State financial assistance as defined in this program does not include:

1. Moneys subject to the requirements of Iowa Code sections 73.16 to 73.21.
2. State and federal matching dollars where federal guidelines are more stringent than state requirements.
3. Tax credit, tax replacements and fee refunds.
4. State mandated formula distribution.
5. Benefits paid directly to individuals.

“Subcontractor” means any person (other than a person who is an employee of the contractor) who has agreed or arranged with a contractor to undertake a portion of the contractor’s obligations or the performance of work in connection with a state contract.

“WBE” means women business enterprise.

541—4.5(19B) Contract compliance.

4.5(1) Equitable provision of service. Except where authorized by law, no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any state program or any program receiving or benefiting from state financial assistance because of race, creed, color, religion, sex, national origin, age, or disability. Programs and activities affected shall include but not be limited to the following:

State services and facilities,
State employment service,
State contracts and subcontracts,
State licensing and regulatory agencies,
State financial assistance.

4.5(2) Nondiscrimination in employment by contractors and subcontractors.

a. Every official who is authorized to make contracts or subcontracts for public works or for goods or services shall cause to be inserted into every contract or subcontract a clause in which the contractor or subcontractor is prohibited from engaging in discriminatory employment practices forbidden by federal and state law, executive orders and rules of the department of management, which pertain to equal employment opportunity and affirmative action.

b. Every state official who is responsible to the governor and who is authorized to make contracts or subcontracts for public works or for goods or services shall cause to be inserted into every contract a clause which states the contractor or subcontractor may be required to have on file a copy of the affirmative action program, containing goals and time specifications. These contractual provisions shall be fully enforced. Any breach of them shall be regarded as a material breach of contract.

c. Each state contract shall provide that compliance with the provisions of Iowa Code section 19B.7 and all applicable rules of the department of management prior to the execution of the contract shall be a condition of the contract or agreement binding upon the contractor or service provider, its successors, and assignees. The contract shall further provide that failure to fulfill the nondiscrimination requirements of this contract or any of the rules and orders may cause the contract to be canceled, terminated, or suspended in whole or in part, and the contract or service provider may be declared ineligible for future state contracts in accordance with authorized procedure or the contractor may be subject to other sanctions as provided by law or rule.

d. Contractors, vendors, suppliers doing business with the state in excess of \$5,000 annually and employing 50 or more full-time employees may be required to submit to the department of management or the contracting agency a copy of their affirmative action plan containing goals and time specifications.

e. Compliance shall be determined by a comprehensive review and evaluation of a contractor's employment policies and practices and shall depend on an analysis of all relevant factors including the following:

- (1) The contractor's publicly stated and posted policy regarding equal employment opportunity.
- (2) The contractor's external dealings with unions, employment agencies, newspapers, and other sources of employees.
- (3) The methods by which and places where the contractor seeks to recruit employees.
- (4) The contractor's use of tests and qualifications for positions which are job related and not culturally biased.
- (5) Classification and compensation plans which apply equally to all employees.
- (6) Training programs which provide all persons, including those in protected classes, with an equal opportunity to qualify for employment and advancement.
- (7) The effectiveness of the contractor's affirmative action program as evidenced, in part, by the number of protected classes employed at all levels, taking into account the geographical location of the contractor's work force.

f. The judgment regarding compliance shall be favorable if it is determined that the contractor is working affirmatively toward extending opportunities for members of the protected classes and is not discriminating against them.

g. Contractors must be able to demonstrate to the satisfaction of the department of management or the contracting agency that their affirmative action program is productive.

4.5(3) Procedures.

a. Contractors may be required to submit reports as requested by the department of management. The report forms shall be as brief as possible and designed to elicit relevant information about employment practices. The department of management may request other relevant information from a contractor at any time.

b. The department of management may solicit and compile additional information about present and prospective contractors from any reliable source including the Iowa civil rights commission, department of economic development, and other state and federal agencies.

c. The department of management may systematically review the reports and all other available information concerning the employment practices of present and prospective contractors. Whenever there is reasonable doubt, based on the reports and information as to whether or not a contractor is discriminating or is failing to take affirmative action in compliance with department of management policy:

- (1) The department of management may undertake a compliance review of the contractor.
- (2) Every reasonable effort shall be made to secure compliance through conciliation and persuasion.
- (3) The burden shall be on the contractor to demonstrate compliance and eligibility to do business with the state.

d. If any investigation or compliance evaluation discloses that a contractor has discriminated or has failed to take affirmative action, the director of the department of management, in consultation with the contract compliance manager, may request the contracting agency to pursue all contract remedies authorized by law.

4.5(4) Utilization of minority and women business enterprises as sources of supplies, equipment, construction and service.

a. Every executive department responsible for "state financial assistance" as defined in rule 4.4(19B), which is spent by other entities to purchase supplies, equipment, construction, and services totaling in excess of \$100,000 annually, shall submit a plan to the department of management showing how minority and women businesses will be utilized as sources of these purchases.

b. The plan shall include, but not be limited to:

- (1) The combined annual fiscal year dollar value of these purchases.

(2) The combined anticipated annual fiscal year dollar value of minority and women business participation in these purchases.

(3) A description of the means by which minority and women business participation will be measured.

(4) A description of actions the agency and those receiving state financial assistance will take to ensure the utilization of women and minority businesses.

c. The initial plan shall be submitted to the department of management no later than July 1, 1988; updates and adjustments should be submitted as conditions warrant.

541—4.6(19B) Monitoring.

4.6(1) Each agency and department having purchasing authority, except the state board of regents, shall submit to the department of management an annual contract compliance report beginning August 15, 1988, consisting of the names of contractors, vendors, and suppliers, who had done business with the agency in excess of \$5,000 during the preceding fiscal year.

4.6(2) Each agency and department submitting a minority and women business utilization plan as required in 4.5(4)“a” shall provide the department of management a semiannual plan progress report beginning in January 1989.

4.6(3) DOM shall coordinate monitoring efforts by:

1. Providing a master list to agencies of companies whose affirmative action plans have been received.

2. Informing each agency of the compliance status of all companies that have been reviewed.

541—4.7(19B) Sanctions. The department of management may impose appropriate sanctions on individual state agencies and departments, including the state board of regents and its institutions, in order to ensure compliance with the rules. Any state agency or department, including the state board of regents and its institutions, who commit any of the following offenses shall be subject to the penalties outlined herein.

4.7(1) The offenses include:

a. Falsifying information to the department of management in connection with contract compliance matters.

b. Willfully failing to comply with the regulations and willfully failing to report suspected violations of the rules to the DOM.

c. Aiding, abetting, or assisting a private person in violating any of the provisions of the rules.

d. Failing to report suspected fraudulent activities of MBE/WBEs and failing to disqualify fraudulent MBEs or WBEs.

e. Consistent lack of effort to achieve minority and women business participation goals.

4.7(2) Any one or all of the following actions may be taken by the department of management against a state agency, the state board of regents and its institutions, or against state employees who commit any of the offenses listed or who otherwise violate any provision of the rules.

a. The department of management may recommend disciplinary action against the offending state employee.

b. The department of management may take action, as appropriate, to seek to terminate contracts or funding found to be in violation of the rules.

c. The department of management may seek decertification or disqualification of any person or business from bidding on state contracts in connection with Iowa Code sections 19B.7 and 73.16 to 73.21.

d. The department of management may report the violation to the governor or the appropriate legislative committee.

e. The department of management may impose any other sanctions it deems appropriate to ensure compliance with these rules.

541—4.8(19B) Reporting. The department of management shall report annually to the governor and the general assembly the results under the contract compliance policy and rules. The report shall include but not be limited to:

1. Details of specific efforts to promote equal opportunity through state contracts and services;
2. Details of specific efforts to promote, develop, and stimulate the utilization of minority and women's business enterprises/disadvantaged business enterprises in programs receiving or benefiting from state financial assistance;
3. Recommendations regarding strengthening contract compliance activities by state agencies and departments.

[Filed 11/13/87, Notice 5/6/87—published 12/2/87, effective 1/6/88¹]

[Filed 7/7/88, Notice 6/1/88—published 7/27/88, effective 8/31/88]

[Filed emergency 9/2/88—published 9/21/88, effective 9/2/88]

¹ Effective date of 4.5(2) "c," 4.5(3), and 4.7(2) delayed until the adjournment of the 1988 session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its January 5, 1988 meeting.

CHAPTER 5
PETITIONS FOR RULE MAKING

The department of management incorporates the petitions for rule making segment of the Uniform Administrative Rules which is printed in the first volume of the Iowa Administrative Code with the following amendments.

541—5.1(17A) Petition for rule making. In lieu of the words “designate office,” insert “Room 12, State Capitol, Des Moines, Iowa 50319.” In lieu of the words “AGENCY NAME,” the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

541—5.3(17A) Inquiries. In lieu of the words “designate official by full title and address,” insert “Director, Department of Management, Room 12, State Capitol, Des Moines, Iowa 50319.”

These rules are intended to implement Iowa Code section 8.6 and chapter 17A.

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]

CHAPTER 6
DECLARATORY ORDERS

The department of management incorporates the declaratory orders segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments.

541—6.1(17A) Petition for declaratory order. In lieu of the words “(designate agency)”, insert “department”. In lieu of the words “(designate office)”, insert “the Director’s Office, Department of Management, State Capitol, Room 12, Des Moines, Iowa 50319-0015”. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

541—6.2(17A) Notice of petition. In lieu of the words “ ___ days (15 or less)”, insert “15 days”. In lieu of the words “(designate agency)”, insert “the department”.

541—6.3(17A) Intervention.

6.3(1) In lieu of the words “within ___ days”, insert “within 15 days”. Strike the words “(after time for notice under X.2(17A))”. In lieu of the number “X.8(17A)”, insert “6.8(17A)”.

6.3(2) In lieu of the words “(designate agency)”, insert “the department”.

6.3(3) In lieu of the words “(designate office)”, insert “the Director’s Office, Department of Management, State Capitol, Room 12, Des Moines, Iowa 50319-0015”. In lieu of the words “(designate agency)”, insert “department”. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

541—6.4(17A) Briefs. In lieu of the words “(designate agency)”, insert “department”.

541—6.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “the Director, Department of Management, State Capitol, Room 12, Des Moines, Iowa 50319-0015”.

541—6.6(17A) Service and filing of petitions and other papers.

6.6(2) In lieu of the words “(specify office and address)”, insert “the Director’s Office, Department of Management, State Capitol, Room 12, Des Moines, Iowa 50319-0015”. In lieu of the words “(agency name)”, insert “department”.

6.6(3) In lieu of the words “(uniform rule on contested cases X.12(17A))”, insert “rule 481—10.12(17A)”.

541—6.7(17A) Consideration. In lieu of the words “(designate agency)”, insert “department”.

541—6.8(17A) Action on petition.

6.8(1) In lieu of the words “(designate agency head)”, insert “director”.

6.8(2) In lieu of the words “(contested case uniform rule X.2(17A))”, insert “rule 481—10.1(10A)”.

541—6.9(17A) Refusal to issue order.

6.9(1) In lieu of the words “(designate agency)”, insert “department”.

541—6.12(17A) Effect of a declaratory order. In lieu of the words “(designate agency)”, insert “department”.

These rules are intended to implement 1998 Iowa Acts, chapter 1202, section 13.

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

CHAPTER 7
AGENCY PROCEDURE FOR RULE MAKING

The department of management incorporates the agency procedure for rule making segment of the Uniform Administrative Rules which is printed in the first volume of the Iowa Administrative Code with the following amendments.

541—7.5(17A) Public participation.

7.5(1) *Written comments.* In lieu of the words “identify office and address,” insert “Department of Management, Room 12, State Capitol, Des Moines, Iowa 50319.”

7.5(5) *Accessibility.* In lieu of the words “(designate office and telephone number)”, insert “the department of management at (515)281-3322”.

541—7.6(17A) Regulatory analysis.

7.6(2) *Mailing list.* In lieu of the words “designate office,” insert “Department of Management, Room 12, State Capitol, Des Moines, Iowa 50319.”

541—7.10(17A) Exemptions from public rule-making procedures.

7.10(2) *Categories exempt.* In lieu of the words “(List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them)”, insert the following:

“a. Rules which are mandated by federal law or regulation in any situation where the department has no option but to adopt specified rules or where federal funding is contingent upon the adoption of the rules;

“b. Rules which implement recent legislation when a statute provides for an effective date which does not allow for the usual notice and public participation requirements;

“c. Rules which confer a benefit or remove a restriction on the public or some segment of the public;

“d. Rules which are necessary because of imminent peril to the public health, safety or welfare; and

“e. Nonsubstantive rules intended to correct typographical errors, incorrect citations, or other errors in existing rules.”

541—7.11(17A) Concise statement of reasons.

7.11(1) *General.* In lieu of the words “specify office and address,” insert “Department of Management, Room 12, State Capitol, Des Moines, Iowa 50319.”

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code section 25B.6.

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

CHAPTER 8
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of management hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

541—8.1(17A,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)" insert "department of management".

"Confidential record" means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public and records or information contained in records that are specified as confidential by Iowa Code section 22.7, Iowa Code chapter 8, or another provision of law.

"Nonincidental retrieval or supervisory service" means services provided by the department's staff (or staff from the department of administrative services) to persons requesting access to public documents, which exceed 20 hours in duration.

"Nonproprietary records" means those records which are in the possession of the department but which are generated for the purposes of other units of government.

"Open record" means a record other than a confidential record.

"Public record" means a record as defined in Iowa Code section 22.1. A public record includes both "confidential" and "open" records.

541—8.2(17A,22) Public record retention and access.

8.2(1) Record policy. The department of management is committed to ensuring that the workings of the department are open to public inspection. To that end, a public record in the custody of the department will be maintained and archived through a standard record retention policy, with public access to be given in full compliance with applicable provisions of law.

The record retention program will provide economy and efficiency in the creation, organization, administrative use, maintenance, security, availability, and disposition of public records to ensure that a needless record will not be created or retained, and a valuable record will be preserved, as provided under Iowa law. The department will preserve the integrity of public records, and reply to all open records requests in a timely, responsive, and efficient manner in full compliance with applicable provisions of law.

8.2(2) Record retention requirements. Every record made or received under the authority of, or coming into the custody, control, or possession of, department of management personnel, in connection with the transaction of official business of state government, and that has sufficient legal, fiscal, administrative, or historical value shall be retained in accordance with Iowa law. The director of the department of management shall designate a records retention officer to oversee the department's record retention program and to serve as the primary point of contact with the state archives.

The department will follow the records retention protocol that is established by the Iowa records retention commission. The department of management records officer shall select retention mechanisms that are designed to implement the commission protocol and arrange for training for the department's personnel on each selected mechanism.

8.2(3) Confidential records. Confidential records may be withheld, and confidential information within an otherwise open record may be redacted prior to a record's release for public examination and copying. If a confidential record is withheld from examination and copying, or confidential information within an otherwise open record is redacted, the department of management will identify the document(s) and cite the applicable provision of law that supports the decision to withhold the confidential information from public examination.

541—8.3(17A,22) Requests for access to records.

8.3(1) *Open records.* Open records will be available to the public during customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday (except holidays). Immediate access to records may be affected by a good-faith effort to verify the scope of the records requested and to determine whether any of the records or information contained therein is confidential in nature.

In the event circumstances prolong a timely response, the department will notify the requester at once and attempt an alternate arrangement to provide the response in a manner satisfactory to the requester. For nonproprietary records, the department is only a repository and is not the “lawful custodian” of the records under the meaning of Iowa Code chapter 22. Nonproprietary records shall be provided only to the unit of state government which is the lawful custodian of such records under Iowa Code chapter 22.

8.3(2) *Requesting records.* Requests for access to a public record may be made by mail, electronically, by telephone or in person. A request for access to a public record should be made to the director, who shall be responsible for implementing the requirements of public records laws inside the department.

a. A person who submits a request for public records shall provide the person’s name, address, and telephone number in order to facilitate effective communication with the department regarding the request.

b. Mail requests shall be addressed to: Director, Department of Management, State Capitol, Des Moines, Iowa 50319.

c. Electronic requests shall include the term “Public Records Request” in the subject field, and should be sent to the director’s E-mail address as found on the department’s Web site at www.dom.state.ia.us.

d. Telephone requests should be made to (515)281-5192.

e. A person who submits a request orally will receive a verification letter or electronic communication, whichever is preferred by the requester, from the department verifying the specific scope of the search requested. The verification letter or electronic communication will be transmitted before the request for documents is processed.

In the event that a request cannot be fulfilled within a reasonable time, the requester will be so notified and an estimated completion date will be provided.

8.3(3) *Record identification.* Requests for access to a public record shall identify the particular public record to which access is requested by name or description in order to identify efficiently the desired record.

a. The requester’s description should specify:

(1) The particular type of record sought.

(2) The particular time period to be searched by start and end date.

(3) The author or recipient, or both, of the record requested, to the extent possible.

(4) To the extent possible, the particular records medium to be searched (i.e., letters, memoranda, reports, recordings).

(5) Any other pertinent information that will assist the department in locating the record requested.

b. The requester shall specify if the request applies to a record stored in an electronic form and shall list the search terms to be used.

8.3(4) *Record search.* Department of management personnel should direct public records requests to the director for docketing and processing. Before a search is conducted, the director may contact the requester if there are questions concerning the scope of the record request. The department of management shall employ a staff member who is proficient in conducting electronic records searches within the department. This individual will be responsible for conducting all searches for electronic records that are accessible inside the department of management.

a. Upon receipt of a request for access to a public record, the department will promptly take all reasonable steps to preserve a public record while the request is pending.

b. Every public record that is gathered pursuant to a records request will be examined to determine whether the record is confidential and for completeness in response to the request.

c. Every record that is presented to the public for review shall be attached to a transmittal letter that specifies the manner in which the records search was performed.

d. Questions by the public regarding the scope of a records search or requests for an expanded search should be submitted to the director in writing.

