

Red Tape Review Rule Report (Due: September 1, 2024)

Department Name:	Transportation	Date:	8/2/2024	Total Rule Count:	9
IAC #:	761	Chapter/ SubChapter/ Rule(s):	20	Iowa Code Section Authorizing Rule:	307.12(1)“j” 8A.302(1)
Contact Name:	Veronica Tolander	Email:	veronica.tolander@iowadot.us	Phone:	515-239-1443

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What is the intended benefit of the rule?

This chapter establishes the procedure for the procurement of equipment, materials, supplies and services. The process requires competitive procurement with public advertising at a set threshold and defines exceptions. Requesting maximum competition is intended to benefit the public in two ways: by ensuring open opportunity to do business with the Department and securing the best value in the use of Department funds.

Is the benefit being achieved? Please provide evidence.

No. Parts of the chapter are unclear or difficult to understand, timelines are drawn out, and unqualified bidders are permitted to compete.

What are the costs incurred by the public to comply with the rule?

Costs to the public include those associated with project delays due to elongated timelines.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the Department include the time and resources spent on a lengthy, drawn-out process and consideration of unqualified bidders.

Do the costs justify the benefits achieved? Please explain.

Benefits are not fully achieved as written. Clearly defining and streamlining the process will provide qualified vendors the opportunity to secure business with the Department in a timely manner, and in turn, benefit the Department.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Shortening the protest period from 7 to 5 days, clarifying definitions, simplifying the bid response process through electronic submission, and allowing removal of unqualified bidders from bidders' lists would expedite the procurement process. This would make it easier for vendors to do business with the Department and save valuable Department resources in the time it takes to secure contracts for equipment, materials, supplies and services.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes.

20.2 The definition of “formal advertising” is replaced with “formal solicitation” and the definition of “limited solicitation” is replaced with “informal solicitation” for consistency and alignment with terms commonly used in day-to-day discourse with vendors. The redundant language within both of these definitions is removed and language needed remains in rules 20.4 and 20.5.

The definition of “firm” is updated to include “public mitigation banks.”

20.3(2) A description of when this method of procurement is to be used is moved from the definitions rule 20.2 to this subrule for consistency.

20.3(3)“b” The threshold for using the negotiation method of procurement is raised to \$15,000 to align with other state agencies, to account for inflation, and to streamline the process which lowers administrative costs.

20.4(1) a. This paragraph is outdated. Bidders’ lists are maintained within an electronic sourcing platform. Vendors may self-register to be added to bidders’ lists.

20.4(1)“b” This paragraph is outdated. Adding a sentence to inform bidders that registration is done through the electronic sourcing platform.

20.4(1)“c” (1) This subparagraph is outdated. Rather than removal from bidders’ list after failure to respond to three consecutive requests for proposal, a bidder is removed for failure to meet pre-qualifications as set forth in the bid solicitation. This is to ensure that qualified bidders continue to have the opportunity to participate in solicitations, even after periods of inactivity.

20.4(2) *Solicitation documents.* Contains unnecessary language. Subparagraphs 20.4(2)“c”(1 to 3) are condensed into one sentence to clarify the requirement.

20.4(3) *Response Instructions.* Paragraphs 20.4(3)“a” and 20.4(3)“i” are outdated; they allow hard copies of formal bid responses to be submitted. Electronic submission reduces error, increases compliance, and ensures adherence to the bid timeline. Paragraph 20.4(3)“m” includes an obsolete term “proposal guaranty” and is replaced with colloquial term, “bid bond” to increase readability.

20.4(6)“e” “Proposal guaranty” is an obsolete term and is replaced with the colloquial, “bid bond” to increase readability.

20.4(7)“a-c” The timeline for contract execution and performance is amended to allow for variance, based on the nature of the solicitation. This less restrictive alternative will streamline the process to contract execution, while allowing for extended timelines when necessary.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None. However, 20.9 was previously reserved.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

20.1 to 20.9

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	157
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	113

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.