

September 23, 2020

Paul Trombino  
Interim Director – Department of Administrative Services  
1007 E. Grand Avenue  
Des Moines, IA 50319

### REQUESTS FOR “WAIVER OR VARIANCE”

Pursuant to 11 IAC 118.16, the Department of Corrections (DOC) and the Iowa Communications Network (ICN) requests a waiver to 11 IAC 118.11(3), with respect to the 6-year limitation, including all optional renewals, on the duration of a service contract related to the operations, including maintenance, of the offender calling system, contracted by the DOC and administered by the ICN on behalf of the DOC.

11 IAC 118.11(3) specifically provides:

“118.11(3) A service contract should be competitively selected on a regular basis so that a state agency obtains the best value for the funds spent, avoids inefficiencies, waste or duplication and may take advantage of new innovations, ideas and technology. A service contract, including all optional renewals, shall not exceed a term of six years unless the state agency obtains a waiver of this provision pursuant to rule 11—118.16(8A).”

The six-year duration limitation established by 11 IAC 118.11(3) was intended to reinforce the competitive bidding requirements established in chapter 11 by requiring agencies to renew contracts on a somewhat regular basis, including engaging in competitive selection processes that test the marketplace. The rules further authorize the DAS Director to waive the requirements of this rule for good cause. Rule 11 IAC 118.16(3) specifically recognizes that the six-year limitation may not be appropriate in all circumstances and provides an example of good cause when “showing that a requirement or provision of a rule should be waived because the requirement or provision would likely result in an unintended, undesirable, or adverse consequence or outcome.” (emphasis added)

Previously, on June 16, 2019 a waiver request was approved which enabled DOC to complete an RFI process which was followed up by the ICN release of an RFP on behalf of DOC in January of 2020. The initial due date of the RFP was February 24, 2020, however due to COVID related aspects the due date was extended three times to April 30, 2020.

Evaluations were complete and a recommendation was presented to DOC Director Skinner on July 24<sup>th</sup> upon which she provided her approval of the recommendation on July 27<sup>th</sup> and same day the Intent to Award Notice was released.

On July 28<sup>th</sup>, ICN received an open records request for RFP related information and on August 3<sup>rd</sup> ICN received a protest to the RFP award.

Then as directed in our administrative rules, ICN proceeded through the appeal process and concluded the appeal hearing on Thursday, September 17<sup>th</sup>. At this time, ICN, DOC and two RFP respondents are waiting for the administrative law judge’s decision (ALJ).

---

Deb Evans, Acting Executive Director

Grimes State Office Building, 400 E. 14th Street, Des Moines, IA 50319 Phone: 515-725-4692 [icn.iowa.gov](http://icn.iowa.gov)

IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION



Pursuant to 11 IAC 118.11(3), the DOC and the ICN request approval of the following:

1. Request. A waiver of the "six year term limitation on service contracts" for the purpose of allowing the DOC to enter into month to month renewals, not to exceed 12 months for the offender calling system agreement administered by the ICN.
  - a. Justification. The current contract was originally sourced through a formal competitive RFP process. DOC has also completed an RFI process for the purpose of determining the feasibility of pursuing new products and services associated with offender calling in a new RFP. ICN and DOC completed the RFP process, made an award, however due to the due date delay and the vendor appeal, we are unable to install, test and cutover to the new system proposed in the RFP response.
  - b. Benefits.
    - i. The renewal extension will allow DOC and ICN time as we await the ALJ decision. Once the ALJ provides a decision, ICN and DOC will need to retain the current inmate calling services vendor as we either; 1) are required to go through the RFP process again, or 2) enter into contract negotiations with the selected vendor and begin system installation and testing, prior to system cutover.
    - ii. The month to month renewals will enable the DOC and ICN to preserve critical services of offender call monitoring and recording and the related security capabilities of the system as we work through the appeal process and subsequent requirements.

Thank you in advance for your consideration of this request. Please do not hesitate to contact me if you need any additional information to help in your consideration of this request.

Sincerely,

  
 \_\_\_\_\_

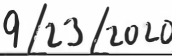
Deb Evans – CFO, Acting ICN Director

  
 \_\_\_\_\_

Date

  
 \_\_\_\_\_

Steve Dick – DOC, Financial Manager

  
 \_\_\_\_\_

Date

- 1) At this time the ICN CFO is the Acting Executive Director of the ICN.
- 2) DOC signature included due to ICN administering the Agreement on behalf of DOC.

Deb Evans, Acting Executive Director

Grimes State Office Building, 400 E. 14th Street, Des Moines, IA 50319 Phone: 515-725-4692 icn.iowa.gov

IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION