

# Agenda

## Natural Resource Commission

Thursday, July 9, 2026

Teleconference: 361-245-0121 PIN: 803 292 109#

Video Conference: [meet.google.com/smw-cnju-drz](https://meet.google.com/smw-cnju-drz)

6200 Park Ave, Des Moines, 50321

Walnut Wood Conference Room

**Thursday, July 9, 2026**

**9:30 AM – NRC Business Meeting**

Public participation begins at approximately 10:00am. If you are unable to attend the business meeting, comments regarding agenda items may be submitted for public record to Jenny Miller at [Jenny.Miller@dnr.iowa.gov](mailto:Jenny.Miller@dnr.iowa.gov) or 6200 Park Ave Ste 200, Des Moines IA 50321 up to 24 hours prior to the business meeting.

1.	Approval of the Agenda Consent Agenda: *10. Public Land Management Projects (10.1)	Decision	Commission
2.	Approval of the Minutes	Decision	Commission
3.	Director's Remarks	Information	Kayla Lyon
4.	Division Administrator's Remarks	Information	Pete Hildreth
5.	Oral Arguments and Final Submission, Appeal of Proposed Decision, <i>Custom Tree Care, LLC. V. Iowa Department of Natural Resources</i> , Docket No. DASV0003. (The NRC may go into closed session pursuant to Iowa Code section 21.5(f) to discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code chapter 17A)	Decision	
6.	Proposed County Antlerless Quota Changes for the 2026-27 Seasons	Decision	Todd Bishop
7.	Small Construction Projects <ul style="list-style-type: none"> <li>● Paint Creek Streambank Improvements at Yellow River State Forest</li> <li>● Accessibility Improvements at Springbrook State Park</li> <li>● Wetland Restoration at Hodge WPA</li> <li>● Sheet Pile WCS Replacement at Dunbar Slough WMA</li> <li>● Accessibility Improvements at Lake of Three Fires</li> <li>● Accessibility Improvements at Prairie Rose</li> <li>● Accessibility Improvements at Viking Lake</li> <li>● Accessibility Improvements at Lake Anita</li> </ul>	Information	Travis Baker
8.	Large Construction Projects	Decision	Travis Baker
8.1	Lake Anita State Park, Sewer Improvements – Cass County		
8.2	Lake Wapello State Park, Wastewater Improvements – Davis County		
8.3	Green Island and Princeton Wildlife Management Areas, Flood Repair – Jackson & Scott Counties		
8.4	Springbrook, Education Center Demolition – Guthrie County		
8.5	Various State Parks and Wildlife Areas – Dickinson County		
8.6	Pammel State Park, Harmon Tunnel – Madison County		
9.	Public Land Acquisition Projects	Decision	Travis Baker
9.1	West Salt Creek WMA, Tama County – James Wauters Trust		
*10.	Public Land Management Projects	Decision	Travis Baker

*10.1	Management Agreement – Muddy Bay North Twin Lake – Calhoun Conservation Board – Calhoun County		
11.	Contract with Insight Public Sector Inc – Law Enforcement Bureau body cameras	Decision	Craig Cutts
12.	Contract with Aquatic Control Inc. Floating and Emergent Aquatic Plant Management, Elkhart, Iowa	Decision	Joe Larscheid
13.	General Discussion		
Upcoming NRC Meeting Dates			
<ul style="list-style-type: none"> <li>● August 13, Des Moines</li> <li>● September 10, Des Moines</li> </ul>			

For details on the NRC meeting schedule, visit:

<http://www.iowadnr.gov/InsideDNR/BoardsCommissions/NaturalResourceCommission.aspx>

Comments during the public participation period regarding proposed rules or notices of intended action are not included in the official comments for that rule package unless they are submitted as required in the Notice of Intended Action.

Any person attending the public meeting and has special requirements such as those related to mobility or hearing impairments should contact the DNR or ADA Coordinator at 515-725-8200, Relay Iowa TTY Service 800-735-7942, or [Webmaster@dnr.iowa.gov](mailto:Webmaster@dnr.iowa.gov), and advise of specific needs.

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**MINUTES OF THE  
NATURAL RESOURCE COMMISSION  
MEETING**

**June 11, 2026**

**Best Western Holiday Lodge  
2023 7<sup>th</sup> Ave N, Clear Lake and  
Teleconference**

**Approved by the Commission **TBD****

RECORD COPY	
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Initials	<u>                    </u>

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### Meeting Minutes

#### CALL TO ORDER

The meeting of the Natural Resource Commission (Commission or NRC) was called to order by Acting Chairperson Uriah Hansen at 9:30 am on Jun 11, 2026 via video/teleconference attendees.

#### COMMISSIONERS PRESENT

- Laura Kudej
- Bill Moritz
- Tammi Kircher
- Collin Brecher
- Uriah Hansen

#### COMMISSIONERS ABSENT

- KR Buck
- Tom Prickett

#### PUBLIC COMMENT

None

#### APPROVAL OF AGENDA AND CONSENT AGENDA

*Motion was made by Bill Moritz to approve the agenda and consent agenda as presented. Seconded by Tammi Kircher.*

*The Acting Chairperson asked for the Commissioners to approve the agenda by saying aye. There were no nay votes.*

**APPROVED AS PRESENTED**

#### APPROVAL OF MINUTES

*Motion was made by Laura Kudej to approve the May 2026 meeting minutes as presented. Seconded by Tammi Kircher.*

*The Acting Chairperson asked for the Commissioners to approve the agenda by saying aye. There were no nay votes.*

**APPROVED AS PRESENTED**

#### DIRECTOR'S REMARKS

- Director Lyon started her remarks by thanking staff for the Clear Lake tour on June 10<sup>th</sup>, noting the excellent representation and partnerships across the Conservation and Recreation division.
- Director Lyon also reported that Governor Reynolds signed Executive Order 19 on Monday at Lake Ahquabi State Park, establishing the Iowa Office of Outdoor Recreation. Director Lyon highlighted the partners present at the event and noted that the DNR had the ability to showcase Lake Ahquabi lake restoration, campground renovations, and recent facility renovations. The purpose of the Office of Outdoor Recreation is to create a more centralized structure for public/private partnerships on recreational opportunities in the state of Iowa. Iowa is the 25<sup>th</sup> state to establish an Office of Outdoor Recreation and it will be held within the office of Iowa Economic Development and Tourism. Director Lyon also highlighted the next steps to getting the order implemented.

#### DIVISION ADMINISTRATOR'S REMARKS

- Division Administrator (DA) Pete Hildreth started his remarks by echoing Director Lyon’s remarks on the excellent cross-divisional partnerships highlighted on the Clear Lake tour.
- DA Hildreth announced that Mike Cox has accepted the position as the new Bureau Chief of the Parks, Forests, and Preserves Bureau, and will start his role on July 6<sup>th</sup>. Mr. Cox has most recently served as the Story County Conservation Board Director, and also has a background working in leadership and law enforcement roles in Alaska and Vermont.
- DA Hildreth invited Commissioners to attend one of eighteen different REAP assemblies that are being held throughout the state during the month of June and July. REAP assemblies help set the focus of REAP funding. The REAP program has funded nearly 430 million dollars’ worth of projects since it began in 1989, covering various efforts such as water quality improvement, habitat protection, conservation and education, wetland restoration, and more.
- DA Hildreth turned it over to Chris Ensminger to provide a brief summary of the hunter listening sessions held throughout the state in March of 2026:
  - 672 members of the public attended; received almost 800 comments
  - 284 comments were related to deer with four different focuses: 1) population is too low 2) suggestions on season changes 3) privilege changes/adjustments 4) general regulation changes
  - 26 comments were related to turkeys; primarily in regards to population
  - Waterfowl comments focused primarily around season dates
  - Upland comments focused primarily related to the pheasant season and population
  - Furbearer comments have three different focuses: 1) additional counties to be added to the harvest, 2) increase otter harvest, 3) requested a bounty program for nuisance furbearers
  - Sessions included discussions on trail cameras on public land and nonresident small game hunting

**CHAPTER 51, “GAME MANAGEMENT AREAS”-NOTICE OF INTENDED ACTION**

Chris Ensminger requested Commission approval for the Chapter 51 Notice of Intended Action. Mr. Ensminger responded to questions on current regulations on the use of trail cameras on public hunting lands.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Bill Moritz to approve the item as presented. Seconded by Collin Brecher.*

*The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

**PROPOSED COUNTY ANTLERLESS QUOTA CHANGES FOR THE 2026-27 SEASONS**

Chris Ensminger presented the proposed county antlerless quota changes for the 2026-27 seasons as information to the Commission.

**Public Comments – None**

**Written Comments-None**

**INFORMATION**

**2026-2027 DEER MANAGEMENT HUNT ZONES**

Andy Kellner requested Commissioner approval for the 2026-2027 deer management hunt zones. Mr. Kellner noted a couple of late changes to the proposal.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Tammi Kircher to approve the requested sharp shoot. Seconded by Bill Moritz.*

*The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

APPROVED AS PRESENTED

**SMALL CONSTRUCTION PROJECTS: ACCESSIBILITY IMPROVEMENTS AT LACEY-KEOSAUQUA STATE PARK, BOAT RAMP/ADA IMPROVEMENTS AT LACE-KEOSAUQUA STATE PARK, WETLAND RESTORATION PROJECT AT SILVER LAKE WILDLIFE MANAGEMENT AREA, FROG HOLLOW BRIDGE REDECKING PROJECT AT VOLGA RIVER RECREATION AREA.**

Travis Baker presented a pair of small construction projects to the Commission as information items.

**Public Comments – None**

**Written Comments-None**

INFORMATION

**LARGE CONSTRUCTION PROJECT-BACKBONE STATE PARK, WASTEWATER IMPROVEMENTS-DELAWARE COUNTY**

Travis Baker requested Commission approval for a wastewater improvement project at Backbone State Park Complex.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Bill Moritz to approve the item as presented. Seconded by Laura Kudej.  
The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

APPROVED AS PRESENTED

**LAND ACQUISITION-SAYLORVILLE WMA, BOONE COUNTY-IOWA NATURAL HERITAGE FOUNDATION**

Travis Baker requested Commission approval to acquire 250 acres of land from Iowa Natural Heritage Foundation, located in Boone County. Mr. Baker confirmed that the property acquired is part of a former 4H camp.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Collin Brecher to approve the item as presented. Seconded by Tammi Kircher.  
The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

APPROVED AS PRESENTED

**LAND ACQUISITION-SEARRYLS CAVE STATE PRESERVE, JONES COUNTY-IOWA NATURAL HERITAGE FOUNDATION**

Travis Baker requested Commission approval to acquire 231.38 acres of land from the Iowa Natural Heritage Foundation, located in NE Jones County. Mr. Baker clarified the location of the access easement on the property.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Bill Moritz to approve the item as presented. Seconded by Laura Kudej.  
The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

**APPROVED AS PRESENTED**

**LAND ACQUISITION-RED ROCK WMA, WARREN COUNTY-ALEC AND STEPHEN PENDRY**

Travis Baker requested Commission approval to acquire 8 acres from Alex and Stephen Pendry located adjacent to the Red Rock Wildlife Management Area.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Tammi Kircher to approve the item as presented. Seconded by Collin Brecher.  
The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

**APPROVED AS PRESENTED**

**LAND ACQUISITION-SPUR ISLAND WMA, LOUISA COUNTY-THE NATURE CONSERVANCY**

Travis Baker requested Commission approval to acquire 31.87 acres from The Nature Conservancy located adjacent to Spur Island Wildlife Management Area.

**Public Comments – None**

**Written Comments-None**

*Motion was made by KR Buck to approve the item as presented. Seconded by Laura Kudej.  
The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

**APPROVED AS PRESENTED**

**LAND ACQUISITION-HERITAGE HILLS WMA, MADISON & CLARKE COUNTY-IOWA NATURAL HERITAGE FOUNDATION/PHEASANTS FOREVER**

Travis Baker requested Commission approval to acquire 422 acres from Iowa Natural Heritage Foundation and Pheasants Forever, located adjacent to Heritage Hills WMA.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Collin Brecher to approve the item as presented. Seconded by Bill Moritz.  
The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

**APPROVED AS PRESENTED**

**LAND ACQUISITION-IOWA RIVER CORRIDOR WMA, IOWA COUNTY-MARVEL SCHAFBUCH; CHARLES AND KANDY JOHNSON, DARREL AND MARGARET JOHNSON, ELIZABETH AND LAWRENCE THOMPSON**

Motion was made by Uriah Hansen to approve items 11.6, 11.7, and 11.8 into one decision item. Seconded by Tammi Kircher. The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes. Motion passes.

Travis Baker requested Commission approval to acquire 17.1 acres from Marvel Shafbuch, and 18.38 acres and an easement from Charles and Kandy Johnson, Darrel and Margaret Johnson, and Elizabeth and Lawrence Thompson. All acquisitions are located adjacent to the Iowa River Corridor WMA.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Laura Kudej to approve the item as presented. Seconded by Tammi Kircher.  
The Acting Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

**APPROVED AS PRESENTED**

**CONTRACT WITH THE KOSSUTH COUNTY CONSERVATION BOARD (SMITH LAKE PARK)**

Michelle Balmer requested Commission approval for a contract with the Kossuth County Conservation Board for the Smith Lake Park Restoration Project.

**Public Comments – None**

**Written Comments-None**

*Motion was made by Laura Kudej to approve the item as presented. Seconded by Bill Moritz.  
The Chairperson asked for the Commissioners to approve the agenda item by saying aye. There were no nay votes.*

**APPROVED AS PRESENTED**

**GENERAL DISCUSSION**

- Commissioners thanked staff for the great June field tour.
- Commissioners shared about their recent wildlife encounters and future outdoor activities planned for the summer.
- Commissioners thanked staff for their hard work on the Clear Lake area tour.

**ADJOURN**

*Acting Chairperson Uriah Hansen adjourned the Natural Resources Commission meeting at 10:38 am on June 11, 2026.*

**ADJOURNED**

## Natural Resource Commission

### Decision Item

#### Item #5

**Title:** Appeal of Contested Case Proposed Decision, re: Custom Tree Care, LLC

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This matter comes before the Commission on appeal of a Proposed Decision issued by an Administrative Law Judge of the Iowa Department of Inspections and Appeals. The Commission is being presented with the Decision of the ALJ, Custom Tree Care, LLC's Appeal, and the Appeal Briefs of both parties.

Meeting: July 9, 2026

Attachment: Proposed Decision, Appeal, Appeal Briefs

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
CENTRAL PANEL BUREAU

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CUSTOM TREE CARE, LLC

Appellant,

vs.

IOWA DEPARTMENT OF NATURAL  
RESOURCES,

Respondent.

Case No. 26DASV0003

Agency No. **RFP:**  
**26CRDPFJSEAG0001S**

**PROPOSED DECISION**

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**STATEMENT OF THE CASE**

The hearing in this case was held on April 3, 2026. Attorney Adam Humes appeared on behalf of Custom Tree Care, LLC (“Custom Tree”). Assistant Attorney Generals David Steward, Eric Dirth, and Samantha Leo appeared on behalf of the Iowa Department of Natural Resources (“DNR”). All parties presented evidence at the hearing, and the record was held open without objection until April 10, 2026, for the submission of closing briefs which were received.

The following witnesses testified at the hearing: Colton Lullman, Procurement Specialist 3, Budget & Finance Bureau; Jeffrey Seago, Area Forester; Michael Weis, Northwest District Park Supervisor, Lewis and Clark State Park; Detra Dettmann, Northeast Iowa District Supervisor for the Parks, Forests and Preserves Bureau; and Greg Gathers, Owner of Custom Tree. All exhibits offered by both DNR and Custom Tree were entered into the record without objection.

**ISSUE**

Whether the Department’s decision to award the Notice of Intent to Award to Armodus was in accordance with Iowa law.

**FINDINGS OF FACT**

The issue in this case is whether the DNR erred in issuing a Notice of Intent to Award (“Award”) to Armodus instead of Custom Tree concerning tree removal at Lewis and Clark State Park (the “Park”).

**A. The RFP**

In the early summer of 2024, a DNR forester realized that the Park had approximately 610 cottonwood trees that did not survive a recent draught. The trees were extremely large, approximately 80 feet tall, and posed a threat to the Park’s infrastructure, including

campground and picnic areas, a playground, and a visitor center. The DNR determined that the trees needed to be removed. Ex. 2 at 3; Seago Testimony, Recording at 3:22:44.

In light of the volume of trees and the fact that the trees posed a threat to Park infrastructure, the DNR decided to issue a request for proposal for the project. The DNR wanted vendors to issue proposals that explained how they would perform the tree removal, how their proposed work plan would protect Park infrastructure, and how they would address public safety. Seago Testimony, Recording at 3:21:20. Preserving park infrastructure was a priority because if Park infrastructure was damaged during the tree removal it would be very difficult to replace. Weis Testimony, Recording 5:03:00.

On January 1, 2026, a Request for Proposal (the "RFP") was issued. Ex. 2. The RFP is entitled "Lewis and Clark State Park Hazard Tree Removal" (the "Project"). The objective of the RFP was to find a contractor to remove hazard trees from the Park in two phases. The first phase, Phase 1, involved the removal of the approximately 610 eastern cottonwood trees from high use areas of the Park that posed a "significant hazard to users and staff" of the Park. Ex. 2 at 3. Phase 1 also included grinding all stumps, clearing all debris, and restoring original grades to pre-work conditions. *Id.* Phase 1 was to be completed by March 31, 2027. Ex. 2 at 12.

Phase 2 involved "removing all trees within 150 feet of roads and trails in lower use areas" of the Park. Ex. 2 at 3. Phase 2 required cutting stumps within 1 inch of ground level and removing debris. *Id.* It also required the restoration of all trails to prework conditions. *Id.* Because the trees to be removed in Phase 2 were located in "lower use areas" of the Park, Phase 2 was to be finished a year after Phase 1, or by March 31, 2028. *Id.* at 12. The RFP also required contractors to restrict the public from accessing the project area during both Phase 1 and Phase 2. *Id.* at 3.

Under the RFP, vendors were required to submit two proposals: a cost proposal and a technical proposal. *Id.* at 9. In the technical proposal, the RFP required vendors to "provide an explanation as to how" they would complete each of the "Mandatory Specifications." *Id.* at 11. The Mandatory Specifications consisted of a "Statement of Work," which listed the following tasks:

- Task 1: Fell approximately 610 (+/-) eastern cottonwood trees marked with blue paint in high-use areas . . .
- Task 2: Grind stumps of all trees included in Task 1 to a depth where all woody material is removed below the hole.
- Task 3: Transport via rubber wheeled or rubber tracked equipment all woody debris to debris piling areas pre-approved and included on the attached map or agreed upon in writing by the Iowa DNR.
- Task 4: Restoration of Original Grade and seeding of sod forming grass.
- Task 5: Fell all trees, living or dead, from 98.5 acres of land within 150 feet of Lewis and Clark State Park roads and trails marked on the attached maps as Phase 2.

- Task 6: Transport via wheeled or tracked equipment all woody debris to debris piling areas pre-approved and included on the attached map or agreed upon in writing by the Iowa DNR.
- Task 7: Restoration of Original Grade.

Ex. 2 at 12-13.

Proposals from vendors were due by January 30, 2026. After receipt of the proposals, the RFP required that an evaluation committee conduct a “comprehensive, fair, and impartial evaluation of the technical proposals.” In this case, the evaluation committee reviewed each of the technical proposals based on the following “evaluation criteria:”

**5.3.2.** Respondent’s actual examples provided to the DNR with their Proposal of Respondent’s previous or current work from customers or clients similar to the services sought in the Statement of Work. (20 points).

**5.3.3.** The capacity of the Respondent and Project Team to complete responsibilities described in the Statement of Work. (20 points).

**5.3.4.** Respondent’s work plan to complete responsibilities described in the Statement of Work. (20 points).

**5.3.5.** Respondent’s proposed implementation timeline to complete responsibilities described in the Statement of Work. (20 points).

Ex. 2 at 13.

Prior to meeting as a group, each evaluation committee member reviewed the proposals and independently scored each proposal for the above four criteria. After the proposals were independently scored, the entire committee met to arrive at a final consensus score for each criteria. The issuing officer then “tall[ied] the final point assignments as a consensus score from the committee members” for each technical proposal. Ex. 3 at 2.

After the committee finished the technical scoring, the “[c]ost [p]roposals [were] opened and scored.” Ex. 2 at 14. The cost proposals were scored based on a discretion free formula that first calculates the maximum cost points available based on a vendor’s technical score and second reaches a final score by multiplying the possible points by the number generated from dividing the lowest cost proposal by the cost proposal being evaluated. *Id.*

The scores of the technical and costs proposals were then combined. The RFP provides that “the evaluation committee will recommend an award based on the result of their evaluation to the Agency or to such other person or entity that must approve the recommendation.” *Id.* at 13.

## **B. Evaluation of Proposals**

In this case, the process of evaluating the proposals generally followed the procedures outlined in the RFP. Eleven vendors submitted technical proposals and cost proposals.

Ex. 5. Once the proposals were submitted, the issuing officer, Colton Lullman, checked-in the proposals by doing a high-level review to ensure the basic components required by the RFP were present. All eleven proposals submitted in response to the RFP survived this preliminary review. The proposals were then forwarded to the evaluation committee.

The evaluation committee was composed of five individuals:

- Jeffrey Seago: Forester in Northeast Iowa, who marked the approximately 610 trees and helped develop the RFP.
- Mike Weis: Northwest District Park Supervisor, headquartered at the Park.
- Jeff Felts: District Engineer for the Northwest Iowa, who helped consult in developing the RFP.
- Detra Dettmann: Northeast Iowa District Supervisor for Parks, Forests and Preserves Bureau.
- Sara Bell: District Forester, Wildlife Bureau.

See Exs. 5, 7, D; Seago Testimony at 3:26:00; Weis Testimony at 4:50:05; Dettmann Testimony at 5:52:10.

After each of the committee members signed forms regarding conflicts of interest and confidentiality, the committee members independently evaluated and scored the eleven technical proposals. Lullman Testimony, Recording at 58:37. The committee then met and discussed each proposal. *Id.* at 1:00:00. For each proposal, the committee members were asked to disclose the score they gave for each of the four evaluation criteria and the reasons for their scores. *Id.*; Dettmann Testimony, Recording at 6:03:50. After discussing each individual member’s scores, Lullman added the scores together and averaged them to calculate a final score for each criteria. Lullman disclosed the final score for each criteria and confirmed that the committee was comfortable with the score. Lullman Testimony, Recording at 1:14:10. Ultimately, the committee scored Armodus and Custom Tree as follows:

<b>Criteria</b>	<b>Armodus</b>	<b>Custom Tree</b>
Examples or prior work	14	14
Capacity to perform work	16	14
Work plan	16	4
Implementation timeline	16	12

Ex. 6.

After calculating the scores for the technical proposals, Lullman opened the cost proposals. The committee did not calculate the costs scores. Instead, Lullman reviewed the cost proposals and ran the calculations pursuant to the prescribed formula. Lullman Testimony, Recording at 1:21:30. Based on the cost calculations, Armodus had fewer cost points at 7 than Custom Tree at 19. However, when adding both the cost scores and the technical proposal scores, Armodus had the highest number of points at 69 to Custom Tree points at 63. Exs. 5, 6. Lullman confirmed with the committee that the scores were

accurate and that DNR should move forward with offering the Award to Armodus. Ex. 7. All committee members agreed. *Id.* DNR then sent Armodus a Notice of Intent to Award. Ex. 8.

### **C. Appeal and Hearing**

On February 16, 2026, Custom Tree timely appealed the DNR's decision to issue the Award to Armodus (Notice of Appeal). In its Notice of Appeal, Custom Tree alleged that the DNR's decision to issue the Award to Armodus was based on "scoring errors," and "bias." See Notice of Appeal. Specifically, Custom Tree argued that DNR chose Armodus, an Iowa based company, because of an improper bias towards Iowa-based companies and/or because the co-organizer of Armodus was the former Monona County Engineer. *Id.* Custom Tree also disagreed with the committee's scoring. It noted that its cost proposal was lower than Armodus, Custom Tree's timeline for the Project was quicker than Armodus, and it has more experience and equipment than Armodus. Custom Tree argued that it proposed a "thoughtful approach" to the RFP that involved "relatively uncomplicated tree removal services." *Id.*

A hearing was held on April 3, 2026. At the hearing, Custom Tree continued to argue that the committee's scores were unreasonable and irrational. It further argued that the committee showed bias in favor of an Iowa company and there was an appearance of "impropriety" with the RFP process because a DNR employee improperly communicated with Armodus regarding its proposal. However, Custom Tree admitted that it had no knowledge of any relationship between any of the members of the committee and the former Monona County Engineer or any evidence of bias related to the evaluation committee and the organizers of Armodus. Gathers Testimony, Recording at 7:09:30.

In response, the DNR argued that the RFP process was fair, open and objective. It further argued that the committee had a rational basis for its scoring and there was no bias involved in the committee's scoring and decision to issue the Award to Armodus.

## **CONCLUSIONS OF LAW**

### **I. Legal Background**

The DNR was created to oversee and maintain Iowa state parks and forests, protect the environment, and manage fish, wildlife, land and water resources in Iowa. Iowa Code § 455A.2. When contracting for services to maintain Iowa natural resources, the DNR must engage in a competitive bidding process. Competitive bidding requirements for the award of government contracts are a creature of statute, which are designed "for the protection of the public to secure by competition among bidders, the best results at the lowest price, and to forestall fraud, favoritism, and corruption in the making of contracts." *Medco Behavioral Care Corp. v. Iowa Dep't of Human Servs.*, 553 N.W.2d 556, 563 (Iowa 1996) (internal quotation marks and citations omitted).

The standards applicable to the competitive bidding process come from the Department of Administrative Services (DAS) rules, Chapters 117, 118, and 119. See 11 Iowa

Administrative Code (IAC) § 117.4(1), (2). Chapter 117, entitled “Procurement of Goods and Services of General Use,” establishes procurement procedures used by DAS and state executive branch agencies when purchasing goods and services of general use. 11 IAC § 117.1(1). Under Chapter 117, state agencies, including the DNR “may procure services unique to the agency’s program or used primarily by that agency and not by other agencies. [DAS] will assist agencies with these procurements upon request. Procurement of services by an agency shall comply with the provisions of [chapters] 118 [purchasing standards for service contracts] and 119 [uniform terms and conditions for service contracts].” *Id.* § 117.14(2).

Chapter 118 requires state agencies to use “competitive selection” when acquiring “services from private entities when the estimated annual value of the service contract is equal to or greater than \$5,000.” *Id.* § 118.5. A formal competition selection process is required in cases where the value of a contract is \$50,000 or more or the multiyear value is \$150,000 or greater. *Id.* “Formal competition” is defined to mean “a competitive selection process that employs a request for proposal or other competitive selection process authorized by applicable law resulting in a service contract.” *Id.* Here, there is no dispute that the RFP seeks a vendor who can provide tree removal services and the value of the contract is over \$50,000. Therefore, the Project required a formal competitive selection. See Ex. 2.

The purpose of engaging in competitive selection for services utilizing the applicable formal or informal process is to provide an agency with the means “to compare provider qualifications, terms, conditions, and prices of equal or similar services in order to meet the objective of purchasing services based on quality, performance price, or any combination thereof.” 11 IAC § 118.3. Importantly, “[d]uring a competitive selection process, a state agency may weigh the relevant selection criteria in whatever fashion it believes will enable it to select the service provider that submits the best proposal. The lowest priced proposal is not necessarily the best proposal.” *Id.*

When engaging in the formal competition process for services, RFPs are required “whenever a requirement exists for a procurement and cost is not the sole evaluation criterion for selection.” The RFP is required to “provide information about a requirement for technical equipment or professional services that is sufficient for the vendor to propose a solution to the requirement.” *Id.* § 117.9(4)(a). By rule, elements of an RFP include:

- (1) Purpose, intent and background of the requirement.
- (2) Key dates in the solicitation process.
- (3) Administrative requirements for submitting a proposal and format for the proposal.
- (4) Scope of work and performance requirements.
- (5) Evaluation criteria and method of proposal evaluation.
- (6) Contractual terms and conditions.
- (7) Need for a vendor conference.

*Id.*

The proposals submitted in response to an RFP remain sealed until the date and time set for opening. 11 IAC § 117.9(4)(b). All timely received proposals will be opened, and the “purchasing officer will review proposals for compliance with requirements before the proposals are submitted for evaluation.” *Id.* Broad discretion exists in determining and weighing criteria, as “[d]uring a competitive selection process, a state agency may weigh the relevant selection criteria in whatever fashion it believes will enable it to select the service provider that submits the best proposal.” *Id.* § 118.3. “The lowest priced proposal is not necessarily the best proposal.” *Id.* Moreover, material and nonmaterial variances from compliance requirements are permitted:

At its sole discretion, the department reserves the right to waive technical noncompliance with instructions when such noncompliance, as viewed by a reasonable and prudent person, did not result in an advantage to the vendor submitting the apparent lowest bid or best proposal or would not result in a disadvantage to other vendors submitting competing bids or proposals.

11 IAC § 117.19(10).

Once referred for evaluation, an RFP “shall be evaluated according to criteria that are developed prior to the issuance of the request for proposal document and that consist of factors relating to technical capability and the approach for meeting performance requirements; competitiveness and reasonableness of price or cost; and managerial, financial and staffing capability.” 11 IAC § 117.9(4)”b”. “After evaluating responses to a solicitation using formal competition, the department shall notify each vendor submitting a response to the solicitation of its intent to award to a particular vendor or vendors subject to execution of a written contract(s).” *Id.* § 117.13(1). The department “reserves the right to waive minor deficiencies and informalities if, in the judgment of the department, the best interest of the state of Iowa will be served. *Id.* §§117.13(2), (3).

“Any vendor that filed a timely bid or proposal and that is aggrieved by an award of the department may appeal the decision . . . within five calendar days of the date of the award[.]” *Id.* § 117.20(1). “The notice of appeal shall state the grounds upon which the vendor challenges the department’s award.” *Id.* § 117.20(1). “The aggrieved vendor may amend the grounds upon which the vendor challenges the department’s award no later than 15 days prior to the date set for the hearing.” *Id.* § 117.20(d). A “presiding officer shall issue a proposed decision in writing,” and the decision will “become the final decision of [DAS]” unless timely appealed. *Id.* § 117.20(4).

## **II. Standard of Review**

The standards to be applied by a presiding officer reviewing a notice of intent to award is not unequivocally stated in DAS’s rules. In absence of a specific provision, the party seeking to set aside a notice of intent to award bears the burden of proof as the moving party. See, e.g., *Wonder Life Co. v. Liddy*, 207 N.W.2d 27, 31 (Iowa 1973) (holding, “in

administrative proceedings, as well as in court proceedings, the burden of proof, apart from statute, is on the party asserting the affirmative of an issue”); see also *Norland v. Iowa Dept. of Job Services*, 412 N.W.2d 904, 910 (Iowa 1987).

As for what must be proved, this is a more difficult question. A presiding officer issuing a proposed decision in an administrative review of a notice of intent to award is not a court reviewing final agency action. As such, while all agency action must adhere the standards contained in Iowa Code § 17A.19 to be valid, Iowa Code §17A.19 does not technically apply to this proceeding. Instead, a presiding officer is participating in the process of making the final agency action in the first instance by issuing a proposed decision of the agency. The decision may become final if not appealed, and the presiding officer’s authority flows from the agency itself. See Iowa Code § 17A.15. This approach appears consistent with other jurisdictions with similar reviewing structures. See, e.g., *Dynamic Solutions, LLC v. Tamp Bay Esuary Program*, 2011 WL 4944350, at \*15 (Florida Div. Admin. Hear. Aug. 4, 2011).

With the understanding that a presiding officer is participating in the formation of the final agency action and not a review of finalized action, the most appropriate standard of review is whether the government substantially complied with the relevant rules and procedures applicable to the solicitation at issue, and if not, whether the noncompliance resulted in such prejudice to the non-prevailing vendor(s) demanding a conclusion the procurement process was not conducted fairly, openly or objectively. *Public Consulting Group v. Iowa Department of Administrative Services*, Appeal No. 18DASV0007, Final Decision (Designee of the Director of DAS, January 4, 2019); *Willett v. Cerro Gordo Cty. Zoning Bd. of Adjustment*, 490 N.W.2d 556, 560 (Iowa 1992). Substantial compliance is defined as “compliance in respect to essential matters necessary to assure the reasonable objectives of the statute.” *Sims v. NCI Holding Corp.*, 759 N.W.2d 333, 338 (Iowa 2009).

### III. ANALYSIS

The touchstone of a valid procurement process is one that is “fair, open . . . objective” and otherwise compliant with the governing law. 11 IAC § 117.3. As discussed above, agencies select vendors “on the basis of criteria contained in the competitive selection document.” See 11 IAC § 117.13. When procuring services, agencies are afforded great deference. 11 IAC § 118.3 (“during a competitive selection process a state agency may weigh selection criteria in whatever fashion it believes will enable it to select the service provider that submits the best proposal”); *Keystone Peer Review Org., Inc. v. Iowa Dep’t of Human Servs.*, Appeal No. MED20000482, Final Decision at 11, (Designee of the Director, June 30, 2020).

Here, as an initial matter, no dispute exists that the DNR had the authority to issue an RFP for the Project. In addition, there is no dispute that the DNR had discretion to weigh the categories in the RFP as it saw fit. Rather, in its appeal, Custom Tree posits several matters in which it believes the procurement process failed to be objective and was unlawful requiring DNR’s award to be reversed. Custom Tree’s specific challenges can be generally divided into procedural claims (*i.e.*, whether the committee biased) and

substantive claims (*i.e.*, whether the committee correctly scored the proposals). As explained fully below, insufficient evidence exists to establish a material error in the scoring process, particularly given the limited ability of this Tribunal to pass on the accuracy of the scoring. Further, there were no procedural errors in the RFP process because there is no evidence that the committee was biased or had a conflict of interest. Accordingly, Custom Tree cannot prevail on its claim to rescind the Award.

#### **A. SCORING OF TECHNICAL PROPOSAL**

Custom Tree's primary argument is that the committee incorrectly scored Armodus and Custom Tree's proposals. Custom Tree Closing Br, at p. 6. To support of its claim, Custom Tree makes a number of arguments, including that the committee did not use consensus scoring and that the committee's scores were irrational. Custom Tree's argument is not supported by the record.

##### 1.

Custom Tree first argues that the committee failed to follow RFP procedures because it did not use "consensus scoring." Specifically, Custom Tree argues that the committee did not come to a collective agreement on each score; rather individual scores were merely tallied and averaged. Custom Tree's argument is not supported by the record.

The RFP does not specifically discuss "consensus scoring." It simply states, "the evaluation committee [will] conduct a comprehensive, fair, and impartial evaluation of Technical Proposals." Ex. 2 at 14. However, the DNR's "Proposals Evaluation Process User Guide" states that the committee will discuss the evaluation criteria and come to a "unified understanding." Ex. 3 at 2. The issuing officer then "tall[ies]" the final point assignments as a "consensus score." *Id.*

Here, contrary to Custom Tree's allegations, the committee engaged in consensus scoring and had a unified understanding of the appropriate scores for each proposal. The issuing officer, Lullman, opened discussion on each evaluation criteria by asking a committee member to provide his or her score and then the reason for the score. Lullman Testimony, Recording at 58:50, 1:00:30. No individual dominated the discussion and committee members could adjust or change their individual scores. Lullman Testimony, Recording at 1:03:06; Dettmann Testimony, Recording at 6:04:00 (testifying that her score was sometimes influenced based on discussion and she would "make an adjustment" to her scores); Weis Testimony, Recording at 5:44:48 (testifying that if there was an outlier score from a member, the committee "would have talked about it"). After this discussion, the individual scores were tallied, a final score obtained, and committee members confirmed their agreement on the final score. *Id.*

The above scoring process, where everyone had an opportunity to discuss scores, change their scores, and agree on a final score, constitutes consensus scoring. The fact that the committee may not have engaged in extensive discussions for every criteria

does not mean the committee did not come to a consensus on a score. The scoring process complied with the RFP.

2.

Custom Tree next argues that the evaluation committee's scores are irrational and not supported by the materials presented by Custom Tree and Armodus. As discussed below, there is no evidence that the committee committed a material error in the scoring process.

Generally speaking, great hesitation exists in delving into the actual scoring of a proposal whether the review is administrative or judicial in nature. *See, e.g., Dismas Charities, Inc. v. United States*, 61 Fed. Cl. 191, 198 (2004) ("Generally, the details of technical rating decisions involve discretionary determinations that a court will not second guess."); *Advanced Electromagnetics, Inc.*, B-208271, 83-1 CPD P 360, at p. 3 (Apr. 5, 1983) ("Our review of the evaluation of technical proposals is thus necessarily limited—we do not independently evaluate proposals and make our own determination as to their acceptability. Nor do we refer proposals to independent technical reviewers for evaluation."). This is, of course, because "evaluation of proposals for their technical excellence or quality is a process that often requires the special expertise of procurement officials" that reviewing officers and courts lack. *Tech Sys., Inc. v. United States*, 98 Fed. Cl. 228, 243 (2011). Even when such evaluation is done, it is generally restricted to whether there was a reasonable basis for the score and not a de novo review of the score. *See, e.g., Matter of: The Clay Grp., LLC*, B-406647, 2012 CPD P 214, at p. 7 (July 30, 2012) ("Given the limited nature of the evaluation record, and the agency's failure to address the protester's challenges, we are unable to conclude that the agency's evaluation had a reasonable basis."). The test for unreasonableness is generally "an action in the face of evidence as to which there is no room for difference of opinion among reasonable minds, or action not based on substantial evidence," and the test for arbitrary and capricious is an action "taken without regard to the law or facts of the case." *Arora v. Iowa Bd. of Med. Examiners*, 564 N.W.2d 4, 7 (Iowa 1997).

In response to the RFP, Custom Tree provided a 42 page proposal. The proposal provided background information, information regarding its owners, a list of past work, a list of equipment owned or leased, and general information regarding employee safety and policies, including that its work will conform to "USACE, OSHA, ANSI and FEMA standards." Ex. 9 at 3. However, the only specific information that Custom Tree included regarding the Project is two paragraphs in the cover letter which state as follows:

**For Phase 1 (Task 1-4), CTC will use a combination of bucket trucks, grapple saw trucks, hand fallers, loaders, and stump grinders. CTC will haul and burn tree debris at the identified locations and logs will be decked at a location to be hauled away. Work can begin 14 days from the award, and we will be 100% complete by 3/31/26 (weather permitting).**

**For Phase 2 (Task 5-7), CTC will use a combination of dedicated track masticators, tree shears, feller buncher, and hand fallers. Phase 2 will begin on or around the start date for Phase 1 and will be completed by 6/30/26 (weather permitting).**

Ex. 9 at 3.

Armodus submitted a 32 page proposal. Its proposal also contained information regarding the company and its personnel. However, Armodus provided specific information regarding how it would complete the Project. For example, Armodus' proposal contained a chart that listed each task in the RFP and explained how it could complete the task including the equipment it would use. It included information on how it would manage public safety, a timeline on when it would complete each task, and maps and diagrams. Ex. 11 at 7-10, 17-19.

Before addressing the specific issues raised by Custom Tree, a high level review of the two proposals makes the reasonableness of the committee's scoring of the two proposals evident. Armodus' proposal provides significantly more details about *how* it would complete the Project than Custom Tree's two paragraph response. For an RFP whose goal was to insure that a vendor would undertake the Project with care for the Park and its infrastructure, Armodus' proposal, not Custom Tree's proposal, satisfies this concern.

Reviewing Custom Tree's specific claims regarding the committee's scoring only further cements this conclusion. In this case, the RFP contains four evaluation criteria that were scored by the evaluation committee: (1) examples of previous or current work from that are similar to the services sought by the RFP; (2) the capacity of the vendor to complete the responsibilities described in the RFP; (3) the vendor's work plan; and (4) a proposed implementation timeline to complete the Project. Ex. 2 at 13-14. Custom Tree takes issue with the committee's scoring on each one of the above criteria. Its arguments are without merit.

#### 1. Experience

The first evaluation criteria relates to a vendor's experience. Custom Tree argues that it should have received a higher score than Armodus because it has been in business for over 25 years and has completed over fifty projects. Armodus has been in business for 9 years and only listed three completed projects.

On its face, Custom Tree's argument appears to have some merit. However, a close review of the proposals reveals the reasoning for the committee's score. In its proposal, Custom Tree listed sixty prior projects it had completed or was currently working on. However, it provided no details about the projects and whether the work it performed for the projects was similar to that requested by the RFP. Instead, Custom Tree merely listed the client, the contract number, the type of project such as "Flood," "Tornado," or "Straight Line Winds," date, contract amount and contact. Ex. 9 at 5-13.

Armodus only listed three projects. However, for each project, Armodus gave specific details about what each project required and Armodus' performance. Ex. 11 at 29-32; Seago Testimony, Recording at 3:39:26; Weis Testimony, Recording at 5:10:30, Committee members testified that Armodus provided "insight" and "specific examples" of its experience. Weis Testimony, Recording at 5:10:35.

In scoring the proposals, the committee gave credit to Custom Tree for having past experience, but also credited Armodus with having very specific relevant work history and awarded both the same score. An evaluation committee has broad discretion in determining and weighing criteria. The undersigned can find no error or irrationality in the committee's scoring of the vendors' work experience.

## 2. Capacity

Custom Tree next objects to the committee's scoring of its capacity to complete the Project. Custom Tree believes that the committee did not recognize that it specifically listed the equipment that it would use to complete the Project and improperly reduced its score accordingly. It also argues that it is a larger company with more personnel and therefore should have received a higher score than Armodus.

In regards to whether the committee failed to credit Custom Tree for listing specific equipment for the Project, there are comments from at least one committee member that seem to indicate that he might have failed to notice that Custom Tree specifically listed the equipment for the Project. See Ex. 5 at 5 (Seagal commenting that "[f]ull inventory of equipment listed but nothing specified for use on our project"). However, other committee members' comments indicate that they did understand that Custom Tree listed specific equipment. Ex. 5 at 18 (noting that Custom Tree "will use bucket trucks, grapple saw trucks, hard fellers, loaders & stump grinders"). Testimony at the hearing indicated that the committee discussed their individual scores and the reasoning for their scores. There is no evidence that Seagal's written comment affected the committee's scoring. Moreover, Seagal clarified at the hearing that he did understand that Custom Tree listed specific equipment in its proposal and that the committee gave Custom Tree a "7" and Armodus an "8" for capacity in part because Armodus "tied specific pieces of equipment to specific tasks." Seago Testimony, Recording at 3:40:15; 4:07:10.

In regards to personnel, Custom Tree reported that it would use 75% subcontractors to complete the Project. The RFP does not prohibit the use of subcontractors. However, Custom Tree provided no information on who it planned to hire as subcontractors or what tasks subcontractors would be performing. This fact, the fact that Custom Tree did not provide any details regarding its use of contractors, weighed into the committee's scoring. Weis Testimony, Recording at 5:24:40.

Under this record, the committee had a reasonable basis to award Armodus an "8" and Custom Tree a "7" for capacity. Both companies had the equipment and personnel required to complete the Project. However, Armodus' proposal contained more details

about how it would use its equipment and personnel to complete the Project. The committee’s scoring is reasonable.

### 3. Work Plan

The biggest disparity between the scores of Custom Tree and Armodus is for their work plans. The committee awarded Custom Tree a 4 and awarded Armodus a 16. Custom Tree argues that the committee’s scoring was irrational because it stated that it would perform the Project pursuant to industry standards and Armodus’ work plan merely “repeat[ed] [DNR’s] own scope of work plan back to the agency.” Custom Tree Closing Brief at 9. Custom Tree’s argument is flawed for the following reasons.

Armodus’ work plan did not merely repeat the RFP. On pages 7-10 of Armodus’ proposal, Armodus breaks down each of the seven tasks listed in the RFP and describes how it will perform each requirement. *Id.* For example, under Task 1, Armodus states as follows:

Specification/Requirement	Complies	Method of Compliance
Task 1 Perform hazardous tree removal in two phases	Yes	Phase 1 and Phase 2 executed per RFP maps, limits, and schedules using zone-based sequencing.
...		
Preserve paved roads and DNR infrastructure	Yes	No dragging across pavement; protected crossing with layered plywood and soil cover. See “Attachment C” for details.

In addition, Armodus’ work plan included bi-weekly meetings with DNR and maps reflecting how Armodus was going to complete the Project. Ex. 11 at 9, 17-18. The committee members testified that Armodus’ detailed work plan meant they did not have to infer how it would perform the Project; it specifically told them. Weis Testimony, Recording at 5:19:14; Dettmann Testimony, Recording at 6:03:05. In short, Armodus’ proposal contained specific details and maps demonstrating how it would complete the tasks in the RFP while protecting the infrastructure of the Park.

Although it appears that Custom Tree had ideas and a plan to complete the Project, it did not include such details in its proposal. For example, at the hearing, Custom Tree disclosed that it was going to remove the tree debris and give it to another company to turn the trees into wood pallets. However, nowhere in its proposal does it state this. See Ex. 9. Further, Custom Tree argued at the hearing that it would have completed the Project with equipment that would not damage Park infrastructure. But nowhere in its proposal did Custom Tree explain this benefit. Custom Tree also noted that it would complete the Project pursuant to ANZI standards, but it did not tell the committee how the

standards relate to the Project and it did not attach the ANSI Standards to its proposal or cite specific sections of the standards that it believed applied to the Project. Gathers Testimony, Recording at 7:16:22.

In short, Custom Tree provided very few details regarding its work plan. One committee member, Seago, testified that he felt Custom Tree's proposal contained "41 or 42 pages of advertisement for their company and two sentences that were the meat and potatoes of how they were going to get the work done." Seago Testimony, Recording at 4:05:15. All three evaluation committee members testified that they needed more details from Custom Tree. Weis Testimony, Recording at 5:19:14 (testifying that Custom Tree's proposal required a "lot of assumptions" because it did not list any "specific details" or "specific plan"); Dettmann Testimony, Recording at 6:03:05 (testifying there were just not enough details in Custom Tree's proposal).

The RFP does not require the committee to infer or make assumptions regarding whether a vendor can comply with work specifications. The RFP requires the committee to evaluate proposals on whether a vendor "address[ed] each specification . . . and whether or not it will comply with the specification." Ex. 2 at 11. The committee reasonably determined that Custom Tree's proposal failed to provide specific details about how it would perform the Project and its score of 4 is neither irrational nor unreasonable.

#### 4. Timeline

Finally, Custom Tree argues that the committee incorrectly scored its proposed timeline. Custom Tree points to the fact that, unlike Armodus, it provided a specific date that each phase would be completed and it could complete the Project faster than Armodus.

The committee acknowledged and considered the fact that Custom Tree did include a specific date of completion for each phase of the Project. See *e.g.*, Dettmann Testimony, Recording at 6:03:15. However, it also considered the fact that Custom Tree *only* provided an ending date. Custom Tree did not provide a timeline on when it would complete each individual task outlined in the RFP. On the other hand, Armodus provided specific details as to the tasks it would complete week by week. For example, as part of its proposal, Armodus submitted an "Implementation Schedule," which itemized the tasks it would complete during week 1, weeks 2-7, and weeks 8 until completion. Further, Armodus' proposal included a map subdividing the two phases. Ex. 11 at 16-18.

Ultimately, the committee placed more weight on a proposal that provided specific details on when the vendor would complete each task over a proposal that had a firm end date. The evaluation committee has discretion on the weight it gives each criteria and it had a rational basis for scoring Armodus higher than Custom Tree. Accordingly, the undersigned will not substitute her judgment for that of the evaluation committee. See Final Decision, *Public Consulting Group v. Iowa Department of Administrative Services*, Docket No. 18DASV007 at 18 January 4, 2019 (finding that "for purposes of evaluating whether a fair, open and objective procurement process was accomplished, the nature of the solution

sought and selected, and its potential reach as far as contractual scope is not for the ALJ to decide.”).

## **B. CONFLICT OF INTEREST / BIAS**

Turning to Custom Tree’s procedural arguments, Custom Tree argues that the procurement process was not objective or fair because the committee demonstrated bias and had a conflict of interest. Specifically, Custom Tree argues that the committee was biased towards Iowa-based companies. It also argues that Armodus had improper communications with a DNR employee during the procurement process creating a conflict of interest. Of note, in its closing brief, Custom Tree did not argue that the committee was biased due to the fact that one of Armodus’ organizers was the former Monona County Engineer. This may be because at the hearing Custom Tree admitted that it had no knowledge of any bias related to the evaluation committee and the organizers of Armodus. Gathers Testimony, Recording at 7:09:30. This decision will therefore not address this argument. Turning to Custom Tree’s remaining two arguments, as discussed in detail below, neither argument is persuasive.

### 1.

In its Closing Brief, Custom Tree argues that the DNR was “biased in favor of Armodus, a locally-based Iowa vendor.” Custom Tree Closing Brief at 11. In support of its argument, Custom Tree noted that Armodus’ proposal contained numerous references to the fact that its employees are familiar with the Park and half of its employees lived in Monona County, Iowa. *Id.* It further noted that committee member’s notes contain reference to Armodus being an Iowa-based company. *Id.*

Under Iowa’s RFP process, the only preference given to an Iowa-based company occurs if there is a tie in the scoring which did not occur in this case. *See Ex. 2 at 14.* Two committee members, Dettmann and Felts, made reference in their comments about the fact that Armodus was an Iowa-based company. However, there is no evidence that such comments influenced the scoring of the vendors.

In her written comments, committee member Dettmann noted where every vendor was based. At the hearing, Dettmann explained that she included such information because it helped her distinguish between the companies and had no weight in her scoring. Dettmann Testimony, Recording at 5:59.

Evaluation committee member Felts also made written comments about where every company was based. Felts noted that Armodus was a “local contractor with ties and pride in the local community and park.” However, there is no evidence that this affected his scores. Felts scored two of the four Iowa vendors lower than Custom Tree and one Iowa-based company the same score as Custom Tree. The only Iowa-based company that he rated higher than Custom Tree was Armodus, who he noted “addressed all aspects at the scope of work including traffic control” and “specifically addressed

protection of [Park] roads, unmarked, trees, . . . campsites, trails, signs, . . . .” Ex. 5 at 17.

Moreover, there was no discussion at the committee meeting about the fact that four companies were Iowa-based and committee members testified that no weight was given to companies based on the fact that they were located in Iowa. See Seago Testimony, Recording at 4:01:55; Dettmann Testimony, Recording at 5:59.

Accordingly, the record contains no evidence that the committee was biased or showed favoritism to Iowa-based companies.

2.

Finally, Custom Tree argues that Armodus’ proposal should have been rejected because Armodus submitted a letter of recommendation from a DNR employee and, therefore, Armodus had “unauthorized contact” with a state employee creating an appearance of impropriety. Custom Tree did not include this issue in its Notice of Appeal and therefore may not have appropriately raised the issue. 11 IAC 117.20(2)(d). However, as discussed below, the DNR did not err by considering Armodus’ proposal.

Iowa law has no established conflict of interest standards applicable to public contracting. *Medco*, 553 N.W.2d at 563. Even though Iowa law has no conflict of interest standards, the RFP does contain limited standards regarding conflict of interest. The RFP states that after the issuance of an RFP, vendors “may contact only the Issuing Officer.” Ex. 2 at 4. Although the RFP generally forbids contact between a vendor and State employees, it does not require the rejection of a vendor’s proposal if such communication occurs. Section 2 of the RFP states as follows:

2.12 Rejection of Proposals

The Agency *may* reject outright and not evaluate a Proposal for reasons including, without limitation:

. . .

2.13.10 The Respondent initiates unauthorized contact regarding the RFP with a State employee other than the Issuing Officer.

Ex. 2 at 6 (emphasis added). Accordingly, the RFP provides the DNR with discretion as to whether to reject a proposal for unauthorized contact between a vendor and a state employee.

Here, as an initial matter, there is no direct evidence that Armodus had “unauthorized contact” with a state employee. Custom Tree infers that Armodus contacted DNR employee, Matt Dollison, about the RFP because Armodus included a letter of recommendation from Dollison in its proposal. However, the letter of recommendation does not contain any specific reference to the RFP. Rather, the letter of recommendation generally discusses Armodus’ ability to complete projects involving “sensitive natural

resources, public land, and agency coordination.” Ex. 11 at 31. Further, there was no testimony or other evidence that Armodus contacted Dollison after the RFP was opened and specifically discussed the RFP.

Turning to whether the DNR should have exercised its discretion and rejected Armodus’ proposal because it included Dollison’s letter of recommendation, there is no evidence that the procurement process was rendered unfair or not objective due to Dollison’s letter. Both Custom Tree and Armodus have performed work for the DNR in the past and listed DNR employees as references. Indeed, Custom Tree listed committee member Jeff Seago as a “contact” for one of its past projects. Ex. 9 at 5. Accordingly, both proposals show previous ties to the DNR and if there was an “appearance of impropriety” simply due to a previous relationship with the DNR, it would apply equally to both Custom Tree and Armodus.

In addition, there is no evidence that committee members showed “favoritism” towards Armodus due to Dollison’s letter. There is no evidence that any committee member spoke to Dollison about Armodus or that Armodus asked Dollison to intervene in the RFP process on its behalf. Further, at the hearing, committee members testified that their decision to issue the Award to Armodus was based on the details provided in the proposals and Dollison’s letter did not influence their decision. Specifically, Jeff Seago testified that, although he knows Dollison, he was not influenced by the fact that Armodus had previously worked with him. Indeed, Seago had worked with both companies as a DNR employee and had favorable experiences with both companies. Ex. 9 at 5; Seago Testimony, Recording at 3:40:20. 3:46, 3:59; 4:45:20.

In addition, other committee members testified that they do not know Dollison and placed no undue weight on Dollison’s letter of recommendation. Dettmann/ Testimony, Recording at 6:00 (testifying that she was unfamiliar with both vendors and when scoring the proposals considered only that Armodus had more details in its proposal and Custom Tree did not appear to have placed a lot of thought in its proposal); Weis Testimony, Recording at 5:25 (testifying that his scoring was based on the fact that Custom Tree’s proposal lacked details); Lullman Testimony, Recording at 2:39:55 (testifying that no weight was placed on the fact that Dollison wrote a letter of recommendation).

Under this record, Custom Tree has not met its burden that the committee showed favoritism towards Armodus or that its decision was otherwise not fair or objective because Armodus included a letter from a DNR employee. Accordingly, the DNR’s decision to continue with its review of Armodus’ proposal despite the fact that Armodus included a letter of reference from a DNR employee did not make the RFP process unfair or not objective.

## DECISION

The DNR complied with Iowa law and the requirements in the RFP. Custom Tree has failed to establish that the procurement process was not fair or objective such that it would require rescinding the Notice to Armodus.<sup>1</sup>

DNR's action in this case is AFFIRMED. DNR shall take whatever action is necessary to implement this decision.

***April 17, 2026.***

cc:

Adam Humes, Attorney for Custom Tree (By AEDMS)

Eric Dirth, David Steward, Samantha Leo, AAG, (By AEDMS)

Tamara McIntosh, DNR, (By AEDMS)

Rachel Friedlander, DAS, (By AEDMS)

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<sup>1</sup> In light of this finding, there is no need to address the DNR's argument that Custom Tree's appeal is moot.

**Case Title:** CUSTOM TREE CARE, LLC V. IOWA DEPARTMENT OF  
NATURAL RESOURCES (RFP# 26CRDPFPJSEAG-0001S)  
**Case Number:** 26DASV0003  
**Type:** Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Rachel D Morgan". The signature is written in a cursive style with a large initial "R" and "M".

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Rachel Morgan, Administrative Law Judge

**IN THE IOWA DEPARTMENT OF ADMINISTRATIVE SERVICES**

CUSTOM TREE CARE, LLC,  Appellant,  v.  IOWA DEPARTMENT OF NATURAL RESOURCES,  Respondent.	Case No. 26DASV0003 Agency No. RFP: 26CRDPFJSEAG0001S  <b>CUSTOM TREE CARE, LLC’S APPEAL TO THE DIRECTOR OF THE IOWA DEPARTMENT OF ADMINISTRATIVE SERVICES</b>
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COMES NOW, Appellant Custom Tree Care, LLC (“CTC”), by and through undersigned counsel, files an appeal from the Proposed Decision in this matter and states the following as its exceptions to the Proposed Decision and brief in support of its appeal.

**INTRODUCTION**

The Iowa Department of Natural Resources (“IDNR”) committed and allowed several violations of the request for proposal (“RFP”) rules and Iowa’s competitive bidding laws. Armodus, LLC (“Armodus”) violated RFP rules that banned communications between vendors and state employees other than the designated procurement officer. IDNR violated RFP rules by: (1) allowing IDNR staff to provide a recommendation letter from the IDNR, and addressed to the IDNR, in support of Armodus’s proposal and (2) not disqualifying Armodus for its communications with IDNR staff during the communication black out period. All of these activities violated Iowa laws on fairness and maintaining the appearance of propriety in a government contracting.

The IDNR also failed to follow the RFP process for consensus scoring. This resulted in irrational and erroneous scores, which caused Armodus to achieve a higher overall score than CTC, the second-place vendor. These errors led to IDNR selecting Armodus, who will be performing the

project with less experience, under a longer completion timeline, and at a cost that is over \$1 million (i.e., 2.5 times) higher than CTC's price.

CTC also submits and incorporates its Closing Statement and Brief that was filed with the Administrative Law Judge ("ALJ") on April 10, 2026.

As a result of these errors, the Director should void the contract that was awarded to Armodus. Alternatively, the Director should reopen bidding in accordance with Iowa law's competitive bidding requirements.

### **LEGAL STANDARD**

Under Iowa Code section 17A.15(3), the ALJ's Proposed Decision is not binding on the Director. Instead, the Director holds the power to completely reject the holdings of the ALJ or only adopt the holdings in part:

When the presiding officer makes a proposed decision, that decision then becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within the time provided by rule. On appeal from or review of the proposed decision, the agency has all the power which it would have in initially making the final decision except as it may limit the issues on notice to the parties or by rule. The agency may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law that the agency finds to be in error. In cases where there is an appeal from a proposed decision or where a proposed decision is reviewed on motion of the agency, an opportunity shall be afforded to each party to file exceptions, present briefs and, with the consent of the agency, present oral arguments to the agency members who are to render the final decision.

Iowa Code § 17A.15(3); *Harrod v. Advance Servs., Inc.*, No. 19-0169, 2020 WL 377036, at \*3 (Iowa Ct. App. Jan. 23, 2020) ("The reviewing deputy may modify the proposed decision as [they] felt necessary."). On review, a court would only consider whether the conclusions of the agency are supported by the evidence in the record, not whether the record could support a different holding. *See Harrod*, 2020 WL 377036, at \*2 (quoting *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 218 (Iowa 2006)). Thus, the ALJ is only participating in the agency's final decision—the Director's

final order in this case will be the final agency action on the matter regarding the propriety of the RFP procurement process at issue. *See* Proposed Decision, No. 26DASV0003, at 8 (Iowa Admin. Hearing Div. Apr. 17, 2026). Thus, the following changes should be made to the ALJ’s Proposed Decision.

## **FINDINGS OF FACT**

### **A. The RFP.**

The Director should adopt most of Section A of the ALJ’s Proposed Decision, with the following modifications. The following paragraph of Section A of the Findings of Fact should be deleted:

Prior to meeting as a group, each evaluation committee member reviewed the proposals and independently scored each proposal for the above four criteria. After the proposals were independently scored, the entire committee met to arrive at a final consensus score for each criteria. The issuing officer then “tall[ie]d the final point assignments as a consensus score from the committee members” for each technical proposal. Ex. 3 at 2.

Proposed Decision, No. 26DASV0003, at 3. Instead, the Director should add the following paragraphs to Section A of the Findings of Fact:

The RFP called for the evaluation committee to use consensus scoring for the technical proposals. Ex. 3 at 2; Testimony of Colton Lullman. Under this approach, “[t]he full evaluation committee will discuss each of the scoring requirements of the proposal so that there is a ‘unified understanding’ of the criteria and corresponding responses.” Ex. 3 at 2. “Any individual scores may be adjusted at this point based on discussion.” *Id.*

IDNR did not follow this process. When asked to explain the discussion among committee members on certain criteria—including discrete criteria like project completion deadline—most IDNR witnesses stated there was no discussion. When asked how consensus was reached on the project completion factor, IDNR witnesses testified that they elected to average the scores rather than come to an actual consensus on any element. The committee did not reach a unified understanding of the responses.

In support of her paragraph on consensus scoring, the ALJ only cited the rules of the RFP. The RFP describes how consensus scoring should have worked, but it does not accurately describe

what actually occurred. *See* Ex. 3 at 2. Committee members independently scored responses, but the committee did not discuss the requirements or come to a “unified understanding” of the criteria and corresponding responses. *See id.*; Proposed Decision, No. 26DASV0003, at 4. Rather than reach a unified understanding, the committee’s decision to resolve wide scoring disparities through averages—rather than discussion, error correction, and committee consensus—led to irrational results. These results are inconsistent with the RFP rules.

Most committee member testimony showed the committee did not discuss the criteria or corresponding responses to reach a unified understanding. The committee did not arrive at final scores that reflected a unified understanding. The ALJ cited one committee member, who stated that if other members presented their scores before she did, her score would be “influenced a little bit” and she would “make an adjustment” to her individual score. Dettmann Testimony at 6:04:00. Dettmann was “pretty sure we had a chance” to adjust scores after the committee averaged those individual scores. Dettmann Testimony at 6:04:10. The ALJ cited a statement by committee member Mike Weis that if there was an outlier on scores, the committee “would have talked about it.” Proposed Decision, No. 26DASV0003, at 9.

There was a clear requirement to discuss scores to reach a unified understanding of the criteria and responses. Ex. 3 at 2. The testimony cited by the ALJ shows the committee *had the ability* to engage in a discussion and reached a unified understanding, but the remaining testimony and the resulting scores show this did not happen as required by the RFP. The committee did not reach a unified understanding. Material differences and irrational individual scores were resolved by averaging scores, not correcting misunderstandings or reaching a unified understanding.

The committee’s failure to discuss and reach a unified understanding is most obvious on the criterion for project completion timeline. CTC promised to start both phases of the project

simultaneously and complete the entire project faster than Armodus. *Compare* Ex. 9 at 3, *with* Ex. 11 at 16. Yet, Armodus' final score on this criterion was 4 points higher than CTC. Ex. 6 at 1.

The individual scores for project implementation timeline were simply averaged together. These wide-ranging scores show lack of unified understanding. Several committee members accurately understood that CTC promised to start both phases of the project simultaneously and complete the entire project faster than Armodus. Three members gave CTC high scores of 9, 8, and 7. Other members gave CTC scores of 3 and 0. The committee did not reach a unified understanding of something as basic as which vendor promised to complete the project soonest. Rather than reach a unified understanding of the criteria, these differences were not resolved through discussion and error correction. The differences were resolved through averaging all scores, from high scores of 9 through a score of 0 (which is a score reserved for "no response given"). Exhibit 5 at 1, 5, 14, 15, 30. As a result, CTC was awarded the lowest score on implementation timeline, despite proposing the fastest completion date.

Committee member Jeff Seago testified that the committee did not discuss why any score should be higher or lower. Testimony of Jeff Seago 4:03:40-4:05:00. Committee members simply brought whatever score they came up with individually and used the meeting to average those scores. Testimony of Jeff Seago 4:03:00 – 4:04:40. Seago testified there was no discussion or effort to reconcile the disparity on scores given to CTC. Testimony of Jeff Seago at 4:03:40–4:05:00. Committee member Mike Weis testified that committee members announced their score, but there was no effort to reconcile vast differences in scores. For example, when Weis gave CTC 3 points for implementation timeline and Seago gave CTC a 9 on this same criterion, the committee members did not discuss these differences to arrive at a unified understanding of when CTC promised to complete the work. Testimony of Mike Weis at 5:43:05–5:44:31. Committee

member Dettmann never discussed or explained why she gave Armodus a better score on project timeline, even though Armodus gave no end date and listed a longer completion date than CTC. Dettmann Testimony at 6:06:00–6:07:00. The committee resolved the difference by averaging scores of 3, 9, 7, 8, and 0.

The end result: the committee awarded CTC the lowest score on completion timeline. This process did not reflect a “unified understanding” of the criteria and responses. Rather, the process highlighted wide disagreement and misunderstanding. CTC, who promised to complete the project more quickly than Armodus, received 4 fewer points than Armodus on project completion. Ex. 6 at 1. Armodus—with a slower project deadline, a later start date for Phase 2 of the project, and no stated project completion date—beat all competitors on the project completion factor. Ex. 6 at 1.

#### **B. Evaluation of Proposals.**

The Director should also adopt most of Section B of the ALJ’s Findings of Fact. However, the ALJ was not correct that “the process of evaluating the proposals generally followed the procedures outlined in the RFP.” As explained above, the committee members did not adequately follow the consensus scoring requirements to arrive at a “unified understanding.” *See* Ex. 3 at 2. The first sentence of Section B should instead state: “In this case, the evaluation committee did not follow the procedures for selecting a vendor as outlined in the RFP.”

The Director should also reject the following finding from Section B:

The committee then met and discussed each proposal. *Id.* at 1:00:00. For each proposal, the committee members were asked to disclose the score they gave for each of the four evaluation criteria and the reasons for their scores. *Id.*; Dettmann Testimony, Recording at 6:03:50. After discussing each individual member’s scores, Lullman added the scores together and averaged them to calculate a final score for each criteria. Lullman disclosed the final score for each criteria and confirmed that the committee was comfortable with the score. Lullman Testimony, Recording at 1:14:10.

As explained in the previous section, the committee did not adequately engage in discussion and arrive at a unified understanding of final scores. Lullman averaged the individual scores to arrive at a final score. However, the committee did not correct obvious errors within the individual scores before averaging the scores. The committee's failure to use consensus scoring impacted all criteria other than cost. For example, several committee members awarded CTC irrationally low scores on capacity, despite CTC's superior resources (in both equipment, personnel, experience, and access to third-party contractors).

### **C. Appeal and Hearing.**

The Director should adopt Section C of the ALJ's Findings of Fact and include the following paragraph at the end of the section to reflect the arguments made in CTC's post hearing brief:

In its post hearing brief, CTC raised several arguments regarding the evaluation committee's misuse of the scoring process as required by IDNR's own policies, which lead to irrational results, and Armodus' violation of the RFP's rules regarding communication with IDNR during the RFP window. Based on IDNR's and Armodus' violation of the IDNR's own policies and the goal of competitive bidding, the IDNR's contract with Armodus is void.

### **CONCLUSIONS OF LAW**

The Director should adopt the "Legal Background" section of the Proposed Decision, but the "Standard of Review" section should not be adopted in full. The ALJ is correct that she only plays a role in the final decision of the agency, but the articulated standard of review is not accurate.

The Proposed Decision states:

With the understanding that a presiding officer is participating in the formation of the final agency action and not a review of finalized action, the most appropriate standard of review is whether the government substantially complied with the relevant rules and procedures applicable to the solicitation at issue, and if not, whether the noncompliance resulted in such prejudice to the non-prevailing vendor(s) demanding a conclusion the procurement process was not conducted fairly, openly or objectively. *Public Consulting Group v. Iowa Department of Administrative Services*, Appeal No. 18DASV0007, Final Decision (Designee of

the Director of DAS, January 4, 2019); *Willett v. Cerro Gordo Cty. Zoning Bd. of Adjustment*, 490 N.W.2d 556, 560 (Iowa 1992). Substantial compliance is defined as “compliance in respect to essential matters necessary to assure the reasonable objectives of the statute.” *Sims v. NCI Holding Corp.*, 759 N.W.2d 333, 338 (Iowa 2009).

Proposed Decision, No. 26DASV0003, at 8. This articulated standard does not account for the fact that this case concerns the main purpose of Iowa’s competitive bidding statute, Iowa Code section 26.9 (2026). The Director should adopt the following paragraph in its place:

With the understanding that a presiding officer is participating in the formation of the final agency action and not a review of finalized action, the Iowa Supreme Court has articulated the following standard of review: “When the duty imposed by the provision is essential to effect the main purpose of the statute, the provision is mandatory, and failure to perform the duty will invalidate subsequent proceedings. When the duty imposed is not essential to the main statutory objective, however, the provision is directory, and failure to perform the duty will not affect the validity of subsequent proceedings unless prejudice is shown.” *Willett v. Cerro Gordo Cnty. Zoning Bd. of Adjustment*, 490 N.W.2d 556, 559–60 (Iowa 1992). The main purpose of the competitive bidding statute and regulations is to “to secure by competition among bidders, the best results at the lowest price, and to forestall fraud, favoritism and corruption in the making of contracts.” *Horsfield Materials, Inc. v. City of Dyersville*, 834 N.W.2d 444, 452–53 (Iowa 2013) (quoting *Elview Constr. Co. v. N. Scott Cmty. Sch. Dist.*, 373 N.W.2d 138, 141 (Iowa 1985)). Any violation of IDNR’s rules regarding the main goal of the competitive bidding statute, Iowa Code section 26.9, will invalidate the subsequent proceedings, or the contract, in this matter. *See id.*

## ARGUMENT

### **I. The Legal Conclusions of the ALJ Should Not Be Adopted.**

In its Closing Statement and Brief, CTC outlined with citations to the record the legal conclusions that should be adopted in this matter by the Director. The ALJ failed to adopt CTC’s arguments in the “Analysis,” despite evidence to the contrary. The ALJ’s conclusion that “insufficient evidence exists to establish a material error in the scoring process, particularly given the limited ability of this Tribunal to pass on the accuracy of the scoring [and] there were no procedural errors in the RFP process because there is no evidence that the committee was biased

or had a conflict of interest” should not be adopted for two primary reasons. *See* Iowa Code § 17A.15(3).

**A. Scoring of Technical Proposal: The Record Clearly Shows a Conflict of Interest Within Armodus’ RFP Submission.**

The ALJ incorrectly concluded that there was not a conflict-of-interest issue within Armodus’ RFP submission. Proposed Decision, No. 26DASV0003, at 16–17. First, the ALJ was incorrect that “Iowa law has no established conflict of interest standard applicable to public contracting.” *Id.* at 16. The Iowa Supreme Court has made it clear that the goal of competitive bidding is “to secure by competition among bidders, the best results at the lowest price, and to forestall fraud, favoritism and corruption in the making of contracts.” *Horsfield Materials, Inc.*, 834 N.W.2d at 452–53 (quoting *Elview Constr. Co.*, 373 N.W.2d at 141). The Iowa Administrative Code reinforces this standard: “It is the policy of the state to obtain goods and services from the private sector for public purposes to achieve value for the taxpayer through a competitive selection process that is fair, open, and objective.” Iowa Admin. Code r. 11—117.3. Thus, the RFP process inherently includes the standard of forestalling favoritism and achieving value for the taxpayers through a process that is fair and objective.

These standards are why the IDNR requires its committee members to fill out a conflict-of-interest form before scoring any RFPs. Ex. 4. These requirements are also why the IDNR and other state agencies have created a standard RFP “Cover Sheet” that establishes the goals and rules of submitting a RFP to a state agency. Ex. 1. One of the explicit rules concerns a limitation on communicating with the agency outside of the designated “Issuing Officer.” Ex 1. The RFP at issue stated:

**Restriction on Communication**

From the issue date of this RFP until a Notice of Intent to Award the Contract is issued, Respondents may contact only the Issuing Officer. The Issuing Officer will

respond only to written questions regarding the procurement process. Questions related to the interpretation of this RFP must be submitted as provided in Section 2. Oral questions related to the interpretation of this RFP will not be accepted. Respondents may be disqualified if they contact any State employee other than the Issuing Officer about the RFP except that Respondents may contact the State Targeted Small Business Office on issues related to the preference for Targeted Small Businesses.

...

### **Rejection of Proposals**

The Agency may reject outright and not evaluate a Proposal for reasons including, without limitation: . . . The Respondent initiates unauthorized contact regarding the RFP with a State employee other than the Issuing Officer.

Ex. 2 at 4, § 2.2; *Id.* at 5–6, §§ 2.12, 2.13.10. The Issuing Officer for the RFP was Lullman and no other IDNR employee should have been contacted during the restricted timeframe. Ex. 2 at 4, § 2.1 (defining “Issuing Officer”); Ex. 2 at 1 (naming Colton Lullman as Issuing Officer and providing his contact information).

However, Armodus made a communication to the IDNR in direct contradiction of this rule. The ALJ concluded that “there is no direct evidence that Armodus had ‘unauthorized contact’ with a state employee,” but this is objectively false. Proposed Decision, No. 26DASV0003, at 16. The contents of the letter provide direct evidence that Armodus had to have contacted Matt Dollison , an employee of the IDNR, during the restricted time frame about the RFP. Ex. 11 at 31. Similarly, IDNR employee Dollison clearly communicated with Armodus during the blackout period. First, the letter of recommendation is dated January 26, 2026, during the blackout period, and explicitly states that it is a “Reference for Armodus, LLC” and is addressed to the IDNR. *Id.* The ALJ is correct that the letter does not reference the specific RFP at issue but that is irrelevant because the rule restricts *Armodus* from contacting any State employee about the RFP, whether Armodus discloses that they are contacting the employee about the RFP or not. Ex. 2 at 4, § 2.2. Dollison clearly knew he was creating a reference letter for Armodus and Armodus knowingly contacted

him about creating a reference letter for the RFP during the restricted time frame. Ex. 11 at 31. Armodus then was allowed to submit a reference letter—addressed to the IDNR—with the IDNR letterhead as a part of its proposal. Ex. 2 at 4, Sec. 2.2; *Id.* at 5–6, §§ 2.12, 2.13.10; Testimony of Colton Lullman at 1:44:00.

The consideration of the letter as a part of Armodus’ RFP is direct evidence that the process was rendered unfair and raises serious considerations regarding whether favoritism was involved in the selection of Armodus. *See contra* Proposed Decision, No. 26DASV0003, at 17. Once Armodus was allowed to request and submit the IDNR letter of recommendation, the process became immediately unfair because, as the ALJ noted, CTC also knew employees from the IDNR but was not allowed to request a letter of recommendation from them according to the rules. *Id.* at 17. A letter of recommendation from an employee of the agency that was making the decision and appeared on IDNR letterhead would surely hold weight with the committee, but CTC could not request that letter under the IDNR’s own rules. *See id.* Yet, Armodus was allowed to request a letter of recommendation and submit it, which unlike listing a member of the IDNR as a reference, was in violation of the IDNR’s own policies and was believed to be a restricted act by the other companies submitting proposals. *See id.*; Ex. 2 at 4, § 2.2; *Id.* at 5–6, §§ 2.12, 2.13.10. Whether the IDNR should have rejected Armodus’ proposal or not, the process was rendered unfair by Armodus being allowed to contact an employee of the IDNR regarding a letter of recommendation for the RFP and submit it as a part of its proposal. The ALJ’s fact finding and legal conclusions should not be adopted on this matter.

Despite the recommendation letter, sent from an IDNR employee to the IDNR during the blackout period for communication, the IDNR did not investigate any circumstances around Armodus getting IDNR staff to prepare recommendation letters for one of IDNR’s own

competitive procurement processes. Colton Lullman at 1:45:27 through 1:46:52; 2:44:50-2:45:00; 2:46:00-2:45:15. IDNR has not yet taken any action or made any decision on Armodus's improper communications with the IDNR. Colton Lullman at 1:47:42. The letter is proof that Armodus violated the RFP rules by communicating with a state employee during the blackout period. *See* Ex. 2 at 4, § 2.2. The Director has authority to remedy this violation of the RFP rules. The Director's Final Decision in this case will be the final agency action on the review of the RFP process. The Director has authority to fix an error made by IDNR staff. Armodus should be disqualified for communications with state employees that violated the rules of the RFP.

**B. Conflict of Interest / Bias: The Evaluation Committee Did Not Properly Score the RFPs.**

Further, the ALJ incorrectly determined that the five-member evaluation committee properly implemented consensus scoring as required by the IDNR's own policies *See* Proposed Decision, No. 26DASV0003, at 9–10. Despite the ALJ's contention that a discussion of some criteria is enough to meet the consensus scoring requirements, the Proposed Decision does not explain how the averaging of the individual committee members' scores was compliant with the IDNR's policies.

First, the bulk of the committee members' testimony shows there was not discussion to reach a unified understanding of the criteria or responses. The IDNR's "Proposals Evaluation Process User Guide" states that "[t]he full committee will discuss each of the scoring requirements of the proposals so that there is a 'unified understanding' of the criteria and corresponding responses." Ex. 3 at 2. The committee's lack of discussion to reach a "unified understanding" is not in compliance with the Proposals Evaluation Process User Guide and reflects that the committee members averaged their individual scores instead of engaging in a discussion to reach

a consensus. Ex. 3 at 2. This approach was inconsistent with the IDNR’s own rules and it produced indefensible results.

Further, a “unified understanding” requires the committee members to discuss their individual scores and reach a consensus score based on the discussion that occurred. *See* Ex. 3 at 2. It does not call for the committee to average their individual scores, which allows erroneous scores and outliers to greatly impact the final score for each criterion. *See id.* That is exactly what occurred here.

CTC promised a faster project completion deadline than Armodus and possessed the resources to fulfill the timeline. *See* Ex. 9 at 14–18, 20. Yet the individual scores contained wide, irrational variation on this factor. *See id.* CTC also proposed a firm completion date—CTC’s work on both phases would be complete by June 30, 2026, barring any weather delays. Ex. 9 at 3. Comparatively, Armodus proposed to complete Phase 1 in about 8 weeks and to start Phase 2 around Week 8. Ex. 11 at 16. Armodus did not list a completion date for Phase 2. *Id.* However, individual evaluation committee members awarded CTC scores of 3, 9, 7, 8, 0 on project competition timeline. Ex. 5 at 1, 5, 14, 15, 30. A score of zero was given to CTC despite it being reserved for “no response given.” Ex. 3 at 2.

Because IDNR averaged scores of 0 and 3 into this factor, *see* Ex. 5 at 30, CTC tied for the lowest project completion score of all six vendors who were eligible. This occurred, even though CTC offered a faster and more precise completion timeline than Armodus. Ex. 6 at 1. Armodus, with a slower project deadline and no stated project completion date, beat all competitors on this factor. Ex. 6 at 1. Armodus received 16 points for its proposed implementation timeline; CTC received 12 points. Exhibit 6 at 1. Thus, the ALJ’s fact finding and legal conclusions should not be adopted on this matter.

Lack of unified understanding also impacted all other criteria, other than price. Armodus scored higher than CTC—16 compared to 14—on the capacity to complete the responsibilities. Armodus received a higher score, even though CTC listed that it owned or leased every type of equipment to complete the job and CTC had the human resources to complete the job as quickly as possible. Ex. 9 at Ex. 9 at 14–18, 20. CTC possessed equipment better suited to complete the job with lower risk to the surrounding area. Ex. 9 at 20; Testimony of Greg Gathers. Furthermore, CTC’s numerous past experiences with large government contracts, involving tree removal in and around high-infrastructure areas, was further proof of capacity. Ex. 9 at 5–13. CTC described the certifications, credentials, and expertise of its staff in all matters related to tree removal and meeting the industry’s best and safest practices. Ex. 9 at 3, 14–15.

Several IDNR witnesses testified that CTC did not tell IDNR what equipment it planned to use for the two phases. That IDNR testimony is proof of a clear, material error by the committee. The committee’s lack of discussion and unified understanding compounded these errors and misunderstandings. Page three of CTC’s Proposal explained that CTC proposed using bucket trucks, grapple saw trucks, hand fallers, loaders, and stump grinders. Ex. 9 at 3. For Phase 2, CTC proposed using track masticators, tree shears, feller bunchers, and hand fallers. Ex. 9 at 3. CTC also listed that it owned or leased hundreds of types of vehicles and equipment, to demonstrate its capacity to complete the project under the promised timeline. Ex. 9 at 20.

## **II. CTC Should Be Granted the Contract at Issue.**

Considering these two main errors, the ALJ’s Proposed Decision should not be adopted and CTC should be granted relief by being awarded the contract at issue, or alternatively, the project should be rebid. *See* Proposed Decision, No. 26DASV0003, at 18. The Iowa Supreme Court has noted that a proper solution when bidding requirements are not met includes reopening bidding with proper standards applied:

It is well established that rebidding is the proper remedy when competitive bidding requirements are not followed. *See, e.g., O'Donnell Const. Co. v. District of Columbia*, 963 F.2d 420, 429 (D.C. Cir. 1992) (“[A]gencies are routinely enjoined to redo the bidding process, in order to vindicate the disappointed bidder's right to a legally valid procurement process.”); *John W. Danforth Co. v. Veterans Admin.*, 461 F. Supp. 1062, 1072–73 (W.D.N.Y. 1978) (ordering rebidding process because defendants “were expecting the lawsuit and an injunction” and had moved with “undue speed” to obtain the contracts prior to litigation).

*LS Power Midcontinent, LLC v. State*, 21 N.W.3d 551, 564 (Iowa 2025). Subsequently, the contract between IDNR and the “winning vendor,” that has not already been performed, should be voided and CTC should be awarded the contract, or at least, the project should be rebid. *See id.; Elview Constr. Co.*, 373 N.W.2d at 142–43 (“If the board deviated from the statutorily prescribed competitive bidding system and the deviations were severe enough to deprive the board of its jurisdiction to act, then the resulting contracts were void. If the board’s actions are characterized as mere ‘irregularities,’ then the contracts are voidable.”); *Id.* at 144 (“We conclude that recovery from a contractor is not allowed under the facts present here when a contractor has performed under a contract which is later declared invalid.”); *Garling Constr., Inc. v. City of Shellsburg*, 641 N.W.2d 522, 524 (Iowa 2002) (noting the Iowa Administrative Procedure Act provides “standing to challenge a bid decision”).

CTC was the next highest scoring vendor after Armodus, even with the issues described above, and provided an estimated cost that was approximately \$1.1 million less than Armodus. Ex. 6 at 1. As the next highest scoring vendor, IDNR should grant CTC the contract.

## CONCLUSION

For the foregoing reasons, Appellant Custom Tree Care, LLC respectfully requests that the Director void the contract awarded to Armodus, LLC for the Lewis and Clark State Park project. The contract should be awarded to CTC. Alternatively, IDNR should be ordered to reopen bidding in accordance with Iowa law’s competitive bidding requirements.

CTC respectfully requests an opportunity to present oral arguments to the Director.

*/s/ Kevin H. Collins, AT0001671*  
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CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2026, I caused the foregoing to be electronically filed with the Administrative Hearings Division using the AEDMS system, which will send notification of such filing to the attorneys of record, and email and mail.

*/s/ Adam P. Humes*

BEFORE THE IOWA NATURAL RESOURCE COMMISSION

CUSTOM TREE CARE, LLC, Appellant,  v.  IOWA DEPARTMENT OF NATURAL RESOURCES, Respondent.	Case No. 26DASV0003 Agency No. RFP: 26CRDPFJSEAG0001S  <b>RESPONSE BRIEF IN SUPPORT OF THE PROPOSED DECISION</b>
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COMES NOW Respondent Iowa Department of Natural Resources (“DNR”), by and through undersigned counsel, and hereby submits its Response Brief in Support of the Proposed Decision, in accordance with Iowa Administrative Code rule 11—117.20(4)(c). The DNR adopts and incorporates by reference its Post-Hearing Brief (and the facts therein) in this Response.

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## INTRODUCTION

The Administrative Law Judge (“ALJ”) wrote a Proposed Decision with well-supported factual findings and legal conclusions. One could not reverse those without committing legal error. To understand why the decision must stand, one need only look to applicable legal standards and the evidence of this case, viewed in its entirety. That evidence shows DNR followed its required procurement process, and the agency appropriately exercised its discretionary authority. DNR carefully selected the vendor that wrote the best proposal for this project’s specifications. Speculation should never outweigh hard facts, which is why the Natural Resource Commission (“NRC”) should adopt the Proposed Decision as its Final Decision.

## STANDARD OF REVIEW

Review of the ALJ’s Proposed Decision falls under Iowa Administrative Code rule 11—117.20(4). In reviewing a presiding officer’s decision, the NRC shall have “all the power which it would have in initially making the final decision *except as it may limit the issues on notice to the parties* or by rule.” Iowa Code § 17A.15(3) (emphasis added). The NRC has the discretion to reverse or modify findings of fact if a preponderance of the evidence supports it. *Id.* (using “may”). The NRC has the discretion to reverse or modify erroneous conclusions of law. *Id.* (using “may”). While the NRC does not need to adopt a Proposed Decision in part or in full, its Final Decision should contain reasonable legal conclusions supported by substantial evidence. *See* Iowa Code § 17A.19(10) (describing how courts will review final decisions by an agency, including findings of fact and conclusions of law).

The NRC’s Final Decision will interpret agency action preceding it. *See, e.g., Pub. Consulting Grp. v. Iowa Dep’t of Admin. Servs.*, Appeal No. 18DASV0007, at 10-11 (Designee of the Director of DAS, Jan. 4, 2019). Past administrative opinions apply a “substantial compliance” standard to the record, where the ALJ asks “whether the government substantially complied with the relevant rules and procedures applicable to the solicitation at issue, and if not, whether the noncompliance resulted in such prejudice to the nonprevailing vendor(s) demanding a conclusion the procurement process was not conducted fairly, openly or objectively.” *Inspired Life, Org. v. Iowa Dep’t of Admin. Servs.*, Appeal No. 23DASV0003, at 8 (Designee of the Director of DAS, June 2, 2023) (citing *Pub. Consulting Grp.*, Appeal No. 18DASV0007). This standard is in accordance with Iowa Administrative Code rule 11—117.3, which states, “It is the policy of the state to obtain goods and services . . . through a competitive selection process that is fair, open, and objective.”

Similarly, federal cases apply a “highly deferential” standard, where courts are disinterested in overturning awards based on minor errors in the evaluation process and instead require a showing that a “significant error marred the procurement in question.” *Jordan Pond Co. v. United States*, 115 Fed. Cl. 623, 630-31 (2014) (“[D]e minimis errors in the procurement process do not justify relief.” (emphasis omitted)). “A bid protest plaintiff bears the burden of proving that a significant error marred the procurement in question.” *Id.* That challenging party has the burden of demonstrating both the invalidity of the agency’s action and resulting prejudice. *Accord* Iowa Code § 17A.19(8)(a); *see also Wonder Life Co. v. Liddy*, 207 N.W.2d 27, 31 (Iowa 1973) (“[I]n administrative proceedings, as well as in court proceedings, the burden of proof, apart from statute, is on the party asserting the affirmative of an issue.”); *Imber v. Bd. of Med. Exam’rs*, No. 06–0493, 2007 WL 601544, at \*4 (Iowa Ct. App. Feb. 14, 2007) (affirming agency action and holding that

the court was not required to address whether the petitioner met his burden of demonstrating prejudice because he failed to demonstrate invalid agency action).

The Standard of Review in this matter does not include directives from Iowa Code section 26.9, as Appellant Custom Tree Care, LLC (“CTC”) contends. Not only is the government afforded discretion in procurement matters, CTC cites an inapplicable provision in effort to create a Standard of Review it deems more favorable here. Iowa Code section 26.9 concerns “awards” for *building-based construction* contracts that use “bids”—which is in no way a “standard of review” for *natural resource* contracts where technical “proposals” carry 80% of the score. Compare Iowa Code § 26.9(1) (“The contract for the public improvement must be awarded to the lowest responsive, responsible bidder.”), and *id.* § 26.2(3) (“‘Public improvement’ means a building or construction work that is constructed under the control of a governmental entity . . . .”), and 11 IAC 117.9(3) (defining a “request for *bids*,” a different kind of procurement, through the “lowest responsible bidder” language (emphasis added)), with *Pub. Consulting Grp.*, Appeal No. 18DASV0007, at 11 (tracking the history of applying “substantial compliance” language), and Ex. 2, Req. for Proposals, at 12-13 (providing 7 nature-based mandatory specifications), and 11 IAC 117.9(4) (defining a “request for *proposals*” as “a procurement [where] cost is not the sole evaluation criterion for selection” that is “evaluated according to criteria that are developed prior to the issuance of the [RFP]” (emphasis added)). The NRC should deny Appellant’s request to add an inapplicable provision from the construction bid statute into the Proposed Decision’s “Standard of Review” Section for this RFP.

## ARGUMENT

### I. THE RFP FOLLOWED APPROPRIATE PROCEDURES.

Neither the record nor procurement laws support claims that DNR wrongfully awarded the contract to Armodus, and any procedural grounds first raised in writing after the hearing should further be considered waived for lack of notice. *See* 11 IAC 117.20(2)(d); *Custom Tree Care, LLC v. Dep't of Nat. Res.*, Appeal No. 26DASV0003, at 16 (Designee of the Director of DNR, Apr. 17, 2026).

**A. The Facts Demonstrate Substantial Compliance.**

This procurement substantially complied with legal and regulatory requirements. Procurement Specialist Colton Lullmann acted as the “point person” for this RFP. Ex. F, Email from Colton Lullmann. He executed each requirement according to the RFP’s procedures, and he documented these processes along the way. *See generally* Recording, Testimony of Colton Lullmann (explaining how he went about this RFP). Lullmann worked on this RFP process from the beginning, collaborating with DNR employees Jeff Seago, Jeff Felts, and Mike Weis to draft the RFP. Recording, Testimony of Colton Lullmann at 2:28:10, Testimony of Jeff Seago at 3:15:00, 3:25:00, Testimony of Mike Weis at 5:01:15. Seago, as a subject-matter expert in forestry, took the lead on writing out these specifications. *Id.* Felts and Weis were consulted for their specialized knowledge on engineering and the park, respectively. Recording, Testimony of Colton Lullmann at 2:13:00, Testimony of Jeff Seago at 3:25:30, Testimony of Mike Weis at 4:50:05. They worked together to create an RFP which would meet DNR’s needs for this project. *Id.*

The needs for this project are not necessarily the same as the goals a vendor projects onto it. Recording, Testimony of Greg Gathers at 6:39:40 (explaining why he thought the “DNR erred” to meet what he claimed this project was about). Instead, DNR drafters put the agency’s purpose explicitly in writing: “The intent is to eliminate all hazards that these trees pose to the public and have the area restored to a satisfactory condition so that park staff may continue campground

maintenance.” Ex. 2, Req. for Proposals, at 12; *see also* Recording, Testimony of Jeff Seago at 3:20:20, 3:21:40 (“[W]hat are our goals and objectives? It’s a state park, . . . and people, the public, . . . they’re really fond of their state parks. . . . So we have to tread carefully and do the right thing by them. . . . The amount of infrastructure that was in that state park . . . that was the primary driver behind the RFP, yes.”).

Once drafted, Lullmann posted the RFP to IMPACS, the website for vendors to reply to DNR and submit their proposals. Recording, Testimony of Colton Lullmann at 0:48:55. Lullmann responded to vendors’ questions through the website, and he did what he could to convey to vendors that they should go through him as part of this process. *Id.* at 0:51:30. All proposals were sealed for purposes of fairness before the RFP closing date, in accordance with RFP section 2.9. *Id.* at 0:49:50, 0:51:30. When the RFP closed, Lullmann collected materials from IMPACS. *Id.* at 0:52:30. He kept cost proposals sealed until the meeting. *Id.* at 0:52:50, 0:59:10. Lullmann checked each technical proposal to make sure the file was complete, but this “format” check under RFP procedures would not involve a detailed substantive check of each document’s words. *Id.* at 0:52:55, 2:20:30; Ex. 3, Proposals Evaluation Process Guide at 1. Lullmann had the discretion to disqualify vendors for not meeting certain requirements, but he could also let those proposals stay. Recording, Testimony of Colton Lullmann at 1:47:20. Lullmann finalized the review team after confirming its members signed conflicts and confidentiality forms. *Id.* at 0:53:38. Lullmann stated he would have stopped the review process to select new committee members if they had a conflict of interest. Recording, Testimony of Colton Lullmann at 1:23:00 (“If they did, if I felt like they had a bias, I would have stopped it.”). But none of the reviewers did. *Id.* at 1:22:50 (“All of these folks that were on there are good, honest, ethical people who have signed these agreements, and they’ve all not had a bias.”).

Lullmann sent reviewers the technical proposals. *Id.* at 0:54:13. He included guidance documents for independently scoring the proposals. *Id.* (“They get an email from me that says . . . here is the RFP, here [are] the cost-scoring guidelines, and . . . there is a sheet that’s been developed . . . through the Department of Natural Resources.”). He let reviewers know that they were not required to take notes, but if they did take notes, the notes would need to be captured as part of the public record. Recording, Testimony of Colton Lullmann at 2:25:30; *see* Ex. 3, Proposals Evaluation Process Guide at 3. All 5 reviewers did take notes for this RFP—which is a step beyond most RFPs, where few people will put anything in writing. Recording, Testimony of Colton Lullmann at 2:25:00. Lullmann set up the review meeting with the 5 reviewers. 0:59:30. After confirming everything was compliant, Lullmann conducted the review meeting virtually, making sure each person had a dedicated opportunity to speak. Recording, Testimony of Colton Lullmann at 0:59:50, Testimony of Detra Dettmann at 6:03:50. He allowed reviewers opportunities both in-meeting and after-meeting to adjust their scores or dispute the award to Armodus, LLC (“Armodus”). Recording, Testimony of Colton Lullmann at 0:59:50. Cost proposals were scored according to a pre-set formula, and no one had any influence over them. *See* Respondent’s Post-Hearing Brief at 9 (applying the mathematical formula long-hand to vendors’ cost proposals).

After the meeting, Lullmann first confirmed reviewer consent in email, then he circulated the Notice of Intent to Award. Ex.7, E-mails Affirming Consensus Score; Ex. 8, Notice of Intent to Award. He notified all companies about their opportunities for a debrief meeting and appeal procedures. Recording, Testimony of Colton Lullmann at 1:24:43. He refused to give out reviewers’ names until a vendor set up a debrief meeting to protect the integrity of the process. *Id.* at 1:27:27. CTC refused a debrief meeting and went straight toward appeal. *Id.* at 1:25:02 (“Every single one of them were offered a debrief meeting, no one took a debrief meeting.”). Lullmann

stands by the procurement because it followed required procedures and the vendor was picked through predetermined formulas. *Id.* at 1:28:45.

Lullmann conducted a thorough, documented review process. *See id.* Yet CTC continues to allege post-decision that all these steps were somehow not enough. Recording, Testimony of Colton Lullmann at 2:25:30; *see generally* Ex. 3, Proposals Evaluation Process Guide. Even though reviewers agreed on the scores, even though committee members reflected similar score clusters independently, and even though there is *no* evidence that any of the reviewers acted out of bias for any vendor, CTC still appeals the matter. *See generally* Ex. 5, Committee Score Sheets; Ex. 6, Consensus Scoring Sheet; Ex. 7, E-mails Affirming Consensus Score; *see also* Recording, Testimony of Greg Gathers at 7:09:50 (“Do I have valid proof . . . without a doubt . . . no, otherwise I would have provided that.”); Recording, Testimony of Greg Gathers at 7:11:30, 7:14:18 (responding to DNR Counsel Eric Dirth’s question, “You have no . . . evidence of bias or partiality other than you believe your proposal is better, is that fair to say?,” CTC’s CEO stated “Yeah, at this time I don’t have any information, you know, facts regarding a bias, that’s why it hadn’t been brought up today,” which CTC’s counsel conducted redirect on to frame as “beyond what’s been presented today”).

DNR awarded this RFP to the vendor who best responded to the RFP’s requirements in writing. Recording, Testimony of Jeff Seago at 3:45:20, Testimony of Mike Weis at 5:12:00. The original arguments CTC sent in its first Notice are not the arguments CTC makes today, making them waived. *See* Feb. 16, 2026 Notice of Intent to Appeal at 3 (providing three grounds for appeal: First, DNR must have committed scoring errors to pick a vendor with that cost; second, DNR improperly picked Armodus because it was based in Iowa; and third, DNR improperly picked Armodus because its co-founder was the Monona County Engineer); *see also* 11 IAC 117.20(2)(d).

This is because the hearing left no facts to support CTC's original arguments. *See* Recording, Testimony of Greg Gathers at 7:11:30, 7:14:18; *see also* *Trace Sys. Inc. v. United States*, 165 Fed. Cl. 44, 71 (2023) (stating absent "well-nigh irrefragable proof," including evidence showing "some specific intent to injure the plaintiff," procurement officials are presumed to be acting in good faith (citations omitted) (cleaned up)). The ALJ properly concluded that DNR awarded Armodus the contract because Armodus wrote the best proposal for what these reviewers were seeking, and CTC lost points for giving cursory descriptions on the mandatory specifications. *Compare* Ex. 9, Custom Tree Care Technical Proposal, at 3 (2 paragraphs), *with* Ex. 11, Armodus Technical Proposal, at 7-10 (detailed answers).

**B. Substantial Evidence Shows Reviewers All Consented to These Scores.**

Contrary to Appellant's assertions, reviewers had opportunities before, during, and after the meeting to give their opinions on what the scores of each vendor should be. Recording, Testimony of Colton Lullmann at 1:00:10, Testimony of Jeff Seago at 3:52:45, Testimony of Mike Weis at 5:42:10, Testimony of Detra Dettmann at 6:03:50. Independently, reviewers assigned score numbers to each of the 4 technical proposal categories. Ex. F, Email from Colton Lullmann. Their process was thorough; at least some of the witnesses testified to blocking out time on their calendars or going through each document multiple times. *See, e.g.*, Recording, Testimony of Jeff Seago at 3:38:00, Testimony of Mike Weis at 5:12:45. Each reviewer also took notes about their thoughts before they would deliberate them in meeting. *See generally* Ex. 5, Scoring Committee Scoring Sheets. None of the reviewers had their exact scores be the outcome of procurement. *Id.*; Ex. 6, Consensus Score Sheet. All reviewers collaboratively agreed to adopt the scores from the review meeting, both in and out of the meeting. Ex. 7, E-mails Affirming Consensus Score.

When their testimony is viewed in its entire context, all DNR witnesses agreed that there were opportunities to talk about the scores and change them during the meeting. The first witness, Lullmann, testified about how he would go from reviewer to reviewer to discuss their initial numbers, their reasons for giving a certain numerical score in each area, and their reasons to revisit an average if that happened. Recording, Testimony of Colton Lullmann at 1:00:10. Lullmann spoke in specific detail about how he provided consensus scoring at this meeting in each of its stages. *Id.* (“So, um, if there’s five of them, I would go around the room, I’d start with 1, go to 2, 3, 4, and 5. They’d each . . . give their individual score. Um, something really big that I . . . believe from the training that I’ve got is . . . we have to justify our score, and we have to make sure our scores are, are justified appropriately.”). He had each reviewer explain their scores, and he would alternate the speaking order for each item on each company. *Id.* at 0:59:50

Lullmann would then “take all of their individual scores” and he would “average those out.” *Id.* at 1:00:54. Then he would lead more discussion on numbers after they were averaged. *Id.* He then would look at specific scores, and tell committee members to “review whatever that bullet point is” and then he would ask, “How do you guys feel about that?” *Id.* “That’s the opportunity for all the evaluators to come together and say, I agree with the 6, but I really think it should be a 7 because of this” and “everyone in the group has to agree on that” before it becomes the final score for that category. *Id.* at 1:01:20. Lullmann “went across the line to ask everyone if they agree . . . with the scores that have come about.” *Id.* at 2:15:33. For example, he might say, “[o]kay, it’s 2 points lower, it’s a point lower.” *Id.* at 2:16:00. Lullmann went through a thorough consensus scoring process, and those details also came up in later testimony from other people.

The second witness, Seago, referred to both “discussions” and “consensus” that took place at the meeting. Recording, Testimony of Jeff Seago at 3:52:45. When asked to “describe the process” for the review meeting, Seago stated,

That was when we had the, the meeting with Colton, and *exactly like he had described*, uh, we went through each item for each company, um, in alphabetical order, just like he said. So if I started the first one, I might be third when we go to the next category or the next company. Um, just to keep it . . . unbiased. And we would have *discussions*, um, if anybody had questions, um, we would answer them amongst each other. But then we would just have a discussion, I would tell them how I felt, uh, this is why I came up with this score, they would say this is [how I] came up with this score. Um, there was never any conversations about “well I think you should have scored ’em this way.” Uh, then Colton came up with that . . . average, then said “are you guys in consensus for this score,” and we agreed. *Once we had a consensus*, we moved on.

*Id.* (emphasis added). Importantly, Seago confirmed that the consensus scoring happened “exactly” the way Lullmann described in testimony. *Id.* More than that, Seago stated that they would have discussions *before* averaging and that they would reach a consensus *after* averaging. *Id.* Seago thoroughly testified about the scoring process, showing he knew what the word “exactly” meant. *See id.*

Seago’s statements on direct explain his statements on cross and refute Appellant’s argument. *Id.* at 3:53:28, 4:03:40. Appellant points to a statement by Seago agreeing that people averaged scores and did not “talk about why a score should be higher or lower” to argue that consensus scoring did not take place. *Id.* at 4:03:40. But Seago had already emphasized that no singular reviewer told any other reviewers whether their own *personal* scores should be higher or lower. *Id.* at 3:53:28. Then, from each person’s personal scores, the averages were collected and rounded according to normal rounding procedures. *Id.* at 4:03:00. Seago had already testified that people did not try to coerce any other reviewers to change their personal scores, and people all consented to the averages in order for the group to move on. *Id.* at 3:53:40. Seago’s testimony confirms the meeting was conducted fairly, and it used consensus scoring.

The third witness, Weis, at first indicated that he did not remember for certain whether there were opportunities to speak, yet he ultimately agreed that reviewers had opportunities to talk across various portions of the meeting. *See generally* Recording, Testimony of Mike Weis. On cross, Weis agreed that the scores were averaged, stating, “That’s my understanding, we all . . . came together and averaged them, um, and any discussion that would have occurred would have been if there was any outliers.” *Id.* at 5:40:00. This prompted the presiding officer to ask, “Once you told the committee members what your scores were, was there only discussion if somebody had sort of an outlier?” *Id.* at 5:41:40. Weis responded, “basically, that opportunity existed everywhere”; for “each category” Lullmann walked through, “it would be someone else leading and starting out,” followed by the question “and why.” *Id.* at 5:42:10. Weis then agreed that “there was discussion” and “the reasoning” behind each score was put out there. *Id.*

Appellant cites to the following words Weis provided on re-cross: “I believe it was just an average. I don’t recall exactly. . . . I don’t even know if there was a lot of discussion beyond that.” *Id.* at 5:43:00. He later stated “That’s correct, as I recall” when CTC’s counsel asked if they did not attempt to reconcile average scores. *Id.* at 5:44:00. These words were not the final ones Weis offered at hearing, and his statements on cross are caveated by important words: “I believe,” “I don’t recall exactly,” “I don’t even know,” and “as I recall.” *Id.* Weis inserted language suggesting he was having trouble remembering if they talked about items during and after reviewers gave their independent scores. *See id.* After re-cross, in redirect Weis stated, “If I recall, yeah, . . . like I said, if there would have been an outlier, or if we felt like we gave an incorrect score we would have talked about it, but I don’t . . . recall changing any of my scores.” *Id.* at 5:44:40. He then confirmed—without caveat—that there was opportunity for discussion on a score once Lullmann offered it, and after the average was determined. *Id.* at 5:45:00 (agreeing to both questions without

qualification). This evidence suggests that Weis only struggled to remember whether there was discussion on the scores because he did not remember being the person who had to be convinced. *See id.* Nonetheless, he did remember that they had an opportunity to correct averages in discussion, which confirms consensus scoring took place. *See id.*

The fourth witness, Detra Dettmann, solidified that there were opportunities to speak. Her testimony came after two prior witnesses had slightly suggested reviewers did not speak after Lullmann averaged their scores. *See generally* Recording, Testimony of Detra Dettmann. Dettmann explained, “[Lullmann] went through and everybody gave comments . . . with each element for each proposal.” *Id.* at 6:03:35. She might not have remembered specific conversations about CTC’s work plan or timelines, but Dettmann thought the review meeting “was good,” and she appreciated the opportunity to speak in “staggered orders” and “learn” more about important facts from the people around her. *Id.* She would sometimes “make an adjustment” to her own scores, because everyone came into this meeting with different “background[s]” and experiences, leading people to each “zero in on” different aspects of a proposal. *Id.* at 6:04:00. She further provided, “[A]nd I’m pretty sure we also had a chance . . . with the averaging if we wanted to adjust.” *Id.* at 6:04:15. Her preface “I’m pretty sure” is a clarification. *Id.* This contested case record comes with a recording of the hearing, where the NRC can hear for itself the tone Dettmann used in these words. *See id.* She did not say “I’m pretty sure” from hesitation or lack of memory. *Id.* She spoke with certainty, as someone who *did* adjust her scores at times. *See id.* at 6:04:00. She spoke professionally and respectfully while simultaneously clarifying an important fact at the hearing. *Id.* at 6:04:15.

All four witnesses indicated that consensus scoring happened, and Lullmann’s knowledge about the park further supports their express answers. *See generally* Recording, Testimony of

Colton Lullmann. Lullmann was the Procurement Specialist assigned to this RFP. Ex. 2, Req. for Proposals, at 1. He was also the first person to testify the morning of April 3, 2026. *See* Recording, Testimony of Colton Lullmann at 0:08:35. He does not personally work in Lewis and Clark State Park. *See id.* at 2:28:30. He did not even know where the park was when asked about it in cross-examination. *Id.* at 2:24:00; 2:29:10 (“I don’t know where this is even.”). He might not have been to this park personally, but he recalled that reviewers noticed “barge” on CTC’s technical proposal because that machine would not fit on the lake in this park. *Id.* at 2:12:30 (“The only thing I remember about CTC’s equipment was it was brought up about a ‘barge.’ They were like, ‘how are they going to use a barge?’”). A few hours later, Mike Weis testified about the small size of the lake at this park, which is why CTC’s “barge with crane” equipment would not make sense for this project. *See* Recording, Testimony of Mike Weis at 4:50:35, 4:54:45. Lullmann also recalled some discussions about the tracked vehicles during the review meeting, and how some vehicles “wouldn’t leave holes, or divots,” but he did not recall the exact vendor where it came up. Recording, Testimony of Colton Lullmann at 2:10:40. He further recalled a “smoke hangar” coming up at some point in the reviewers’ conversation. *Id.* at 2:29:30. Lullmann would not have known evaluators’ opinions on these items without people having the opportunity to talk about them. *See id.* He also did not have the personal knowledge on those subjects to come up with those concerns on his own. *Id.* at 2:24:00; 2:29:10. Lullmann was brought in for subject-matter expertise on procurement, not subject-matter expertise on tree-clearing equipment or the park. *Id.* at 2:05:50, 2:29:10. People talked in the review meeting, and evaluators’ testimony on that exact question is not the only evidence supporting this.

The written evidence also does not support a finding that the final scores are only averages of independent scores. Take, for example, the most contentious score: CTC’s work plan score. All

5 committee members gave comparatively lower scores for this category than the others. Ex. 5, Committee Score Sheets. As Seago—who gave CTC its highest “work plan” score—testified, CTC’s proposal was “41 or 42 pages of advertisement for their company and two sentences that were the meat and potatoes of how they were going to get the work done.” Recording, Testimony of Jeff Seago at 4:05:15; *Custom Tree Care, LLC*, Appeal No. 26DASV0003, at 14. The “work plan” score is not the pure average of reviewers’ independent scores. See Ex. 5, Committee Score Sheets; Ex. 6, Consensus Score Sheet. Added up, the work plan scores are:  $1 + 5 + 1 + 4 + 2 = 13$ , and  $13 \div 5 = 2.6$ . See Ex. 5, Committee Score Sheets; Ex. 6, Consensus Score Sheet. If this score were purely based upon averages, CTC would have received a “3” instead of a “2.” See Ex. 5, Committee Score Sheets; Ex. 6, Consensus Score Sheet. Instead, CTC’s final “work plan” score is the median score for evaluators, and it reflects the pattern all reviewers noticed—that CTC did not put enough in writing to constitute a “plan” for this park. See Recording, Testimony of Jeff Seago at 4:05:15.

CTC’s “implementation timeline” scores demonstrate a similar result:  $3 + 9 + 7 + 8 + 0 = 27$ , and  $27 \div 5 = 5.4$ . See Ex. 5, Committee Score Sheets; Ex. 6, Consensus Score Sheet. Here, CTC’s total score went *up* by 1 point, which reflects both CTC’s expedient end date and lack of details in between the start and end. See Ex. 9, Custom Tree Care Proposal, at 3. There were arguments in both directions, which is why independent scores varied so heavily on this point. See *id.* The number fell in the middle, and reviewers would talk about their reasons for a higher or lower score here. See *id.* Furthermore, reviewer Sarah Bell submitted two scorecards—one reflecting her position before the meeting, and one reflecting her perspective during the meeting. Ex. 5, Committee Score Sheets at 30-31. After the meeting, reviewers refused another opportunity to dispute the scores, and they all gave their express consent to the award by email. Ex. 7, E-mails

Affirming Consensus Score. Thus, the written evidence shows that final scores went beyond averages, and they are a byproduct of consensus scoring. *See* Ex. 5, Committee Score Sheets; Ex. 6, Consensus Score Sheet.

Reviewers had the ability to adjust their scores and reach a collective outcome. They then all confirmed in writing that they consented to the scores and award to Armodus. The evidence would not support modifying the Proposed Decision to find that consensus scoring did not take place. Holistically, the evidence shows that consensus scoring occurred, and reviewers had ample opportunity to dispute the scores, if they wanted to. They never did. The NRC should affirm the factual finding that consensus scoring took place in the Final Decision.

**C. There Was No Requirement to Disqualify Armodus for its Letter of Reference.**

Agencies retain discretion over when vendors are disqualified. That language appears in rule and in agency guidance. Iowa Administrative Code rule 11—117.13(2) calls it “*the right to reject any or all responses to solicitations.*” *Id.* (emphasis added). A “right” means the agency has the choice to exercise it. *Id.* It does not mean an obligation to disqualify. *See id.* Agency Guidelines also reflect that disqualification is optional. *See generally* Ex. 3, Proposals Evaluation Process Guide (applying discretionary language throughout). Agency guidelines implore reviewers to consider the effort that each vendor has put into each proposal before making the final decision that it did not meet requirements. *Id.* at 1 (“Extreme care should be used when making this decision because of the time and cost that a potential respondent has put into submitting a proposal.”). The same would be true for a procurement officer in the formatting review. *Id.* (“It is *possible* that some proposals will be disqualified during the initial review process. Disqualified proposals will not be provided to the evaluation committee.” (emphasis added)). That’s why the RFP uses “may” at each juncture for disqualification. *See generally* Ex. 2, Req. for Proposals (“The Agency may

reject outright and not evaluate a Proposal.”). Unlike some other states, who require proposal disqualification in some circumstances, Iowa leaves it to the agency’s discretion. *See* 1 CSR 40-1.050(21) (providing the regulation Missouri uses to automatically disqualify non-responsive proposals); *see also* 11 IAC 117.13(2) (reserving the right to disqualify proposals).

Lullmann further emphasized the RFP’s discretionary text at hearing. He testified, “It says respondents may be disqualified [for contacting other State employees], yes.” 1:39:50. Later, Lullmann explains further:

CTC’s Counsel:           Would that be, . . . would that be in your opinion and training . . . would that be a violation of the . . . rules about the RFP?

Lullmann:                 Well, based off of what you said before, or what you had me read before, which was on what page again?

CTC’s Counsel:           . . . Exhibit 2, . . . looks like page . . . 4, . . . Restrictions on Communications.

Lullmann:                 It says “may,” “Respondents may only contact the issuing officer,” and then, it said, um, “The agency *may* reject outright and not evaluate a proposal without limitation.” And that is, um, subject to . . . me, “may.”

*Id.* at 1:46:52. The Proposed Decision reflects both the RFP and Lullmann’s testimony. *Custom Tree Care, LLC*, Appeal No. 26DASV0003, at 16 (emphasizing the word “may,” just as Lullmann did in testimony). The word “may” does not create a requirement. *Id.*

The RFP also lacks language declaring that the Procurement Specialist is required to investigate all details embedded within a technical proposal. *See generally* Ex. 2, Req. for Proposals (providing some mandatory language, but not a requirement that a Procurement Specialist conduct a substance-based “investigation”). CTC emphasized the date embedded near the top of a letter on the 31st page of Exhibit 11. Recording, Testimony of Colton Lullmann, at 1:45:28; Ex. 11, Armodus Technical Proposal, at 31. Lullmann is a singular State employee responsible for many procurement contracts for DNR. *See, e.g.*, Recording, Testimony of Colton

Lullmann, at 2:45:35. The agency does not have the bandwidth to check every line for compliance as CTC would require Procurement Specialists to do for this letter of reference. *See id.* at 2:36:25. Procurement Specialists only have to complete a non-substantive “format[ting]” review to make sure all required documents are present. *Id.* at 2:35:00; Ex. 3, Proposals Evaluation Process Guide, at 1. Nor should Lullmann have to send notices to every State or DNR employee telling them when each procurement is active so that all other employees know not to talk to anyone about a topic. *See* Recording, Testimony of Colton Lullmann, at 2:38:20. Evaluation committee members consent to procurement-related emails by signing the forms. *See* Ex. 4, Scoring Committee Conflict of Interest Form. Other State employees do not. *See id.* The RFP’s “no contact” provision would be unenforceable if the NRC read it to the extent CTC argues.

If CTC’s concern with the letter was bias, then the hearing testimony should take that concern away. The ALJ properly found that none of the reviewers put any undue or improper weight on the letter. *E.g.*, Recording, Testimony of Jeff Seago at 3:21:20. One reviewer, Dettmann, even pointed out that some of the letter’s items lowered her score for Armodus in the “similar past work experience” category during her independent review. Recording, Testimony of Detra Dettmann at 6:00:10. “I remember that they had done some . . . clearing work . . . in some natural resource areas . . . [like] wildlife, but not in any parks specifically.” *Id.* Of the DNR wildlife letter, she said she “thought that case would have been stronger certainly if they had had park-specific experience.” *Id.* This is why she gave a “6” to Armodus in the “work experience” category. *Id.* at 6:00:00. Her score reflected similarities and differences. *Id.* Other reviewers saw the letter as just another example of past work experience. Recording, Testimony of Jeff Seago at 3:46:50 (“This is work that’s relatively similar to what we’ve asked, and he did complete it for the Iowa DNR.”). Seago further noted, “We want to see that you’ve done similar work before, for a similar site or

agency.” *Id.* at 3:47:47. For Seago, the letter accomplished that Armodus could do clearing-based work for a State agency. *Id.*

Both CTC and Armodus provided examples of their past work experience with DNR. The RFP explicitly scored vendors’ past work examples and offered that vendors could meet that requirement through letters of reference. Ex. 2, Req. for Proposals, at 10. Seago further testified how DNR wrote these requirements to encourage more companies who could do the work to apply. Recording, Testimony of Jeff Seago at 3:29:50. DNR had no requirement to penalize Armodus for including this letter. The NRC should not read a punitive requirement where none exists. *Custom Tree Care, LLC*, Appeal No. 26DASV0003, at 16.

Even if Iowa’s RFP process required disqualification based on the reference letter, which it does not, CTC still has not met *its* evidentiary burden toward this letter, and the argument has further been waived. *See Liddy*, 207 N.W.2d at 31. CTC first raised the “disqualification” ground in Lullmann’s cross. Recording, Testimony of Colton Lullmann at 1:36:50, 1:44:00. CTC did not argue DNR had to disqualify any other vendors in its February Notice of Intent to Appeal. Feb. 16, 2026 Notice of Intent to Appeal at 3. Nor did CTC provide this new ground in correspondence between the ALJ and parties of record. Nor did it seek to amend its February Notice of Intent to Appeal 15 days before hearing. 11 IAC 117.20(2)(d). Nor did it move to waive the 15-day requirement in rule and allow amendment. *Id.*; *see also* 11 IAC 7.7. Nor did CTC call as witnesses Armodus co-founder Dustin Wallis or DNR employee Matt Dollison to testify about the origins of the letter. *See* Recording, Testimony of Colton Lullmann at 1:46:00, Pre-Witness Comments, at 6:08:24. The argument did not even come up in opening statements, where CTC discussed “bias” and not forced “disqualification.” Recording, Opening Statements at 0:04:20. Without proper notice of a disqualification argument, parties are left to speculate about the letter’s origins. The

burden is on CTC to prove the letter was prejudicial error. *Liddy*, 207 N.W.2d at 31. The lack of evidence means CTC has not done so. *Id.* The ALJ correctly noted that there is no direct evidence proving this letter was a communication in response to this RFP, and the ALJ correctly determined the award should not be changed for this reason. *Custom Tree Care, LLC*, Appeal No. 26DASV0003, at 16-17.

## **II. THE OUTCOME REFLECTS A FAIR ASSESSMENT OF VENDORS' PROPOSALS.**

Despite Appellant's repeated allegations that some impropriety took place—causing CTC to lose out on a contract it felt entitled to—this procurement was thorough, factually accurate, and supported by DNR procedures. Facts are facts, and they will not change no matter how many times an accusation is repeated. Daniel Patrick Moynihan, *More Than Social Security Was at Stake*, Wash. Post (Jan. 18, 1983) (“Everyone is entitled to his own opinion, but not his own facts.”). Those facts exist in a larger context. The moment the appeal's short citations are placed in their context, CTC's arguments fall apart.

The reason for this RFP explains why reviewers' scores are grounded in fact. DNR staff at Lewis and Clark State Park submitted a request for proposals (“RFP”) to address a wide-spread safety concern. When approximately 610 overmatured cottonwood trees had grown exceedingly brittle after adverse weather conditions, DNR employees knew they had to do something. Ex. 2, Req. for Proposals, at 3. Area Forester Jeff Seago personally went through the park and marked off these hazard trees for removal. Recording, Testimony of Jeff Seago at 3:15:00. At approximately 80 feet tall, the hazard trees towered over park infrastructure, such as buildings, roads, trails, picnic tables, a playground, a basketball court, campground sites, electrical pedestals, and plumbing facilities. *Id.* at 3:16:00. Those items make this park special for the families who

visit it over the summer. *See, e.g.*, Recording, Testimony of Jeff Seago at 3:21:40, Testimony of Mike Weis at 4:50:00. The purpose of this project was protection. *Id.*

DNR could not ignore the positive aspects of this park while taking out deadly trees. *See, e.g.*, Recording, Testimony of Mike Weis at 4:57:45. The agency would be entrusting its park to the hands of another. Recording, Testimony of Jeff Seago at 3:20:24, Testimony of Mike Weis at 4:56:00. That vendor could leave the project once finished, but DNR workers would have to pick up the pieces. Recording, Testimony of Mike Weis at 5:04:00. DNR workers are passionate and dedicated to these parks. *Id.* at 4:48:25. They could work anywhere, but they choose to work here. *Id.* (“They all got into this, it’s not for the money . . . . You could go make more doing something else, but you choose to be here, because you love the outdoors.”). They are responsible for maintaining the park for the public, and they take that responsibility seriously. *Id.* at 4:55:03 (“Our policies have a standard of care that we have to keep. . . . The CCC lodge, people come and rent that out, . . . so we have to make sure the roofs . . . don’t leak. . . . It’s basically making . . . this park safe and usable, and a place people will want to come.”). Not every contractor would approach Lewis and Clark State Park with the same motivations. Thus, the agency needed help from someone who would “protect” and “restore” as part of “removing.” Ex. 2, Req. for Proposals, at 12; *see also* Recording, Testimony of Jeff Seago at 3:33:30 (“We were looking for very specific information on this project.”).

By consequence, the agency developed 7 mandatory specifications in the “Statement of Work” explaining what it needed from a vendor on this project. Ex. 2, Req. for Proposals, at 12-13; *see also* Recording, Testimony of Jeff Seago at 3:33:30. The specifications asked for details on how the vendor would protect buildings, roads, and trails. Ex. 2, Req. for Proposals, at 12-13. Several mandatory specifications also asked vendors to describe their plan for re-seeding the land

after taking out the damaged trees. *Id.* Importantly, it was the vendors' job to describe how they would go about this entire project so that reviewers could compare each written plan for this park. *Id.* All 4 technical proposal scoring categories referenced the "Statement of Work," and one of them specifically asked for a "work plan" on how the vendor would complete each specification. *Id.* at 13-14.

As Dettmann explained, the reviewers did not approach this process trying to advocate for companies in one way or another. Recording, Testimony of Detra Dettmann at 6:06:30 ("As you're going through it, . . . you're not in the headspace of comparing one to the other on those elements. You're just focused on that proposal as you're walking through it."). *But see also* CTC's May 2 Appeal to Director at 6 (providing Dettmann's "I didn't" to CTC's question about advocating for CTC over Armodus to support a conclusion that consensus scoring did not take place—while leaving out the above portion of her response explaining the reason why was due to the *comparative* nature of the question, and not the discussion-based nature of the question). Reviewers looked at each category separately, on its own, and discussed their reasons for scores in staggered orders. Recording, Testimony of Detra Dettmann at 6:03:50. Vendors could not rely on other people's proposals or outside conversations to prove the words they were supposed to put in writing. *See* Recording, Testimony of Greg Gathers at 6:50:40, 7:02:30. Ultimately, this procurement was decided through scores. Recording, Testimony of Colton Lullmann at 1:29:18. Those scores were determined by applying each vendor's proposals to pre-established criteria. Ex. F, Email from Colton Lullmann.

Armodus delivered a more responsive proposal than CTC, which is why it was awarded the contract. Armodus started with a statement about how important this park is to families who visit it. Ex. 11, Armodus Technical Proposal, at 3-4. In doing so, it depicted how it would prioritize

protecting this park's interests: the people. *Id.*; Recording, Testimony of Mike Weis at 4:55:03. Armodus further showed this because it would aim to have the "campground" open before a large influx of bikers were in the area for "RAGBRAI." Ex. 11, Armodus Technical Proposal, at 3-4; *see also* Recording, Testimony of Mike Weis at 5:28:45. This is important because it meant the park could safely rent out its campground during a unique and valuable time. *See* Ex. 11, Armodus Technical Proposal, at 3-4.; *see also* Recording, Testimony of Mike Weis at 5:28:45. Further, Armodus wrote out the ways it would respond to each of the 7 mandatory "work plan" specifications and their respective subsections. Ex. 11, Armodus Technical Proposal, at 7-10. In these responses, Armodus provided precautions it would take toward roads, buildings, and different sections of this park, and it offered a seeding plan. *Id.* at 11; Recording, Testimony of Mike Weis at 5:21:10 ("Armodus, you know, they talked about how they would re-seed, take care of any damages left behind."). Armodus also explained how it would subdivide each of the 2 phases in the RFP through diagrams, so DNR could know which zones of the park were being worked on and when. *Id.* at 17-18. It gave details for its specific meetings with DNR, showing it had a clear plan for how to work with DNR specifically. *Id.* at 14-16; Recording, Testimony of Jeff Seago at 3:43:20 ("They recognized the importance, um, of Phase 1 being important to us, and they emphasized it."). All these items explain why Armodus received the highest score for this RFP.

CTC could have scored higher by putting the same types of items it discussed in hearing in writing. *See, e.g.*, Recording, Testimony of Greg Gathers at 6:15:35 (explaining how he told Jeff Seago about an almost identical project to this tree removal during an in-person site visit, when the project did not end up in the final written proposal at all). Instead, it offered two bolded paragraphs. Ex. 9, Custom Tree Care Proposal, at 3. The rest of its document was boilerplate. *See*

*generally id.* Its statements were sparse, leaving reviewers to draw their own inferences. *See, e.g.,* Recording, Testimony of Mike Weis at 5:20:50. The boilerplate statements do not adequately address this project’s specifics—to state otherwise would be to commit a “fallacy of division.” *See generally* Ex. 9, Custom Tree Care Proposal. CTC even wholly left out some mandatory specifications for this project. Recording, Testimony of Mike Weis at 5:21:10; Respondent’s Post-Hearing Br. at 21 (“Such a sentence ignores repeated specifications asking to restore the park, including those on providing a plan for seeding.”). CTC should not have to rely on committee members’ past experiences with CTC to generate inferences when applying for a contract. *See* Recording, Testimony of Greg Gathers at 6:15:35. DNR does not doubt that CTC can perform tree removal projects, as Jeff Seago testified. *See* Recording, Testimony of Jeff Seago at 3:46:00. But CTC did not provide that information for the whole committee to review in this RFP. Ex. 9, Custom Tree Care Proposal, at 3. This is why another vendor scored better for these specifications. DNR’s decisions are supported by facts in these proposals. This procurement was fair, open, honest and objective.

### **III. THE VENDOR APPEAL IS MOOT.**

CTC appealed the notice of intent to award but did not seek a stay upon filing. Notice of Intent to Appeal at 1-3. Consequently, the agency had no obligation to stop the contract’s execution. Iowa Admin. Code r. 11—117.20(3). Thus, on March 23, 2026, DNR executed its contract with the winning vendor. Ex. 13, Fully Executed Contract. It has now been over a month since the contract was awarded, and the DNR and Armodus intend to finish tree removal for the campground before RAGBRAI. *Id.* Armodus will continue removing debris throughout this summer so that the park can be functional before important deadlines. *See id.* DNR is already facing a time crunch to get campground preparation underway. Recording, Testimony of Jeff Seago at 3:43:40. To completely pivot, terminate the contract with Armodus, and allow a new vendor to

come in and start work would place this task further behind deadlines, and possibly foreclose the park reopening for RAGBRAI in summer 2026. *See id.* In *Richards v. Iowa State Commerce Commission*, the Iowa Supreme Court explained that reviewing stays could create the “possibility . . . that one or more issues could be mooted before . . . review is completed.” 270 N.W.2d 616, 620 (Iowa 1978).

Here, there is not even a stay in place—because it was never requested—and there is no longer an open contract on this RFP. “The key in assessing whether an [agency-based] appeal is moot is determining whether the opinion would be of force or effect in the underlying controversy.” *Puntenney v. Iowa Utilities Bd.*, 928 N.W.2d 829, 840 (Iowa 2019) (quoting *Perkins v. Bd. of Supervisors*, 636 N.W.2d 58, 64 (Iowa 2001)). For instance, it would be too late to “dismantl[e]” a constructed pipeline, but not too late to implement prospective pipeline conditions favoring landowners who would still interact with the pipeline. *Id.* In this vendor appeal, CTC would ask the agency to “dismantle” what’s already created: a contract. *See id.* That’s a step beyond DNR “revisiting” its decision to award. *See id.*

In closing, Appellant cited to language in *Medco Behavioral Care Corporation v. Iowa Department of Human Services* to argue that executed contracts do not render an appeal moot. *See* 553 N.W.2d 556, 561 & n.3 (Iowa 1996); CTC’s closing Br. at 14. The executed contract in *Medco*, however, took place in the middle of a multiparty dispute following at least one petition for review sent back down to the agency after remand. *Id.* Moreover an executed contract would not render controversy moot on whether it was right to *rescind* a prior contract with someone else. *Id.* That’s an entirely separate issue from entering into a contract in the first place. *Id.* Here, the controversy on the initial contract is moot, and the appeal cannot be granted.

This case would not meet mootness exceptions that might otherwise allow an adjudicator to review a moot matter. *Grinnell College v. Osborn* provided a description of four standards a court weighs when determining if a moot case should still be heard. 751 N.W.2d 396, 399 (Iowa 2008) (quoting *State v. Hernandez–Lopez*, 639 N.W.2d 226, 234-35 (Iowa 2002)). Those four standards are:

(1) the private or public nature of the issue; (2) the desirability of an authoritative adjudication to guide public officials in their future conduct; (3) the likelihood of the recurrence of the issue; and (4) the likelihood the issue will recur yet evade appellate review.

*Id.* (quoting *Hernandez–Lopez*, 639 N.W.2d at 234-35). The most important factor is the last one, where an issue is both likely to recur and not be heard on appeal. *Id.*; *Hernandez–Lopez*, 639 N.W.2d at 234. This is because a court would not want a defendant to get away with actions that may otherwise be recoverable solely because the circumstances will inherently moot cases prior to judicial review. *See Hernandez–Lopez*, 639 N.W.2d at 234.

