

**STATE OF ARKANSAS  
DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES  
OFFICE OF STATE PROCUREMENT  
RULE GOVERNING TIME PERIOD FOR SUBMISSION OF RESOLUTION OF  
PROTESTED SOLICITATIONS AND AWARDS**

**MARK-UP OF RULE**

R2:19-11-244.3. Time Periods for Submission. There are two types of protests permitted under Ark. Code Ann. § 19-11-244: (i) a protest in connection with the solicitation of a contract; and (ii) a protest in connection with the award of a contract. To be timely, a protest, must be Submitted in writing to the State Procurement Director or the head of the procurement agency conducting the procurement:

(a) at least seventy-two (72) hours before the deadline for submitting a response to the solicitation, if it is a protest in connection with the solicitation of a contract; or

(b) within fourteen (14) calendar days after the award or notice of anticipation to award has been posted. ~~In the event that both a notice of anticipation to award and an award have been posted, the protest shall be submitted in writing within fourteen (14) calendar days of whichever occurred~~ occurs first.

## FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Transformation and Shared Services

DIVISION Office of State Procurement

PERSON COMPLETING THIS STATEMENT Anthony W. Black

TELEPHONE NO. 324-9316

FAX NO. (501) 324-9311

EMAIL: anthony.black@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE**

Rule Governing Time Period of Submission for Resolution of Protested Solicitations and Awards, R:2, 19-11-244.3

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0.00

Total \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0.00

Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00

\$ 0.00

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6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00

\$ 0.00

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7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?  
Yes ☐ No ☒ See attached for supplemental response to the following questions

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

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**RULE SUMMARY**

**Purpose of Rule:** The proposed rule amendment clarifies the time period in which a protest shall be submitted for solicitations and awards under Arkansas Procurement Law. \_\_\_\_\_

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**Reason for Creating or Amending the Rule:** The proposed amended rule clarifies the requirement that resolution of protested solicitations and awards be submitted in writing within fourteen (14) days calendar days after the calendar day on which the contract is awarded or the notice of anticipation to award the contract is posted, whichever occurs first.

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**How does the Rule deviate from the Act:** The proposed amendment to the rule clarifies with further specificity the time in which protests of solicitations of contracts and award of contracts must be submitted.

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**Rule Based on a Rule From Different Jurisdictions:** ☐ Yes ☒ No **Jurisdictions:** \_\_\_\_\_

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**Short Summary of New Rule or Rule Changes:** (explain in greater detail in your executive summary)

The proposed amendment to R:2,19-11-244.3 establishes that protested solicitations and awards shall be submitted in writing within fourteen (14) calendar days after the calendar day on which the contract is awarded or the notice of anticipation to award the contract is posted, whichever occurs first. \_\_\_\_\_

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**Applicable Federal Regulations:** ☐ Yes ☒ No **C.F.R. No:** \_\_\_\_\_

**Proposed Rule the Least Restrictive Alternative:** ☒ Yes ☐ No. **If not, why?** \_\_\_\_\_

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**Does it Mirror Federal Regulations or Impose Additional Requirements:** ☐ Yes ☒ No

**Explain:** \_\_\_\_\_

**Note: In addition to these explanations, the Department/Agency seeking to promulgate this rule shall submit the attached executive summary. Failure to include the summary will result in the rule being denied.**

**Rule Controversial:** ☐ Yes ☒ No **Act Controversial in Legislative Session:** ☐ Yes ☒ No

**Known Interested Parties:** Vendors submitting responses to state procurement solicitations.

**Comments Made at Legislative Session:** None known. \_\_\_\_\_

**Public Hearing:** ☒ Yes ☐ No **Expect public comment from:** Unknown at this time. \_\_\_\_\_

**FINANCIAL IMPACT**

**Financial Impact:** ☐ Yes ☒ No **Total Impact:** FY2020: 0.00 \_\_\_\_\_ FY2021: 0.00 \_\_\_\_\_

**Impact Mitigated by Federal Funding:** ☐ Yes ☒ No FY2020: \_\_\_\_\_ FY2021: \_\_\_\_\_

**Reasons for Financial Impact:** \_\_\_\_\_

**FINAL CHECKLIST**

Please note that the Governor's office will not begin the approval process of the foregoing rule if any of the following applicable documents are not enclosed in the order listed in a single PDF file.

- X Rule Request Form
- X Executive Summary
- X Mark-Up Version of the Proposed Rule
- X Clean Version of the Proposed Rule
- X BLR Questionnaire
- X BLR Financial Impact Statement
- X Copy of Act or Regulation



## Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Arkansas Department of Transformation and Shared Services is considering a repeal of the following Rules: Rule 2014-1 State Employee Dispute Resolution Appeal Rules and Procedures; Standard Statement – Data and System Security; Standard Statement – Domain Name Service (DNS) Resolution; Standard Statement – Machine Readable Privacy Policy; Standard Statement – Physical and Logical Security; Standard Statement – Spyware Scanning; and Standard Statement – Subdomains of Arkansas.gov and AR.gov. The Department is also considering amendments to the Rule Governing Time Period of Submission for Resolution of Protested Solicitation and Awards. A public hearing will be held on October 26, 2021, at 1:30pm in the Timberlands Conference Room, 501 Woodlane Avenue, Suite 500, Little Rock, AR 72201. Written comments should be mailed to TSS, Attn: Public Comments at P.O. Box 3522, Little Rock, AR 72203. Comments may also be e-mailed to [TSS.RulesComments@arkansas.gov](mailto:TSS.RulesComments@arkansas.gov). Copies of the proposed rule may also be obtained from the Department of Transformation and Shared Services, 501 Woodlane Avenue, Suite 101-N, Little Rock, AR 72201, or by accessing the Department's website at <https://www.transform.ar.gov/secretarys-office/legal/rules-hearings/>.

## Anthony Black

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**From:** Jennifer Davis (DIS)  
**Sent:** Friday, October 8, 2021 10:12 AM  
**To:** Jennifer Elkins; Anthony Black  
**Subject:** RE: Notice of Rulemaking

Below is the confirmation of the newspaper run dates. 30 days from the first date of publication is November 9 for closure of the public comment period. That should still give us time to submit the final package to BLR for inclusion on the December ALC.

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**From:** legalads@arkansasonline.com <legalads@arkansasonline.com>  
**Sent:** Friday, October 8, 2021 9:51 AM  
**To:** Jennifer Davis (DIS) <Jennifer.Davis@arkansas.gov>  
**Subject:** Re: CORRECTED: RE: Notice of Rulemaking

Thanks. Will run Sun 10/10, Mon 10/11, and Tues 10/12.

Thank you.

Gregg Sterne, Legal Advertising  
Arkansas Democrat-Gazette

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**From:** Jennifer Davis (DIS)  
**Sent:** Friday, October 8, 2021 9:09 AM  
**To:** legalads@arkansasonline.com  
**Subject:** Notice of Rulemaking

Greetings,

Please run the attached Notice of Rulemaking for 3 consecutive days as soon as possible, but including Sunday as one of the three days. The billing address is the Arkansas Department of Transformation and Shared Services, PO Box 3522, Little Rock, AR 72203.

If you have any questions, please contact me at 501-683-1672.

Please confirm the dates in which the notice will run.

Thank you,  
Jennifer



**Jennifer Davis**  
Staff Attorney & Chief Privacy Officer  
Transformation and Shared Services  
o. 501.683.1672  
[jennifer.davis@arkansas.gov](mailto:jennifer.davis@arkansas.gov)



# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
John Thurston  
500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



Name of Department Department of Transformation and Shared Services

Agency or Division Name Office of State Procurement

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person Anthony W. Black

Contact E-mail anthony.black@arkansas.gov

Contact Phone 501-682-1011

Name of Rule Rule Governing Time Period of Submission for Resolution of Protested Solicitations and Awards

Newspaper Name Arkansas Democrat-Gazette

Date of Publishing October 10, October 11, and October 12, 2021

Final Date for Public Comment November 9, 2021, at 4:30 p.m.

Location and Time of Public Meeting October 26, 2021 at 1:30 p.m. in Ouachita Meeting Room, 501 Woodlane (Rockefeller Building)