8.3(5) Fees. A fee for time spent retrieving an open record or supervising the public examination of an open record, or both, may be charged to the requester of the record in an amount equal to the actual cost of time spent providing nonincidental retrieval or supervisory services, or both, as provided under applicable law. Whenever possible, an estimate of fees will be provided to the requester before a search is initiated.

a. The actual cost for nonincidental retrieval or supervisory services, or both, may vary according to the nature of the search that is specified by the requester. However, the fees for nonincidental retrieval or supervisory services, or both, performed by department of management staff pursuant to a request for records that are accessible inside the department of management will ordinarily be set at \$15 per hour. The fees for department of management records that are accessible only with the assistance of department of administrative services or state archives personnel will be based on the fee structure that is established by those agencies. Requesters are generally billed for fees after their request has been processed. However, if total fees are expected to exceed \$250, the department of management may require payment in advance of processing.

b. Photocopies of open records located in the department office will be provided at no charge for the first 25 pages, and \$0.20 cents per page for each additional page.

541—8.9(17A,22) Disclosures without the consent of the subject.

8.9(1) Open records are routinely disclosed without the consent of the subject.

8.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 8.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

541—8.10(17A,22) Routine use.

8.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

8.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

541—8.11(17A,22) Consensual disclosure of confidential records.

8.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 8.7(17A,22).

8.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

541—8.12(17A,22) Release to subject.

8.12(1) The agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5))

d. As otherwise authorized by law.

8.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

541—8.13(17A,22) Availability of records.

8.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

8.13(2) *Confidential records.* The department of management may withhold information reflecting departmental budget recommendations for the following fiscal year until it is made public by the governor.

8.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law.

541—8.14(17A,22) Personally identifiable information. Rescinded IAB 2/2/05, effective 3/9/05.

541—8.15(17A,22) Other records. The agency maintains a variety of records which do not generally contain information pertaining to named individuals. The agency maintains the following records, not heretofore listed, which do not generally contain personally identifiable or confidential information: Annual reports, press releases, budget information (following presentation by the governor), receipt statements, revenue information, newsletters, public meeting agendas and minutes, budget information relating to cities, counties or school districts, state revenue forecasts, policy information as recommended to the governor, progress review materials and targeted small business compliance reports.

541—8.16(17A,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11.

[Filed emergency 8/19/88 after Notice 6/15/88—published 9/7/88, effective 8/19/88]

[Filed 1/3/05, Notice 11/24/04—published 2/2/05, effective 3/9/05]

CHAPTER 9
FISCAL OVERSIGHT OF THE EARLY CHILDHOOD IOWA INITIATIVE

541—9.1(256I) Definitions. For the purpose of these rules, the following definitions apply:

“Agreement” means a contract between the area boards, state board, department of management, and state agencies to which funding is allocated.

“Audit” means a financial review by area boards of early childhood Iowa funds. Area boards that receive over \$500,000 in federal funds from all funding sources shall complete a full audit of the funds. Area boards that do not receive over \$500,000 in federal funds from all funding sources may complete a full audit or coordinate with the fiscal agent’s financial review to conduct the state board approved agreed-upon procedures. The requirements included in the state board approved agreed-upon procedures shall be found in the online toolkit available on the official Web site of early childhood Iowa at www.earlychildhoodiowa.org.

“Department” means the Iowa department of management.

“Early childhood Iowa area board” or *“area board”* means the board for an early childhood Iowa area created in accordance with Iowa Code section 256I.7.

“Early childhood Iowa state board” or *“state board”* means the early childhood Iowa state board created in accordance with Iowa Code section 256I.3.

[ARC 9334B, IAB 1/12/11, effective 2/16/11; ARC 0178C, IAB 6/27/12, effective 8/1/12]

541—9.2(256I) Purpose. This chapter sets forth the fiscal oversight measures of the department in relation to the early childhood Iowa area boards.

[ARC 9334B, IAB 1/12/11, effective 2/16/11]

541—9.3(256I) Scope of the rules. The rules for the department are promulgated under Iowa Code chapter 256I. No rule shall, in any way, relieve a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various divisions of the department, from any duty under the laws of this state.

[ARC 9334B, IAB 1/12/11, effective 2/16/11]

541—9.4(256I) Fiscal oversight.

9.4(1) In consultation with the state board, the department has adopted policies to oversee the fiscal responsibilities of area boards.

9.4(2) The department shall:

- a. Review the internal controls of all disbursements of early childhood Iowa funding;
- b. Approve the process for issuing agreements with area boards;
- c. Approve and sign all agreements between the area boards and the state for the purposes of Iowa Code chapter 256I;
- d. Work with state agencies to which the early childhood Iowa funding is allocated to ensure that payments are made to the area boards. The department shall, in cooperation with the agencies to which the funding is allocated, develop a policy for the disbursement of funds;
- e. Require an audit, conducted by an independent agency, of the early childhood Iowa funds managed by area boards. The minimum requirements and frequency of audits for the area boards shall be determined and approved by the state board;
- f. Ensure that all area boards secure liability insurance;
- g. Require that area boards submit a contract-monitoring schedule for their funded programs.

[ARC 9334B, IAB 1/12/11, effective 2/16/11]

These rules are intended to implement Iowa Code sections 256I.1 to 256I.12.

[Filed ARC 9334B (Notice ARC 9222B, IAB 11/17/10), IAB 1/12/11, effective 2/16/11]

[Filed ARC 0178C (Notice ARC 0067C, IAB 4/4/12), IAB 6/27/12, effective 8/1/12]

CHAPTER 10
IOWA TARGETED SMALL BUSINESS INTERIM GUIDELINES

541—10.1(73GA,ch315) Certification. The certification process as set out in 481—Chapter 25, Iowa Administrative Code, shall continue to be used for the purpose of identifying targeted small businesses (TSBs) and shall determine eligibility for the Iowa targeted small business interim program. All references to TSBs are state-certified businesses.

541—10.2(73GA,ch315) Procurement. The mandatory set-aside requirements and bid preferences required by Iowa Code sections 73.16 to 73.21 are hereby suspended until April 1, 1990. The following are guidelines to be used in the interim to encourage TSB participation. All other TSB functions are to operate in accordance with the existing Code of Iowa unless otherwise instructed. Each department and agency is encouraged to include TSBs as contractors, vendors, and suppliers in bid solicitations and procurements. The department of management provides procurement guidelines as follows:

10.2(1) Bid document statement. After September 1, 1989, the following statement shall be inserted into every state of Iowa bid document:

It is hereby agreed that when entering into this contract with the state of Iowa, the vendor/contractor warrants that it has taken documented steps to encourage the participation of TSBs for the purpose of subcontracting and supplying of materials.