In the current case, the matter is public, which would weigh in favor of hearing it. *Grinnell College v. Osborn*, 751 N.W.2d at 399. But that determination is not conclusive, and the other three factors would outweigh, as explained in case law. *Id.* Here, regulatory authority already exists telling vendors what they can do to stop a contract from being entered: They can seek a stay when they file a Notice of Intent to Appeal. 11 IAC 117.20(3) “a”(1) (“The petition for stay shall be filed with the notice of appeal, shall state the reasons justifying a stay, and shall be accompanied by an appeal bond equal to 120 percent of the contract value.”). Mootness could have been prevented by seeking a stay prior to this, and so long as vendors request a stay, they do not risk mootness. *Id.* An adjudicatory opinion is not necessary on this item because the rule applies mandatory language, and no exception has been sought to the timing of that mandate in this case. *Id.* Public officials are already guided by existing administrative code provisions, which were not applied in the first

appeal here. *Id.* Moreover, the most recent grounds are still completely new and separate—all three reasons from the original appeal have been dropped from CTC’s appeal of the ALJ’s decision. NRC should exercise its discretion to not hear appeals on new issues. Iowa Code § 17A.15(3).

**CONCLUSION**

Accordingly, DNR requests the notice of intent to award be affirmed. It is DNR’s position that an oral argument is not necessary for this appeal, but if the NRC sets oral argument, DNR would request the same time as Appellant.

Respectfully Submitted,

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DEPARTMENT OF NATURAL RESOURCES

All parties served via AEDMS on May 15, 2026.

**BEFORE THE IOWA NATURAL RESOURCE COMMISSION**

CUSTOM TREE CARE, LLC,  Appellant,  v.  IOWA DEPARTMENT OF NATURAL RESOURCES,  Respondent.	Case No. 26DASV0003 Agency No. RFP: 26CRDPFJSEAG0001S  <b>CUSTOM TREE CARE, LLC’S REPLY BRIEF IN SUPPORT OF APPEAL TO THE IOWA NATURAL RESOURCE COMMISSION</b>
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COMES NOW, Appellant Custom Tree Care, LLC (“CTC”), by and through undersigned counsel, hereby submits its Reply Brief in Support of its Appeal to the Iowa Natural Resource Commission (the “Commission”).

**INTRODUCTION**

The Iowa Department of Natural Resources (“IDNR”) should not have awarded the contract at issue to Armodus, LLC (“Armodus”). The IDNR ignored or violated several rules and laws regarding State of Iowa requests for proposals (“RFP”) and competitive bidding. In particular, an IDNR staff member communicated with Armodus about the RFP in violation of the RFP rules and conflict-of-interest principles. IDNR also failed to follow consensus scoring protocols. This resulted in irrational and unjustified outcomes. These violations represent a justiciable issue on Iowa’s laws on fairness in government contracting to be considered by the Commission.

Not only did the errors violate the RFP process. By selecting Armodus over CTC, IDNR ultimately selected a vendor that proposed to complete the project more slowly and at a cost that was more than \$1 million—i.e. 2.5 times—more expensive than CTC’s proposal. As a result of

these errors, the contract awarded to Armodus should be voided and awarded to CTC. Alternatively, the bidding process should be reopened.

## ARGUMENT

### **I. The IDNR’s consideration of Armodus’ RFP submission directly contradicted the purpose behind public contracting and rendered the RFP process unfair.**

IDNR should have disqualified Armodus in order to substantially comply with the rules of public contracting. *See* Ex. 2 at 4, § 2.2; *Id.* at 5–6, §§ 2.12, 2.13.10. The Iowa Supreme Court has made it clear that the goal of competitive bidding is “to secure by competition among bidders, the best results at the lowest price, and to forestall fraud, favoritism and corruption in the making of contracts.” *Horsfield Materials, Inc.*, 834 N.W.2d at 452–53 (quoting *Elview Constr. Co.*, 373 N.W.2d at 141). The Iowa Administrative Code reinforces this standard: “It is the policy of the state to obtain goods and services from the private sector for public purposes to achieve value for the taxpayer through a competitive selection process that is fair, open, and objective.” Iowa Admin. Code r. 11—117.3. This goal is why the IDNR has an explicit rule restricting unauthorized contact with a state employee other than the Issuing Officer during the procurement period. Ex. 2 at 4, § 2.2; *Id.* at 5–6, §§ 2.12, 2.13.10. By allowing Armodus to ignore the rules without any consequences, the IDNR shows favoritism towards Armodus that impacted the awarding of the contract at issue.

The RFP submission process was immediately rendered unfair when Armodus was allowed to contact an employee of the IDNR while CTC followed the rules of the RFP. The inability to contact the IDNR for its own letter of recommendation combined with the committee members’ review of this letter, whether they claim to have given it undue weight or not, is enough to demonstrate that the IDNR did not substantially comply with its own rules and that CTC was prejudiced as a result. *See* Ex. 11 at 31; *Sims v. NCI Holding Corp.*, 759 N.W.2d 333, 338 (Iowa

2009); *Willett v. Cerro Gordo Cnty. Zoning Bd. of Adjustment*, 490 N.W.2d 556, 560 (Iowa 1992). Armodus operated under different rules than all other bidders, yet received no repercussions for ignoring foundational principles of the RFP process. Ex. 11 at 31; *see also* Ex. 4 (Assurance of Compliance forms certifying committee members' compliance with ethical guidelines). Moreover, Issuing Officer Colton Lullman made no inquiry whether or what substantive conversations occurred between IDNR staff and Armodus, around the time the reference letter was provided. Testimony of Colton Lullman at 1:45:27–1:46:52; 2:44:50–2:45:00; 2:46:00–2:46:15. Thus, the IDNR cannot claim that the “outcome reflects a fair assessment of vendors’ proposals” when it ignored a clear conflict in violation of its own rules and a central tenet of public contracting. *See* Response Brief at 20.

Throughout its Response Brief, the IDNR does not deny that the committee members considered this letter that demonstrated a clear conflict. Instead, the IDNR relies on the ALJ’s objectively incorrect statement that “there is no direct evidence that Armodus had ‘unauthorized contact’ with a state employee.” Proposed Decision, No. 26DASV0003, at 16 (Iowa Admin. Hearing Div. Apr. 17, 2026). Whether the evidence is labeled “direct,” “indirect,” or “circumstantial,” it is overwhelmingly clear that Armodus secured a letter of recommendation from IDNR employee Matt Dollison during the period when vendor contact with any state employee other than the Issuing Officer was prohibited. *See* Ex. 2 at 4, § 2.2; Ex. 11 at 32. The contents of the letter provide irrefutable evidence that Armodus contacted Dollison during the restricted time frame about the RFP as the letter of recommendation is dated January 26, 2026, explicitly states that it is a “Reference for Armodus, LLC” on IDNR letterhead, and is addressed to the IDNR. Ex. 11 at 32. Dollison then provided the letter to Armodus in time for it to be submitted with Armodus’s proposal. *Id.* The ALJ correctly noted that the letter does not reference

the specific RFP at issue but that is irrelevant because the rule restricts *Armodus* from contacting any State employee about the RFP, regardless of whether *Armodus* disclosed that purpose. Ex. 2 at 4, § 2.2. Furthermore, addressing the letter to IDNR clearly indicates that *Armodus* and IDNR knew the letter related to a State of Iowa procurement matter. Ex. 11 at 32. For this violation, *Armodus* should be disqualified and the contract should be awarded to CTC.

IDNR procurement staff never investigated these banned communications. IDNR's position appears to be that because it was not required to disqualify *Armodus*, its failure to take any action or even understand the nature of the violation is permissible. Indeed, as of the evidentiary hearing, IDNR procurement staff still did not know what *Armodus* and IDNR employees communicated about the RFP. The letter makes clear that banned communications occurred. CTC asks the Commission to do what IDNR procurement staff refuse to do: uphold the RFP rules and disqualify a vendor that violated rules fundamental to the fairness and transparency of the procurement process.

## **II. The IDNR did not substantially comply with its own scoring rules.**

The IDNR contends that the committee members all consented to the scores reached, so they must have substantially complied with the consensus scoring requirements and the decision reached by the members must be a fair assessment of the RFP submissions. *See* Response Brief at 9, 20. However, the IDNR fails to adequately explain how an averaging of the individual scores without discussion and without shared understanding constitutes a consensus scoring process or how CTC's scores reflect a fair assessment of the submissions.

The committee members may have reached a decision, but they did not have the discussion required to reach a unified understanding of the criteria or responses. The IDNR's "Proposals Evaluation Process User Guide" states that "[t]he full committee will discuss each of the scoring

requirements of the proposals so that there is a ‘unified understanding’ of the criteria and corresponding responses.” Ex. 3 at 2. A “unified understanding” requires the committee members to discuss their individual scores and reach a consensus score. *See* Ex. 3 at 2. Instead of complying with this rule, the committee members averaged their individual scores, allowing erroneous scores and outliers to greatly impact the final score for each criterion. *See id.*; *see also* Ex. F (email from Colton Lullmann to committee members instructing them to “determine a consensus score for each category as an Evaluation Committee”). The committee may have complied with some of the RFP process requirements, but they failed to comply with an essential matter of the process. *Sims*, 759 N.W.2d at 338 (“Substantial compliance is said to be compliance in respect to essential matters necessary to assure the reasonable objectives of the statute.” (quoting *Superior/Ideal, Inc. v. Bd. of Rev.*, 419 N.W.2d 405, 407 (Iowa 1988))).

This failure directly impacted whether the IDNR complied with the reasonable objectives of public contracting. As shown by the scores received by CTC, the IDNR’s failure to substantially comply with consensus scoring—combined with the conflict-of-interest issues discussed above—resulted in a process that was no longer “fair, open, and objective.” Iowa Admin. Code r. 11—117.3. For example, CTC proposed a faster project completion timeline than Armodus with the resources to fulfill that timeline and a firm completion date. Ex. 9 at 3 (CTC proposing Phase 1 completion by 3/31/26 and Phase 2 by 6/30/26); Ex. 17 at 1 (same). Yet individual scores for CTC contained wide, irrational variation on this factor. *See* Ex. 5 at 1, 14–15. Comparatively, Armodus proposed to complete Phase 1 in approximately 8 weeks and to start Phase 2 around Week 8 without a firm completion date. Ex. 11 at 16.

Despite this disparity, individual evaluation committee members awarded CTC scores of 3, 9, 7, 8, and 0 on project completion timeline. Ex. 5 at 1, 5, 14, 15, 30. A score of zero was even

given to CTC despite the scoring guidance reserving zero for “no response given.” Ex. 3 at 2; *see also* Ex. F at 2–3 (same scoring guidance). As a result, CTC tied for the lowest project completion score among all six eligible vendors, and Armodus received the highest score on this factor. Ex. 6 at 1. In light of the alleged “time crunch” the IDNR now claims, CTC’s low score on this factor is especially illogical and demonstrates why consensus scoring needed to be implemented correctly. *See* Response Brief at 24. Thus, the IDNR’s failure to substantially comply with its own scoring rules resulted in an unobjective and irrational outcome.

**III. The IDNR cannot make this matter moot by signing a contract with a different vendor.**

Even under the standards cited by the IDNR, this matter cannot be made moot by the IDNR entering into a contract while this appeal was pending. As the IDNR noted:

“The key in assessing whether an appeal is moot is determining whether the opinion would be of force or effect in the underlying controversy.” Although dismantling of the pipeline would not be feasible, the IUB still has authority to impose other “terms, conditions, and restrictions” to implement a ruling favorable to the petitioners.

Response Brief at 25 (citing *Punttenney v. Iowa Utilities Bd.*, 928 N.W.2d 829, 840 (Iowa 2019) (quoting *Perkins v. Bd. of Supervisors*, 636 N.W.2d 58, 64 (Iowa 2001))). Despite the IDNR’s contentions, a contract is not “dismantled”—it is voided and a new one may be put in its place. Response Brief at 25. The contract at issue here would simply be voided between Armodus and the IDNR and a new contract would be entered into between CTC and the IDNR. *Punttenney*, 928 N.W.2d at 840. Voiding a contract is not comparable to the removal of a pipeline from the ground. *See id.*

Further, the IDNR’s newly alleged deadline is a problem the agency created. The IDNR entered into the contract with Armodus on March 23, 2026—almost a full month after the IDNR had notice of CTC’s appeal and after the April 3, 2026 hearing was scheduled. Notice of Telephone

Hearing (2/26/2026); Notice of Hearing and Scheduling Order (3/19/2026); Ex. 13 at 1 (contract signature date). At the April 3, 2026 hearing, IDNR officials testified that they knew about the tree problem at Lewis and Clark State Park in 2024 and only began working on the RFP in 2025. Ex. 2 at 3; Testimony of Jeffery Seago at 3:22:44. Moreover, the RFP requested that Tasks 1-4 of the project be completed by March 31, 2027 and Tasks 5-7 be completed by March 31, 2028. Ex. 2 12-13 Despite the long timeline—for IDNR to craft the RFP and for vendors to complete the RFP—the IDNR now contends the project is so urgent that the Iowa Natural Resource Commission is not allowed to remedy an erroneous procurement process. It appears that CTC’s appeal of the RFP has been the driving force that has accelerated this project. The IDNR cannot moot this appeal under these circumstances.

Lastly, the IDNR’s continued argument regarding CTC’s failure to seek a stay in this matter is not relevant to whether this matter may be heard on appeal. A motion to stay the execution of the contract at issue does not need to be pending for CTC to present a justiciable matter for review regarding the awarding of the contract. *See Medco Behav. Care Corp. of Iowa v. State*, 553 N.W.2d 556, 561 (Iowa 1996) (considering an appeal regarding the awarding of a public contract even after a motion to stay was denied and no longer pending). CTC has an interest in this matter as an unsuccessful bidder, and an opinion rescinding the contract between Armodus and IDNR—allowing the contract to be awarded to CTC or rebid—would have an impact on the underlying controversy. *See id.* at 562 (“As an unsuccessful bidder on the managed mental health care contract, Medco possessed a specific, personal, and legal interest in being awarded the contract that was adversely affected when DHS initially decided to award the contract to Value.”); *Puntenney*, 928 N.W.2d at 840.

## CONCLUSION

For the foregoing reasons, Appellant Custom Tree Care, LLC respectfully requests that the Commission void the contract awarded to Armodus, LLC for the Lewis and Clark State Park project. The contract should be awarded to CTC. Alternatively, IDNR should be ordered to reopen bidding in accordance with Iowa law's competitive bidding requirements.

*/s/ Kevin H. Collins, AT0001671*  
*/s/ Adam P. Humes, AT0009616*  
NYEMASTER GOODE, P.C.  
700 Walnut Street, Suite 1300  
Des Moines, IA 50309  
Telephone: 515-283-3100  
Facsimile: 515-283-8045  
Email: khcollins@nyemaster.com  
ahumes@nyemaster.com

**ATTORNEYS FOR APPELLANT,  
CUSTOM TREE CARE, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2026, I caused the foregoing to be electronically filed with the Iowa Natural Resource Commission by email.

*/s/ Adam P. Humes*

**Iowa Department of Natural Resources  
Natural Resource Commission**

**Decision Item**

**# 6. Proposed County Antlerless Quota Changes for the 2026-27 Seasons**

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The following county antlerless quota changes are proposed for the 2026-27 deer hunting seasons. Changes are proposed where population indices, wildlife bureau staff and hunter observations indicate the population is above or below goal.

County	Quota	County	Quota	County	Quota
<b>Adair</b>	<del>950</del> <b>550</b>	Floyd	250	Monona	0
<b>Adams</b>	<del>500</del> <b>400</b>	Franklin	100	<b>Monroe</b>	<del>2250</del> <b>1850</b>
Allamakee	3800	Fremont	0	Montgomery	0
<b>Appanoose</b>	<del>2500</del> <b>2300</b>	Greene	0	<b>Muscatine</b>	<del>1000</del> <b>1100</b>
Audubon	0	Grundy	0	O'Brien	0
Benton	325	<b>Guthrie</b>	<del>2000</del> <b>1700</b>	Osceola	0
Black Hawk	0	Hamilton	100	Page	0
Boone	500	Hancock	100	Palo Alto	0
Bremer	300	Hardin	200	Plymouth	0
Buchanan	400	Harrison	0	Pocahontas	0
Buena Vista	0	<b>Henry</b>	<del>1050</del> <b>950</b>	<b>Polk</b>	<del>1200</del> <b>900</b>
Butler	400	<b>Howard</b>	<del>450</del> <b>550</b>	Pottawattamie	0
Calhoun	0	Humboldt	0	<b>Poweshiek</b>	<del>200</del> <b>300</b>
Carroll	0	Ida	0	<b>Ringgold</b>	<del>1350</del> <b>1250</b>
Cass	0	Iowa	450	Sac	0
Cedar	775	Jackson	1100	Scott	200
Cerro Gordo	100	<b>Jasper</b>	<del>400</del> <b>500</b>	Shelby	0
Cherokee	0	<b>Jefferson</b>	<del>1500</del> <b>1350</b>	Sioux	0
Chickasaw	475	Johnson	1100	Story	150
<b>Clarke</b>	<del>2100</del> <b>1800</b>	<b>Jones</b>	<del>1100</del> <b>1200</b>	Tama	200
Clay	0	<b>Keokuk</b>	<del>500</del> <b>350</b>	<b>Taylor</b>	<del>1200</del> <b>1000</b>
Clayton	4000	Kossuth	0	<b>Union</b>	<del>1100</del> <b>800</b>
Clinton	400	Lee	1900	<b>Van Buren</b>	<del>2300</del> <b>2100</b>
Crawford	0	Linn	1000	<b>Wapello</b>	<del>1500</del> <b>1300</b>
<b>Dallas</b>	<del>1700</del> <b>1500</b>	<b>Louisa</b>	<del>875</del> <b>975</b>	<b>Warren</b>	<del>3000</del> <b>2750</b>

County	Quota	County	Quota	County	Quota
<b>Davis</b>	<del>1900</del> <u>1750</u>	<b>Lucas</b>	<del>2250</del> <u>2050</u>	<b>Washington</b>	<del>1200</del> <u>1000</u>
<b>Decatur</b>	<del>2200</del> <u>1900</u>	Lyon	0	<b>Wayne</b>	<del>2450</del> <u>1950</u>
Delaware	1300	<b>Madison</b>	<del>3300</del> <u>3000</u>	Webster	100
<b>Des Moines</b>	<del>1400</del> <u>1200</u>	Mahaska	475	Winnebago	0
Dickinson	0	<b>Marion</b>	<del>2050</del> <u>1800</u>	Winneshiek	2700
Dubuque	1200	Marshall	150	Woodbury	0
Emmet	0	Mills	0	Worth	0
Fayette	2500	<b>Mitchell</b>	<del>200</del> <u>250</u>	Wright	0

Proposed quotas were published on the DNR website at [www.iowadnr.gov/Hunting/Deer-Hunting](http://www.iowadnr.gov/Hunting/Deer-Hunting) on June 1, 2026 as required by IAC 571-106.10(5).

Todd Bishop, Wildlife Bureau Chief  
 Conservation and Recreation Division  
 NRC Meeting Date: July 9, 2026

**Iowa Department of Natural Resources  
Natural Resource Commission**

**Information Item**

**# 7. Construction - Small Projects**

The following Engineering managed projects:

<b>Bid Date</b>	<b>Project No.</b>	<b>Location</b>	<b>County</b>	<b>Summary</b>	<b>Cost Estimate</b>	<b>Bids</b>
6/18/2026	25-03-03-01	YELLOW RIVER STATE FOREST	ALLAMAKEE	PAINT CREEK STREAMBANK IMPROVEMENTS This project includes re-establishing eroded streambanks and placement of bendway weirs and revetment armoring.	\$115,000	<b>\$94,211.00</b> \$95,112.00 \$101,462.50 \$104,920.52 \$107,427.60 \$110,762.40 \$128,208.00 \$197,920.00
6/18/2026	25-04-39-02	SPRINGBROOK STATE PARK	GUTHRIE	ACCESSIBILITY IMPROVEMENTS This project includes constructing ADA-compliant sidewalk, a parking stall, and pit latrine.	\$105,000	<b>\$76,509.88</b> \$92,963.52
6/11/2026	26-01-30-01	HODGE WPA	DICKINSON	WETLAND RESTORATION This project is designed to restore four wetland pool areas. Work includes dike construction, excavation, and water control structures with associated piping.	\$82,000	<b>\$59,945.50</b> \$61,977.20 \$63,560.00 \$73,639.50 \$74,364.58 \$84,300.00 \$96,211.10
6/11/2026	25-02-37-01	DUNBAR SLOUGH WMA	GREENE	SHEET PILE WCS REPLACEMENT This project consists of removing the old sheet pile water control structure. A new sheet pile water control structure will be installed and backfilled with rock.	\$25,000	<b>\$28,196.52</b> \$75,620.00

5/28/2026	25-04-87-02	LAKE OF THREE FIRES	TAYLOR	ACCESSIBILITY IMPROVEMENTS This project includes constructing ADA-compliant sidewalks and a parking stall.	\$49,000	<b>\$49,705.00</b>
5/28/2026	25-04-83-03	PRAIRIE ROSE	SHELBY	ACCESSIBILITY IMPROVEMENTS This project includes constructing ADA-compliant sidewalk, a parking stall, and picnic pad.	\$38,000	<b>\$32,077.50</b>
5/28/2026	25-04-69-03	VIKING LAKE	MONTGOMERY	ACCESSIBILITY IMPROVEMENTS This project includes constructing ADA-compliant sidewalk, parking stalls, and fishing amenities.	\$70,000	<b>\$86,588.00</b>
5/28/2026	25-04-15-03	LAKE ANITA	CASS	ACCESSIBILITY IMPROVEMENTS This project includes constructing ADA-compliant sidewalk to the park playground.	\$20,500	<b>\$15,730.00</b> \$21,595.00

Travis Baker, Land and Waters Bureau Chief  
Conservation and Recreation Division  
NRC Meeting Date: July 9, 2026

Iowa Department of Natural Resources  
Natural Resource Commission

Decision Item

# 8. Construction Items

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# 8.1 Lake Anita State Park, Sewer Improvements – Cass County

The Department requests Commission approval of the following construction project:

**Project Background:** Dedicated in 1961, Lake Anita State Park is one of the most popular outdoor recreation facilities in southwest Iowa. Located just south of the town of Anita in Cass County, the park is approximately 12 miles east of Atlantic. The 1,062-acre park features a beautiful 171-acre constructed lake, which was formed by damming a branch of the Nishnabotna River.

