

MANAGEMENT DEPARTMENT[541]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 541—Chapter 12
“DAS Customer Council”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 8.6(15)

State or federal law(s) implemented by the rulemaking: Iowa Code section 8.6(15)

Public Hearing

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

October 18, 2023
9 a.m.

State Capitol, Room G14
1007 East Grand Avenue
Des Moines, Iowa

Public Comment

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

Gloria Van Rees
Iowa Department of Management
State Capitol, Room G13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Purpose and Summary

In the proposed Chapter 12, the Department of Administrative Services (DAS) Customer Council provides oversight for fees paid by government entities when DAS is the sole provider of the service.

Analysis of Impact

- Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Without the DAS Customer Council, state agencies may pay more for services without the proper oversight.
 - Classes of persons that will benefit from the proposed rulemaking:
State agencies, and thus, taxpayers, will benefit from the proposed rulemaking.
- Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The DAS Customer Council regulates the potential cost of services to state agencies.
 - Qualitative description of impact:
The DAS Customer Council reviews cost increases thoroughly to clarify a need within the state.
- Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
There are no implementation and enforcement costs borne by the agency or any other agency.
 - Anticipated effect on state revenues:
There is no anticipated effect on state revenues.
- Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

If the DAS Customer Council was not in place, the cost of services to agencies could potentially increase and become an administrative burden.

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

There were no less costly or intrusive methods for achieving the purpose of the proposed rulemaking.

6. Alternative methods considered by the agency:

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

No alternative methods were seriously considered by the Department.

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

The DAS Customer Council is important to determine the cost of services to the state agencies.

Small Business Impact

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

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

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

The Department deals more closely with government entities throughout the state with minimal interaction with small businesses.

Text of Proposed Rulemaking

ITEM 1. Rescind 541—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12 DAS CUSTOMER COUNCIL

541—12.1(8) 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 will 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.

“*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 necessary 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.

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

“*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(8) Purpose. The purpose of this chapter is the same as Iowa Code section 8.6(15)“c.”

541—12.3(8) Utility determination. Services for which the department has determined that DAS will be the sole provider are designated “utilities” in Iowa state government. Customers may choose the amount of service they purchase, but should

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 will be the sole provider of a service will include consideration of economic factors, input from the DAS customer council and input from upper levels of the executive branch.

541—12.4(8) DAS 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 DAS customer council for services identified as utilities.

541—12.5(8) DAS customer council membership. DAS customer council membership will consist of the chairperson and vice chairperson, the Governor's cabinet state agency directors, a judicial branch representative overseeing DAS services provided to the judicial branch, and two legislative branch representatives overseeing DAS services provided to the legislative branch.

12.5(1) Executive branch agency representation. The DAS customer council will include directors from the governor's cabinet-level agencies and two noncabinet-level agencies.

12.5(2) Legislative and judicial branch representation. If the service to be provided may also be provided to the judicial branch and legislative branch, the provisions of Iowa Code section 8.6(15) "c"(2) apply.

541—12.6(8) Organization of DAS customer council. The operations of the DAS customer council will be governed by a set of bylaws as adopted by the DAS customer council. Bylaws will 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 be allowed; however, members may attend by telephone or other electronic means approved by the DAS customer council.

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

12.6(2) Voting. A quorum is necessary for a DAS 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 DAS 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 the same organization. A simple majority of the members voting will determine the outcome of the issue being voted upon.

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

12.6(3) Officers. The officers of the DAS customer council will 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 cannot be voting members.

12.6(4) Duties of officers.

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

b. The vice chairperson will assist the chairperson in the discharge of the chairperson's duties as requested and, in the absence or inability of the chairperson to act, will 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 DAS customer council.

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

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

d. Committees will 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 DAS customer council;

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

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

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

12.6(8) Meetings. DAS customer council meetings are subject to the open meetings law as specified in Iowa Code chapter 21. The DAS 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(8) Powers and duties of DAS customer council.

12.7(1) Approval of business plans. The DAS customer council, in accordance with Iowa Code section 8.6(15) "c"(1)(b)(i), reviews and recommends business plans. Business plans will include levels of service, service options, investment plans, and other information.

12.7(2) Complaint resolution. The DAS customer council will approve the internal procedure for resolution of complaints in accordance with Iowa Code section 8.6(15) "c"(1)(b)(ii). The procedure will include, at a minimum, the following provisions:

- a. A definition of "complaint," which will convey that this resolution process does not take the place of any other formal complaint, grievance or appeal process necessary 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 will approve the rate methodology and the resulting rates for the services that the DAS customer council oversees. Rates will 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 DAS customer council.

12.7(4) Biennial review. Every two years, the DAS customer council will 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(8) Customer input. The department will 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(8) Annual service listing. DAS will annually prepare a listing separately identifying services determined by the department and DAS to be leadership functions, marketplace services, and utilities. The listing will 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 section 8.6.