10.2(2) Goods and supplies. Purchasing authorities may use any or all of the following procedures to encourage TSB participation to the maximum extent possible.

a. Targeted invitations. The purchasing authority may:

- (1) Identify purchases that offer potential TSB participation.
- (2) Identify TSBs who can participate in the purchasing contract.
- (3) Send proposals and invitations to bid to TSBs who can participate in the purchasing contract.

b. Negotiated contracts. The purchasing authority shall consider TSBs in contracts that are negotiated.

c. Business development. The purchasing authority may:

- (1) Identify significant state purchasing commodities that are void of TSB participation.
- (2) Identify TSBs that have potential to develop in these areas.
- (3) Refer TSBs who have potential or have expressed interest in those purchase areas to the Iowa department of economic development.

d. Targets. The purchasing authority may:

- (1) Identify purchases which will encourage utilization of TSBs.
- (2) Establish percentage or monetary targets which will encourage utilization of TSBs.

Targets are not mandatory set-asides.

10.2(3) Construction. Contracting authorities may use any or all of the following procedures to encourage TSB participation to the maximum extent possible.

a. Targets. The purchasing authority may:

- (1) Identify projects that provide potential TSB participation.
- (2) Establish percentage or monetary targets which will encourage utilization of TSBs.

Targets are not mandatory set-asides.

b. Good faith. The purchasing authority may require a prime contractor to make a good faith effort to utilize TSBs.

(1) Good faith effort shall include, but not be limited to:

1. Prime contractor's efforts to locate minority- and women-owned businesses.
2. Prime contractor's efforts to make minority- and women-owned businesses aware of contracting opportunities.

3. The prime contractor's initiatives to encourage and develop TSBs, taking into account the availability of TSBs to work on state-assisted contracts.

4. Prime contractor's efforts to overcome or mitigate the effects of legal or other barriers impeding the participation of minority- and women-owned businesses in the contractor's state-assisted contract.

(2) A prime contractor shall maintain, and provide upon request, documentation as to what good faith efforts were undertaken.

c. Subcontract document. Prime contractor shall submit the following information, with the bid, to the contracting authority:

- (1) Name(s) of TSB subcontractor(s);
- (2) The dollar amount of the subcontract; and
- (3) Subcontract work to be performed.

d. Business development. The contracting authority may:

- (1) Identify significant state construction areas that are void of TSB participation.
- (2) Identify TSBs that have potential to develop in these areas.
- (3) Assist TSBs in becoming prime contractors.

541—10.3(73GA,ch315) Reporting.

10.3(1) Annual.

a. Beginning August 15, 1989, each department and agency shall report the following to the Iowa department of economic development.

(1) Anticipated dollar amount of purchases outside the department of general services for the next fiscal year.

(2) Overall anticipated dollar and percentage target for TSBs.

(3) Proposed procedure to be used to encourage TSB participation.

b. Within 30 days after June 30, 1990, each department and agency shall report the following.

(1) Total annual purchases outside the department of general services;

(2) Percentage of target met;

(3) Narrative on progress.

c. The Iowa department of economic development shall submit a summary of these reports to the Iowa department of management along with any recommendation it deems necessary.

d. The department of general services will continue to report procurements for which they are responsible.

e. The director of the department of economic development or designee in conjunction with the director of the department of management or designee shall review the information submitted and may require modification from agencies or departments.

10.3(2) Quarterly.

a. Each department or agency shall submit to the Iowa department of economic development a report quarterly and shall include as a minimum:

(1) The number of contracts awarded to TSBs and the names of those contractors.

(2) A description of the general categories of contracts awarded to TSBs.

(3) The dollar value of contracts awarded to TSBs.

(4) The percentage of the dollar value of all contracts awarded during this period to TSBs.

(5) Percentage of target reached.

b. Quarterly reports are due October 31, January 31, April 30, and July 31.

c. The Iowa department of economic development shall submit a summary of the quarterly reports to the Iowa department of management.

d. The director of the department of economic development or designee in conjunction with the director of the department of management or designee shall review the information submitted and may require modification from agencies or departments.

These rules are intended to implement 1989 Iowa Acts, Senate File 517, section 20.

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CHAPTER 11
GRANTS ENTERPRISE MANAGEMENT SYSTEM

541—11.1(80GA,SF438) Purpose. These rules are intended to implement 2003 Iowa Acts, Senate File 438, and are designed to establish a grants enterprise management system. The primary goals of the grants enterprise management system (GEMS) include:

1. Securing additional nonstate funding;
2. Fostering cooperation and coordination between state agencies;
3. Discouraging duplication of competitive grant application efforts;
4. Providing a mechanism for the timely exchange of information among state agencies on proposals potentially affecting the agencies; and
5. Providing policy makers, legislators and the citizens of Iowa with information on grant funds received and state agencies' competitive grant applications.

541—11.2(80GA,SF438) Definitions. As used in this chapter:

"Applicant agency" means the agency intending to apply, or applying for, a competitive grant.

"Competitive grant application" means a grant application that is in competition with other applications for limited funds.

"Federal Executive Order 12372" means the federal executive order that provides for the establishment of a process for the coordination and review of proposed federal financial assistance. In the Order, states are encouraged to develop their own processes, and federal agencies shall, to the extent permitted by law, utilize the state process.

"GEMS coordinator" means the person appointed by the director of the department of management to coordinate the grants enterprise management system.

"I/3 grant tracking module" means Integrated Information for Iowa (I/3) and the portion of the I/3 cost accounting module designed to collect data on all nonstate funds received by state government agencies.

"Single point of contact" means the GEMS coordinator.

"State agency" means any department or agency of state government except the board of regents.