**Design Summary:** This project will replace the existing 1960s-era 4” clay pipes with 8” PVC pipes to address ongoing issues with tree root damage, infiltration, and sewer backups within the campground.

As part of this project, we will also replace damaged manholes and remove or plug old sewers and manholes that are no longer required. Additionally, necessary work will be performed on watermains where they intersect with the sewer lines.

**Engineering Project #:** 25-04-15-01

**Cost Estimate:** \$510,000

**Operating Bureau:** Parks, Forests and Preserves

**Funding Source:** 50% Park Infrastructure / 50% Fed - Land and Water Conservation Fund

**Bid Letting Date:** 06/18/2026

**Construction Completion Date:** 4/30/2027

**Number of Bids Received:** 4



*Lake Anita and Campground in January 2026*

**Bidders**

Western Iowa Utilities Inc	Council Bluffs, IA	\$331,352.00
TK Concrete, Inc	Pella, IA	\$450,300.00
Joiner Construction Co Inc	Plano, IA	\$464,340.00
H Johnson Services LLC	Creston, IA	\$497,130.00

Upon Engineering’s review of bids, DNR recommends awarding the contract to Western Iowa Utilities Inc.

## # 8.2 Lake Wapello State Park, Wastewater Improvements – Davis County

The Department requests Commission approval of the following construction project:

**Project Background:** Lake Wapello State Park, located east of Unionville and opened to the public in 1936, is named after Chief Wapello and offers a wide range of outdoor activities. The park features over 1,000 acres of wooded hillsides and scenic picnic areas. Additionally, the lake provides a relaxing setting for canoeing, kayaking, and fishing. One of the park's most notable features is the beach house; built in the 1930s by the Civilian Conservation Corps, its unique pueblo-style architecture distinguishes it within the state park system.

**Design Summary:** The existing wastewater treatment system, originally constructed in 2000, consists of a three-cell aerated lagoon. Currently, the system cannot effectively remove Ammonia or E. Coli to meet the standards required by the NPDES permit and its associated compliance schedule.

To ensure regulatory compliance and provide effective treatment, the proposed project includes aeration upgrades, the installation of an additional baffle, and chlorination for disinfection. Additionally, the project will incorporate new sampling equipment and a flowmeter to improve operational efficiency.



**Engineering Project #:** 26-05-26-01

**Cost Estimate:** \$405,000

**Operating Bureau:** Parks, Forests and Preserves

*One of the Existing Lagoons and Aerators*

**Funding Source:** State Park Infrastructure

**Bid Letting Date:** 06/18/2026

**Construction Completion Date:** 06/30/2027

**Number of Bids Received:** 2

### **Bidders**

Joiner Construction Co	Plano, IA	\$396,249.00
Leffler Dirtworks LLC	Oskaloosa, IA	\$413,653.00

Upon Engineering's review of bids, DNR recommends awarding the contract to Joiner Construction Co.

### # 8.3 Green Island and Princeton Wildlife Management Areas, Flood Repair – Jackson and Scott Counties

The Department requests Commission approval of the following construction project:

**Project Background:** Green Island and Princeton Wildlife Management Areas (WMAs) are essential wetland habitats for migratory game birds and support public hunting and hiking. Both WMAs rely on a system of levees, dikes, pumps, and culverts to manage water levels within their sub-impoundments along the Mississippi River.

Due to the long-duration flooding of the Mississippi River in 2023, the main levee at Green Island WMA was breached, resulting in extensive damage. Following the Major Disaster Declaration in August 2023, for Jackson and Scott Counties, DNR coordinated with FEMA to secure funding for the necessary repairs to these flood-damaged areas.

**Design Summary:** This project will repair over six miles of dikes and infrastructure, including culverts and water control structures damaged by flooding. Additionally, FEMA has approved mitigation measures to armor nearly a mile of the main levee in Green Island WMA with a grid-tied concrete block mat. These improvements are designed to protect against future flooding and breaches.

**Engineering Project #:** 25-06-49-05

**Cost Estimate:** \$4,300,000

**Operating Bureau:** Wildlife

**Funding Source:** FEMA 75% / Executive Council 25%

**Bid Letting Date:** 06/18/2026

**Construction Completion Date:** 05/28/2027

**Number of Bids Received:** 11



*Damage at Main Levee in Green Island Wildlife Management Area*

#### **Bidders**

Boomerang Corp	Anamosa, IA	\$3,562,894.43
Top Grade Excavating Inc	Farley, IA	\$3,625,619.56
JNC Construction LLC	Clearfield, IA	\$3,938,145.17
Three Oaks Construction, Inc	N. Sioux City, SD	\$4,122,952.50
Connolly Construction Inc	Peosta, IA	\$4,150,969.30
Jones Contractors & Associates LLC	Dyersville, IA	\$4,187,891.60
Peterson Contractors, Inc	Reinbeck, IA	\$4,196,054.80
S2 Construction, LLC	Bellevue, IA	\$4,241,127.70
Legacy Corporation of IL	East Moline, IL	\$4,595,757.50
Ihrig Works LLC	Long Grove, IA	\$4,757,192.65
Miller Trucking & Excavating	Silvis, IL	\$6,385,545.65

Upon Engineering's review of bids, DNR recommends awarding the contract to Boomerang Corp.

## # 8.4 Springbrook, Education Center Demolition – Guthrie County

The Department requests Commission approval of the following construction project:

**Project Background:** Due to declining use and budget constraints, the 1970 complex was closed in 2017 and has since fallen into further disrepair. Additionally, there are four dilapidated auxiliary sheds that are functionally obsolete and have reached the end of their useful life. This includes one structure where the roof partially collapsed in 2025.

**Design Summary:** This project will remove public hazards and return the site to its natural state. Work will include demolishing the Education Center buildings, as well as four auxiliary dilapidated/functionally obsolete sheds.



**Engineering Project #:** 21-04-39-01

**Cost Estimate:** \$215,000

**Operating Bureau:** Parks, Forests and Preserves

**Funding Source:** 100% REAP OS

**Bid Letting Date:** 06/18/2026

**Construction Completion Date:** 03/26/2027

**Number of Bids Received:** 10

### **Bidders**

Jason Roberts, LLC	Adair IA	\$149,152.00
Gross Construction	Woodburn IA	\$193,310.00
Capital Demolition and Environmental Services LLC	Des Moines IA	\$238,000.00
Hosier Worldwide, Inc	Deep River MN	\$238,604.50
Laubenthal Excavation	Bradgate IA	\$257,986.99
Harmann Excavating	Panora IA	\$261,080.00
TML Construction LLC	Logan IA	\$278,029.34
Veit & Company, Inc	Rogers MN	\$321,574.26
4th Gen Anderson Construction LLC	Lake City IA	\$368,079.60
LinnCo, Inc	Saint Cloud MN	\$424,002.00

Upon Engineering's review of bids, DNR recommends awarding the contract to Jason Roberts, LLC.

## # 8.5 Various State Parks and Wildlife Areas – Dickinson County

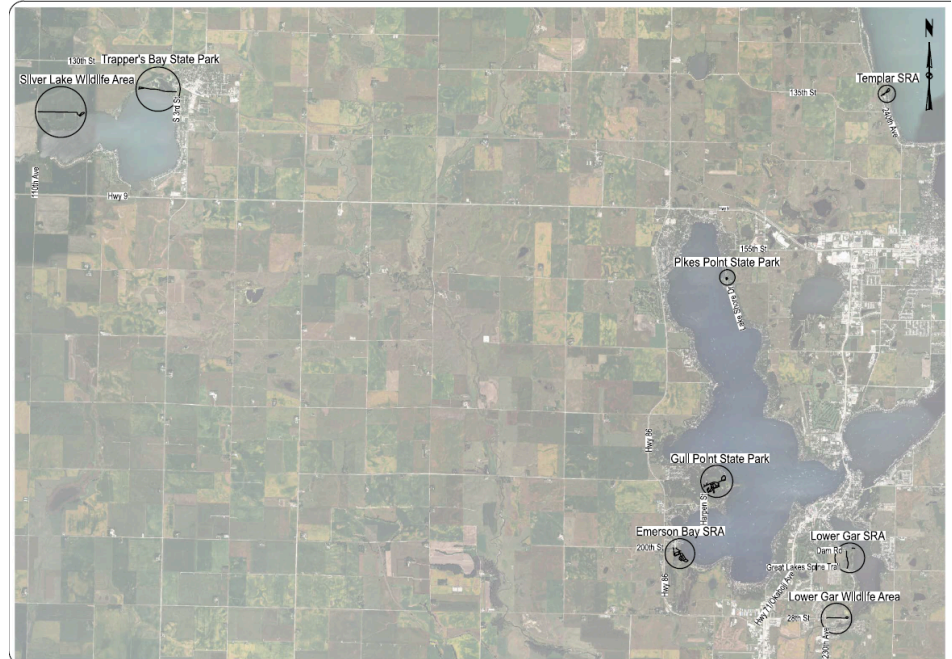
The Department requests Commission approval of the following construction project:

**Project Background:** There are maintenance needs for several parks and recreation areas within the Iowa Great Lakes region, including Pikes Point, Emerson Bay, Lower Gar, Templar, Trappers Bay, and Gull Point, as well as the Lower Gar and Silver Lake Wildlife Management Areas.

While these locations remain vital for public recreation, the existing roadways have significantly deteriorated and need maintenance. Current asphalt conditions include pavement oxidation (reaction in asphalt over time that makes it stiffer, more brittle, and less flexible), rutting, and thermal cracking of surfaces. Additionally, rock roadways have rutting.

**Design Summary:** To address these issues, we have identified the following necessary maintenance/repair items:

- Asphalt Roads (approximately 4.5 miles): Culvert replacement, patching, crack cleaning/sealing, surface treatments, overlays and applying rock/blading of road shoulders.
- Rock Roads (approximately 1.5 miles): Applying rock, blading and ditch cleaning.



**Engineering Project #:** 25-01-30-05

**Cost Estimate:** \$965,000

**Operating Bureau:** Parks, Forests and Preserves

**Funding Source:** 75% Parks and Institutional Roads Fund / 25% Park Infrastructure

**Bid Letting Date:** 6/18/2026

**Construction Completion Date:** 5/15/2027

**Number of Bids Received:** 3

### **Bidders**

Beck Excavating, Inc	Spirit Lake IA	\$626,072.89
Midwest Coatings Company Inc	Modale IA	\$864,606.34
Blacktop Service Co	Humboldt IA	\$999,621.75

Upon Engineering's review of bids, DNR recommends awarding the contract to Beck Excavating, Inc.

## # 8.6 Pammel State Park, Harmon Tunnel – Madison County

The Department requests Commission approval of the following construction project:

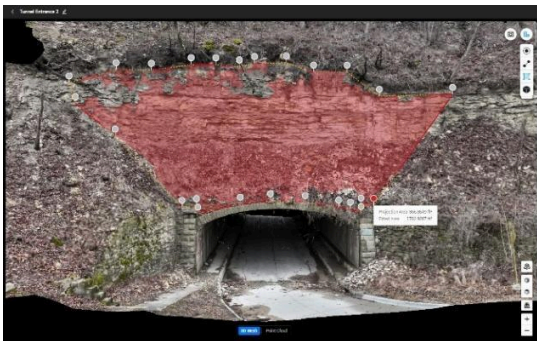
**Project Background:** Harmon Tunnel is a main feature of the Pammel State Park. The tunnel goes through the base of a limestone ridge and provides access to the park's facilities. In 1858 the tunnel was originally dug by William Harmon and his sons as a small chute to carry water diverted from Middle River to power a saw mill that was eventually converted to a grist mill. The mill was abandoned in 1904 and the tunnel expanded in size to allow vehicle traffic in 1925. The tunnel has since been expanded and reinforced to accommodate modern vehicles. It is Iowa's sole vehicular highway tunnel.

**Design Summary:** Harmon Tunnel has been closed since February 26, 2026, due to safety concerns regarding falling rocks and large boulders at both ends of the tunnel. We are initiating a project to stabilize and clean up the rockface. The goal of this work is to mitigate these hazards and ensure the tunnel can be safely reopened.

Estimated 12# to 20# fragments after impact



NE Entrance Total Bluff Project Site



Estimated 3000# boulder impact site on the road



SW Entrance Total Bluff Project Site



**Engineering Project #:** 26-04-61-02

**Cost Estimate:** \$93,000

**Operating Bureau:** Parks, Forests and Preserves

**Funding Source:** %100 Executive Council

**Bid Letting Date:** 06/25/2026

**Construction Completion Date:** 11/30/2026

**Number of Bids Received:** 4

### **Bidders**

Rockstars Slope Stabilization, LLC	Oregon City, OR	\$107,681.00
Geovert LLC	Broomfield, CO	\$113,862.20
Rock Supremacy, LLC	Bend, OR	\$127,275.00
Access Limited Construction	Oceano, CA	\$131,000.00

Upon Engineering's review of bids, DNR recommends awarding the contract to Rockstars Slope Stabilization, LLC.

Travis Baker, Land & Waters Bureau Chief

Conservation and Recreation Division

NRC Meeting Date: July 9, 2026

Iowa Department of Natural Resources  
Natural Resource Commission

Decision Item

**# 9. Public Land Acquisition Project**

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**West Salt Creek WMA, Tama County – James Wauters Trust**

The Natural Resource Commission's approval is requested to accept the donation of a tract of land located adjacent to West Salt Creek WMA in Tama County.

**Donor:** James Wauters Trust

**Acreage:** 2.7 acres M/L

**Property Description:**

This irregular-shaped property is located approximately one mile west of Vining in eastern Tama County. The acquisition is bordered by West Salt Creek WMA along the east and south side and T Avenue along its west and north sides.

**Purpose:**

This donation will eliminate an inholding along the west boundary of the West Salt Creek WMA, creating a continuous property line along T Avenue. Acquiring this parcel will significantly improve the DNR's ability to effectively manage the area and post clear boundary signage. The property will be open to public outdoor recreation, including hunting. Access is provided directly from T Avenue, a county gravel road.

**DNR Property Manager:** Wildlife Bureau

**Incidental Costs:** Incidental closing costs will be the responsibility of the Department.

# Exhibit A



Travis Baker, Land & Waters Bureau Chief  
Conservation and Recreation Division  
NRC Meeting Date: July 9, 2026

Iowa Department of Natural Resources  
Natural Resource Commission

**Decision Item** (\* indicates proposed consent item)

**\*# 10. Public Land Management Project**

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**Management Agreement – Muddy Bay North Twin Lake – Calhoun County Conservation Board – Calhoun County**

The Natural Resource Commission is requested to approve a Management Agreement with the Calhoun County Conservation Board for the Muddy Bay-North Twin Lake area located in Calhoun County.

**Location:** This area is located on the northwest side of North Twin Lake in Section 28 Township 89 North, Range 32 West of the 5<sup>th</sup> P.M., Calhoun County, Iowa.

**Site Purpose:** This 41.93-acre property is used for public access for outdoor recreation in the same manner as state owned recreational areas.

**Management History:** This property has been under a management agreement with the Calhoun County Conservation Board since 1980. The previous management agreement expired December 31, 2025.

**Management Agreement Term:** This standard Management Agreement is with the Calhoun County Conservation Board for 25 years.

This agreement was approved by the Calhoun County Conservation Board on May 27, 2026.

Travis Baker, Land & Waters Bureau Chief  
Conservation and Recreation Division  
NRC Meeting Date: July 9, 2026

Iowa Department of Natural Resources  
Natural Resource Commission

Decision Item

**#11. Contract with Insight Public Sector, Inc.**

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**Commission approval is requested for a contract with Insight Public Sector, Inc. of Chandler, AZ.**

**Contract Terms**

**Amount:** Not to exceed \$66,026

**Dates:** September 15, 2026 to June 30, 2027

**Funding Source(s):** Fish & Wildlife Trust Fund

**Contract Purpose:**

The DNR's Law Enforcement Bureau has utilized cell phone-based body worn cameras for the last 5 ½ years to record video and audio of interactions between conservation officers and the general public as officers are working in an enforcement capacity. Conservation Officers currently use department-issued cell phones with a proprietary body-camera application called Visual Labs, provided by Versaterm. When the Visual Labs application is activated on the officer's cell phone, high-definition geo-tagged video is created, stored and then transmitted to a cloud-based server where it is retained for 180 days (occasionally longer). The video and audio is regularly utilized by officers in the prosecution of law enforcement cases and serves as a resource to command staff when addressing inquiries from the public.

The Department's first 6 years of the original contract and extension for body cameras is nearing its end on September 15, 2026. Based on the suitable performance of the application and devices in the field over the last 5 ½ years, the Department proposes to retain the body camera service with Versaterm through the state's value-added provider, Insight Public Sector, Inc through June 30, 2027 (FY27).

**Selection Process Summary:** The Department utilized Iowa Department of Management's Division of Information Technology's vendor procurement process to reach Versaterm through value-added partner Insight Public Sector, Inc.

Craig Cutts, Law Enforcement Bureau Chief  
Conservation and Recreation Division  
NRC Meeting Date: July 9, 2026

## **CONTRACTS – Service and Agreements (27CRDFBJEUCH-0001) Floating and Emergent Aquatic Plant Management**

*(Use the Template below and insert your information in place of the blue text. An Example is located after the Template.)*

A Commission brief must be prepared for service contracts and agreements (cooperative, intergovernmental, non-governmental) that are more than \$50,000.

### **Contracts – Service and Agreements TEMPLATE (replace blue text with your information)**

#### **Iowa Department of Natural Resources Natural Resource Commission**

#### **Decision Item**

#### **# 12. Contract with Aquatic Control Inc.**

**Commission approval is requested for a contract with Aquatic Control Inc., of Elkhart, IA.**

#### **Contract Terms**

**Amount:** Not to exceed \$60,000

**Dates:** July 10, 2026 to October 30, 2026

**Funding Source(s):** Lake Restoration Program

#### **Contract Purpose:**

The Department of Natural Resources (DNR) is seeking Commission approval for a contract with Aquatic Control Inc. to apply herbicides targeting floating and emergent aquatic vegetation across 20 key lake systems, totaling approximately 480 acres.

Over the past several years, ongoing evaluations have demonstrated that drone technology, particularly when combined with shallow-water equipment like airboats, provides superior control and precision in hard-to-reach back coves compared to traditional methods. Consistent treatment over three consecutive years successfully reduces overall nuisance plant biomass, allowing native submersed aquatic plants to germinate and thrive. This ecological shift improves water quality through better nutrient cycling and enhances vital fish habitats, supporting the DNR's long-term goal of maintaining healthy aquatic ecosystems state-wide.

Under this agreement, the DNR will supply the aquatic-labeled glyphosate and surfactant, while Aquatic Control Inc. will be responsible for proper application using drone-based and shallow-water technologies. The project is scheduled to run from July 10, 2026, to October 30, 2026. Aquatic Control Inc. was selected based on their extensive experience and proven track record, having successfully completed similar airboat projects at Carter Lake, Lake Manawa, and Lake MacBride, as well as providing reliable aquatic herbicide application across various state and county lakes over the past several years.

**Selection Process Summary:** The Department solicited proposals from targeted small businesses and also published a request of proposals (RFP) on the Department of Administrative Services website.

**Criteria Reviewed:** Three DNR employees reviewed both proposals and independently scored them using the following criteria:

- **Cost. (20 Points)**
- Respondent's professional experience, performance record, and letter(s) of reference. **(15 Points)**
- Compliance and thoroughness of Respondent's response to RFP Technical Proposal. **(15 Points)**
- The capacity of the Respondent and Project Team to complete responsibilities described in the Statement of Work. **(10 Points)**
- Respondent's work plan to complete responsibilities described in the Statement of Work. **(10 Points)**
- Respondent's proposed implementation timeline to complete responsibilities described in the Statement of Work. **(15 Points)**
- Respondent's actual examples provided to the DNR with Proposal of Respondents previous or current work from customers or clients similar to the goods and/services sought in the Statement of Work. **(5 Points)**
- Equipment available for this project. **(10 points)**

**Proposal Due Date:** May 15, 2026

**# of Proposals Received:** 2

**Recommendation:** Aquatic Control Inc.

Aquatic Control Inc.	Mid Iowa Fountain Services/Fortis Aerial
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Joe Larscheid, Fisheries Bureau, Bureau Chief

Jason Euchner, Fisheries Bureau, Aquatic Plant Management Biologist

Conservation and Recreation Division

NRC Meeting Date: July 9, 2026