541—11.3(80GA,SF438) GEMS coordinator. The GEMS coordinator shall coordinate all aspects of the grants enterprise management system. The GEMS coordinator shall:

1. Identify and execute strategies to secure nonstate funds;
2. Ensure that all agencies utilize the Iowa grants database to track all competitive grant applications;
3. Ensure that all agencies utilize the I/3 grant tracking module for all grants received;
4. Operate as the state's single point of contact, pursuant to Federal Executive Order 12372;
5. Establish a grants network, representing all state agencies, to operate in an advisory capacity;
6. Assign a state application identifier (SAI) number at each stage of the application process: notification of intent, application submitted, and final status;
7. Review competitive grant applications of special significance, at the coordinator's discretion;
8. Serve as liaison with the state single point of contact in contiguous states;
9. In cooperation with other state agencies, monitor and refine the GEMS competitive grants review procedures;
10. Maintain a list of state agency grants coordinators;
11. Ensure, to the greatest degree practicable, that all GEMS competitive grants reviews are conducted in accordance with these rules;
12. Provide training and policy guidance; and
13. Provide status and results reports to appropriate contacts on an as-needed basis.

541—11.4(80GA,SF438) Grants network. The grants network shall include representation from all state agencies. Agency representatives shall serve as agency grants coordinators. All agency grants coordinators shall work with the GEMS coordinator to:

1. Serve the grants enterprise management office in an advisory capacity;
2. Communicate relevant information to the GEMS coordinator;
3. Utilize the Iowa grants database to track all competitive grant applications;
4. Utilize the I/3 grant tracking module for all grants received;
5. Inform the Iowa office for state-federal relations of initiatives for which the agency is seeking federal funds; and
6. Participate in issue-specific, federal legislation work groups.

541—11.5(80GA,SF438) GEMS competitive grants review system. The purpose of the GEMS competitive grants review system is to allow state government coordination and review of all competitive grant applications in order to avoid duplication and conflicts.

11.5(1) Agency competitive grants review coordinator. Agency grants coordinators shall:

- a. Serve as the agency's competitive grants review coordinator and as liaison between the agency and the GEMS coordinator for the GEMS competitive grants review process.
- b. Assist in the evaluation of the GEMS competitive grants review process.

11.5(2) GEMS competitive grants review process. The following is a generalized summary of the GEMS competitive grants review process that shall be followed by state agencies with respect to review of applications for competitive grants.

a. *Step 1—Intent to apply.*

(1) The applicant agency shall complete the intent to apply section of the Iowa grants database when the applicant agency identifies a competitive grant opportunity.

(2) Upon submission of the intent to apply, a notification will be sent to all state agencies.

(3) Any state agency, or the GEMS coordinator, may request a GEMS competitive grants review meeting to explore the project in greater detail, identify opportunities for collaboration and resolve possible conflicts.

(4) The applicant agency and the GEMS office must receive the agency request for a GEMS competitive grants review meeting within two working days of submission of the intent to apply notification.

(5) The GEMS review meeting shall be held within 12 working days of submission of the intent to apply notification. The applicant agency shall work with the GEMS office to schedule the meeting.

b. *Step 2—Application submitted.*

(1) Upon completion of the GEMS competitive grants review process, but prior to submission of the grant application, the applicant agency shall enter the grant application information in the application section of the Iowa grants database.

(2) When all required fields are completed, the Iowa grants database will automatically generate written confirmation of completion of the GEMS competitive grants review to the applicant agency.

(3) The applicant agency shall keep a file copy of the confirmation. The applicant agency shall include the written confirmation with all federal competitive grant applications pursuant to Federal Executive Order 12372.

c. *Step 3—Status.*

(1) The applicant agency shall enter the grant's status in the Iowa competitive grants database upon withdrawal of the application or notification of the receipt or denial of the grant.

(2) The GEMS office and the legislative services agency shall be notified of the final grant status.

These rules are intended to implement 2003 Iowa Acts, Senate File 438.

[Filed emergency 6/18/03—published 7/9/03, effective 7/1/03]

CHAPTER 12
DAS CUSTOMER COUNCIL

541—12.1(82GA,SF2400) Definitions.

“DAS” means the department of administrative services created by Iowa Code chapter 8A.

“DAS customer council” means a group responsible for overseeing operations with regard to a service funded by fees paid by a governmental entity or subdivision receiving the service when the department and DAS have determined that DAS shall be the sole provider of that service.

“Department” or “DOM” means the department of management created by Iowa Code chapter 8.

“Economies of scale” means mass purchasing of goods or services, which results in lower average costs.

“Large agency” means a state agency with more than 700 permanent employees.

“Leadership function” means a service provided by the department and funded by a general appropriation. Leadership functions typically relate to development of policy and standards and are appropriate when standardization is required and the ultimate customer is the taxpayer.

“Marketplace service” means a service that the department is authorized to provide, but which governmental entities may provide on their own or obtain from another provider of the service.

“Medium-sized agency” means a state agency with 70 to 700 permanent employees.

“Quorum” means the presence of no less than a simple majority (50 percent plus 1) of the members eligible to vote.

“Small agency” means a state agency with fewer than 70 permanent employees.

“Utility service” means a service funded by fees paid by the governmental entity receiving the service and for which DAS is the sole provider of the service.

541—12.2(82GA,SF2400) Purpose. The purpose of this chapter is to establish a customer council to oversee operations with regard to services provided when the department has determined that DAS shall be the sole provider of a service and to ensure that DAS meets the needs of affected governmental entities and subdivisions and those citizens served.

541—12.3(82GA,SF2400) Utility determination. Services for which the department has determined that DAS shall be the sole provider are designated “utilities” in Iowa state government. Customers may choose the amount of service they purchase, but must buy from the single source. Utilities are those services for which a monopoly structure makes sense due to economies of scale. The process for determining whether DAS shall be the sole provider of a service shall include consideration of economic factors, input from the customer council and input from upper levels of the executive branch.

541—12.4(82GA,SF2400) Customer council established. In order to ensure that DAS utilities provide effective, efficient, and high-quality services that benefit governmental entities and the citizens they serve, this chapter establishes a customer council for services identified as utilities.

541—12.5(82GA,SF2400) Customer council membership. Customer council membership shall consist of the chairperson and vice chairperson, 11 state agency representatives, a judicial branch representative overseeing DAS services provided to the judicial branch, two legislative branch representatives overseeing DAS services provided to the legislative branch, and nonvoting ex-officio members.

12.5(1) Method of appointment of members.

a. Executive branch agency representation. The customer council will include four members from large agencies, four members from medium-sized agencies and three members from small agencies.

(1) Selection. The individual nominated by an agency to become a customer council member shall be the individual the agency determines is most appropriate to provide guidance. Each agency may nominate one representative for the customer council. The department shall select customer council members from the representatives nominated by the agencies in that group.

(2) Review. The department shall review representation on the customer council prior to August 1 of each year for the terms ending August 31 of that year and select customer council members as in subparagraph (1) to fill vacancies caused by expired terms. The department will periodically review the definition of large, medium-sized and small agencies based on the number of permanent employees of the agencies in Iowa state government and make adjustments accordingly.

(3) Vacancies. If a vacancy occurs, the department shall fill the vacancy.

b. Legislative and judicial branch representation. If the service to be provided may also be provided to the judicial branch and legislative branch, then the chief justice of the supreme court may appoint one member to the customer council and the legislative council may appoint two members to the customer council, one representing the house of representatives and one representing the senate.

c. Ex-officio member(s). Ex-officio members shall not vote on the proceedings of the customer council, but shall provide input to the council based on their area of expertise. Each ex-officio member shall be approved by a majority of the voting members of the customer council. An ex-officio member may be recommended to the customer council by:

(1) A group representing agencies using a service overseen by the customer council, and

(2) Any other group approved by the customer council.

12.5(2) Membership changes. As utility services and customer groups change, the department may add members to provide for equitable representation.

12.5(3) Term of membership. Each member will serve a two-year term.

a. Initial appointments shall be for staggered terms of one or two years as set by the department.

b. Initial membership terms shall begin by August 1, 2008.

541—12.6(82GA,SF2400) Organization of customer council. The operations of the customer council shall be governed by a set of bylaws as adopted by the customer council. Bylaws shall address the following issues.

12.6(1) Member participation. Each member is expected to attend and actively participate in meetings. Participation will include requesting input and support from the group each member represents.

a. Substitutes for members and alternates absent from meetings will not be allowed; however, members may attend by telephone or other electronic means approved by the customer council.

b. Upon the approval of the customer council, an alternate member may be selected by an agency or group that provides a representative to the customer council to participate in customer council meetings and vote in place of the representative when the representative is unable to participate.

12.6(2) Voting. A quorum is required for a customer council vote.

a. Eligible members may vote on all issues brought before the group for a vote. Members may be present to vote during a meeting in person, by telephone or other electronic means approved by the customer council.

b. Each member, other than the chairperson, vice chairperson and ex-officio members, has one vote. Designated alternates may only vote in the absence of the representative from their organization. A simple majority of the members voting shall determine the outcome of the issue being voted upon.

c. Customer council bylaws may be amended by a simple majority vote of all members.

12.6(3) Officers. The officers of the customer council shall be the chairperson and vice chairperson. The director of the department of management will serve as chairperson and the director of the department of administrative services will serve as vice chairperson. The chairperson and vice chairperson shall not be voting members.

12.6(4) Duties of officers.

a. The chairperson shall preside at all meetings of the customer council.

b. The vice chairperson shall assist the chairperson in the discharge of the chairperson's duties as requested and, in the absence or inability of the chairperson to act, shall perform the chairperson's duties.

12.6(5) Committees.

a. The chairperson may authorize or dissolve committees as necessary to meet the needs of the customer council.

b. Members of the customer council and individuals who are not members of the customer council may be appointed by the chairperson to serve on committees.

c. Committees shall provide feedback to the chairperson and the customer council at the council's request.

d. Committees shall meet, discuss, study and resolve assigned issues as needed.

12.6(6) Administration. DAS will assist the department by providing staff support to assist the chairperson with the following administrative functions:

a. Keeping the official current and complete books and records of the decisions, members, actions and obligations of the customer council;

b. Coordinating meeting notices and locations and keeping a record of names and addresses, including E-mail addresses, of the members of the customer council; and

c. Taking notes at the meetings and producing minutes that will be distributed to all members.

12.6(7) Open records. Customer council books and records are subject to the open records law as specified in Iowa Code chapter 22.

12.6(8) Meetings. Customer council meetings are subject to the open meetings law as specified in Iowa Code chapter 21. The customer council is responsible for the following:

a. Determining the frequency and time of council meetings.

b. Soliciting agenda items from the members in advance of an upcoming meeting.

c. Sending electronic notice of meetings, including date, time and location of the meeting, at least one week prior to the meeting date.

d. Providing an agenda, including those items requiring action, at least two days prior to the meeting. The agenda should also include any information necessary for discussion at the upcoming meeting.

e. Conducting meetings using the most recent version of Robert's Rules of Order, Revised.

541—12.7(82GA,SF2400) Powers and duties of customer council.

12.7(1) Approval of business plans. The customer council shall, on an annual basis, review and recommend action on business plans submitted by DAS for performance of the services the customer council oversees. Business plans shall include levels of service, service options, investment plans, and other information.

12.7(2) Complaint resolution. The customer council shall approve the internal procedure for resolution of complaints concerning the utility services provided by DAS. The procedure shall include, at a minimum, the following provisions:

a. A definition of "complaint," which shall convey that this resolution process does not take the place of any other formal complaint, grievance or appeal process required by statute or rule.

b. Receipt of complaints.

c. Standards for prompt complaint resolution.

d. Provisions to aggregate, analyze and communicate issues and outcomes in a manner that contributes to overall organizational improvement.

e. Identification of the chairperson and vice chairperson's decision as the final step in the process.

12.7(3) Rate setting. A majority of all voting council members shall approve the rate methodology and the resulting rates for the services that the customer council oversees. Rates shall be established no later than September 1 of the year preceding the rate change. Established rates may be amended after September 1 upon recommendation by the department in consultation with DAS and upon affirmative vote by the customer council.

12.7(4) Biennial review. Every two years the customer council shall review the decision made by the department that DAS be the sole provider of a service and make recommendations regarding that decision.

541—12.8(82GA,SF2400) Customer input. The department shall establish procedures to provide for the acceptance of input from affected governmental entities. Input may take various forms, such as unsolicited comments, response to structured surveys, or an annual report on service requirements.

541—12.9(82GA,SF2400) Annual service listing. DAS shall annually prepare a listing separately identifying services determined by the department and DAS to be leadership functions, marketplace services, and utilities. The listing shall be completed no later than September 1 of the fiscal year preceding the proposed effective date of the change.

These rules are intended to implement Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, section 29.

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CHAPTERS 13 and 14
Reserved

CHAPTER 15
LOCAL GOVERNMENT INNOVATION FUND COMMITTEE

541—15.1(80GA,ch178) Purpose. The purpose of these rules is to ensure that the proceedings of the local government innovation fund committee responsible for local government innovation fund awards are conducted in an orderly manner.

541—15.2(80GA,ch178) Membership. The selection, approval, and appointment of members to the local government innovation fund committee for a term of one year are made by the director of the department of management (director) as provided in 2003 Iowa Acts, chapter 178, section 27. The committee shall consist of seven members.

541—15.3(80GA,ch178) Responsibilities of officers. The officers of the local government innovation fund committee shall consist of a chairperson, a vice chairperson and a secretary.

15.3(1) Chairperson. The chairperson shall be appointed by the director and shall preside over the proceedings of the local government innovation fund committee. Upon a vacancy on the committee, the chairperson shall notify the director that a vacancy exists.

15.3(2) Vice chairperson. The vice chairperson shall serve in the absence of the chairperson and shall be assigned such other duties as the committee determines. The vice chairperson shall be appointed by the director.

15.3(3) Secretary. Yearly, the local government innovation fund committee shall appoint a secretary to record the proceedings of the committee and report the financial condition of the fund. The secretary may or may not be a member of the committee. The secretary shall give advance public notice of the time and place of each meeting. The notice must be in accordance with Iowa Code section 21.4.

The secretary shall keep minutes of all proceedings of each meeting. The minutes will constitute the official record of all actions of the committee. Following each meeting, the secretary shall duplicate the minutes and distribute them to the persons listed on the approved mailing list. When the secretary is absent from a committee meeting, the chairperson shall appoint a member of the committee to act as secretary until such time as the regular secretary is present. The secretary shall provide to the committee members a list of the committee's members including the members' addresses and telephone numbers.

541—15.4(80GA,ch178) Meeting. A meeting of the committee shall be held at the call of the director of the department of management. All meetings of the committee shall be open to the public at all times, except that closed meetings may be held for the purposes provided in Iowa Code section 21.5. Closed sessions shall be called and conducted as provided in Iowa Code section 21.5.

541—15.5(80GA,ch178) Compensation. Committee members are to be compensated in accordance with Iowa Code section 7E.6.

541—15.6(80GA,ch178) Office location. All submissions to or requests of the committee shall be made through the department of management during normal working hours. All records, minutes, applications, and other information concerning the proceedings of the committee shall be kept in the office of the director of the department of management. Such information shall be open to inspection by the public during normal working hours.

541—15.7(80GA,ch178) Committee responsibilities. The committee shall review each local government innovation fund application. In addition, the committee may interview applicants to explore the need for technical assistance, gain additional information concerning the proposal, and negotiate the project's work plan.

541—15.8(80GA,ch178) Quorum and majority vote. A quorum shall consist of four members of the committee. All actions of the committee must be approved by a simple majority vote of the members

present at a meeting. The secretary shall record the vote of each member of the committee indicating if the vote was an aye, a no, or an abstention.

Members shall abstain from voting on applications that provide assistance to jurisdictions where the members reside.

541—15.9(80GA,ch178) Eligibility. Any Iowa county or city or group of counties and cities is eligible to apply for funding for projects that result in the following:

1. Cost savings;
2. Innovative approaches to service delivery; or
3. Added revenue to the city, county, or state.

Eligible projects are those that cannot be funded from a city's or county's operating budget without adversely affecting the city's or county's normal service levels. Preference shall be given to requests involving the sharing of services between two or more local governments. Projects may include, but are not limited to, purchase of advanced technology, contracting for expert services, and acquisition of equipment or supplies.

541—15.10(80GA,ch178) Application process. The committee shall establish the application and review deadlines. Notice of the deadlines shall be sent to city and county member organizations and posted at the state capitol, ground floor, and on the department's Web site. Applications shall be submitted to the Local Government Innovation Fund Committee, Iowa Department of Management, Room 12, State Capitol, Des Moines, Iowa 50319.

541—15.11(80GA,ch178) Application contents. Applications shall be submitted on forms developed by the committee and made available by the department of management. Contents of the application shall include:

1. A summary sheet including title and project overview; name, address and telephone number of one person who will serve as the contact for the application; the cities and counties involved in the application; and type of assistance and amount requested.
2. Return on investment information.
3. Identification of the reduced city, county or state general fund expenditures or how city or county fund revenues will increase without an increase in state costs.
4. A description of how the project will be innovative, based on objective criteria identified in the application.

541—15.12(80GA,ch178) Application review. The committee shall review each application based on the following criteria:

1. Potential impact on savings, revenues, or community residents.
2. Project innovation based on objective criteria.
3. Likelihood of success based on stakeholder involvement.
4. Types of match in the form of cash or in-kind resources committed.
5. Ability to be replicated in other parts of the state.
6. Sharing of services between two or more local governments.

541—15.13(80GA,ch178) Award process. The committee may award loans, forgivable loans, or grants as provided in 2003 Iowa Acts, chapter 178, sections 27 and 28. In order to maintain the fund as self-supporting, the committee shall establish repayment schedules for each loan awarded. A city or county shall repay the loan over a period not to exceed five years, with interest, at a rate to be determined by the committee. All applicants will be notified in writing after the final decisions are made. Successful applicants shall enter into a chapter 28E agreement executed with the department of management that outlines the loan or grant requirements with the city (cities) or county (counties) receiving the loan or grant.

541—15.14(80GA,ch178) Project management. Within one year of receipt of funds, the award recipient shall provide an annual report that assesses progress on the results achieved to date. As a condition of the award, additional reporting may be required.

541—15.15(80GA,ch178) Performance reviews. Representatives of the department and state auditors shall have access to all books, accounts, and documents belonging to or in use by the award recipient pertaining to the receipt of assistance under this program. All contracts under this program are subject to audit.

These rules are intended to implement 2003 Iowa Acts, chapter 178, sections 27 and 28.

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