

CHAPTER 6
CONTRACTS FOR PUBLIC IMPROVEMENTS
AND PROFESSIONAL SERVICES

27—6.1(17A,161A,159,207,208) Contract policy.

6.1(1) All public improvements and professional services contracts with the division shall be awarded on a competitive basis to the maximum practical extent. All contracts shall be in written form and signed by the administrator.

6.1(2) Exceptions for compliance with federal rules and guidelines. Whenever adherence to these contracting procedures would result in the loss of federal aid for any public improvement project or professional services project, the applicable rules or guidelines shall be followed to the extent necessary to qualify for the federal funds.

PUBLIC IMPROVEMENTS

27—6.2(17A,26,161A,159,207,208) Contracts for public improvements.

6.2(1) Definition. As used in these rules, “public improvement” means any building or construction work, including abandoned mined land reclamation and maintenance, to be paid for in whole or in part by the use of state funds. Iowa Code section 73A.21, relating to reciprocal resident bidder preference, shall apply to division contracts for public improvements.

6.2(2) Invitation for bids. When the total estimated cost of a public improvement project exceeds the sum of \$100,000, the division shall advertise for sealed bids by posting a notice of “Invitation for Bids” on the department’s Web site, a relevant contractor plan room service with statewide circulation and a relevant construction lead generating service with statewide circulation not less than 13 days prior to the date set for receiving bids. Plans, specifications and the contract form shall be provided to all prospective bidders as provided in the invitation for bids.

6.2(3) Invitation for bids. The invitation for bids must state the following items:

- a. The time and place for filing sealed proposals.
- b. The time and place sealed proposals will be opened and considered on behalf of the division.
- c. The location and general nature of the public improvement on which bids are requested.
- d. The general terms when the work must be commenced and when it must be completed.
- e. Any further information or requirements which the division deems pertinent or advisable.

All sealed bids shall be publicly opened as specified in the invitation to bidders. The bids shall be tabulated and made available in a written form to any interested party.

6.2(4) Solicitation of quotations. Competitive quotations may be solicited on public improvement projects estimated by the division to cost less than \$100,000. At least three quotations shall be solicited unless there are an insufficient number of local, qualified contractors interested in the project.

6.2(5) Failure to receive a qualified bid or quotation. In the event that no qualified sealed bids or quotations are received, the division may negotiate a contract with a qualified contractor.

6.2(6) Exceptions to the requirement for bids or quotations. The administrator may authorize the negotiation of a contract for a public improvement project without first soliciting quotations or advertising for bids under the following circumstances.

- a. If the contemplated project involves the provision of utility services or the construction of a utility system and it would not be practicable to allow someone other than the utility company to perform the work.
- b. Where competition is precluded because of patent rights, secret processes, or control of basic raw materials.
- c. Where the project involves work of such a specialized nature that only one firm or person can reasonably be expected to accomplish it.
- d. Where the service or product is provided by a nonprofit private corporation, a government body or an educational institution.

e. When emergency repair of a public improvement is necessary and delay for advertising or solicitation of quotations might cause serious loss or injury to the state.
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PROFESSIONAL SERVICES

27—6.3(17A,161A,159,207,208) Contracts for professional services.

6.3(1) *Professional services defined.* The term “professional services” shall include planning, design, architectural, engineering, landscape architecture, land surveying, land appraising, consulting, legal and management review services.

6.3(2) *Notification of professional firms or individuals.*

a. List of professionals. The division shall keep a file of professional firms and individuals that have submitted a statement of qualifications and have indicated an interest in providing services. When the division determines professional services are needed, the division shall notify those professional firms or individuals which appear to be qualified to perform the particular services needed. The division shall periodically poll the list of firms and individuals regarding their continued interest and update the statements of qualifications as appropriate.

b. Solicitation of professionals. Firms or individuals may be invited to notify the division of their interest in and capabilities for providing needed professional services if the division determines a new type of professional services is needed. Such firms or individuals shall be informed by advertisement in at least one newspaper of statewide circulation and such other means as may be appropriate. The firms or individuals shall be requested to provide information relative to the number, qualifications, and experience of their professional and technical staff; their performance record for timeliness, quality, and project management; their geographical location; and any specialized expertise which may be appropriate.

6.3(3) *Selection of firm or individual.*

a. For any contract for professional services estimated to cost less than \$10,000, the division may select a firm or individual and negotiate a professional services contract. The bureau chief or division administrator shall prepare a memorandum for the project file stating the reasons why that particular firm or individual was selected. However, quotations may be solicited if it is in the best interest of the state.

b. For contracts estimated to exceed \$10,000, at least five firms or individuals who have submitted statements of qualifications shall be invited to submit proposals for the performance of the needed services unless fewer than that number have indicated the availability, capability or willingness to perform the desired service. The proposals submitted shall be reviewed, and members of the firms or individuals may be interviewed by a division selection committee established by the administrator. At least two-thirds of the selection committee shall be composed of individuals not responsible for the contract administration. This committee shall evaluate each proposal relative to the following criteria:

- (1) Sufficiency of professional and technical staff to meet the project schedule and work requirements.
- (2) Performance records for timeliness, quality and project management.
- (3) Geographical location.
- (4) Specialized expertise.
- (5) Proposed method of accomplishing the desired service.
- (6) Total estimated cost.

After evaluating the proposals, the committee shall submit a written recommendation to the administrator.

c. Upon the acceptance of a proposal by the administrator, the total estimated cost shall become the maximum contract cost which shall not be increased, except to the extent that a contract amendment increases the objectives and scope of services. Such increase in scope shall be limited to the type of services for which the contract was initially established.

d. When a project requiring professional services is divided into several phases, the selection of a professional firm or individual for the first project phase may be accomplished in the manner prescribed above. The contract cost for subsequent phases may be established later by negotiation.

The proposals shall also contain a schedule of hourly rates for professional services. These fee schedules and associated costs shall be submitted as directed by the division.

e. The administrator may authorize the negotiation of a contract without solicitation of quotations or advertising for proposals if the service is to be provided by another governmental entity or educational institution or nonprofit corporation, or if the service is of a specialized nature where only one firm or individual can reasonably provide the service, or where delay for solicitation of quotations or advertisements for proposals might reasonably be expected to result in serious loss or injury to the state.

27—6.4(17A,159,161A,207,208) Approval and award of contracts.

6.4(1) *Contract approval.* All contracts for public improvement or professional services shall be signed by the administrator.

6.4(2) *Contract award.* The contract shall be awarded to the firm or individual whose bid or proposal is believed to be the most advantageous to the state. Bids or proposals may be rejected if they do not appear to be reasonable or if there is reason to believe that the firm or individual is not sufficiently qualified to accomplish the desired work or service.

6.4(3) *Change orders and extra work orders.* All change orders and extra work orders shall be signed by the administrator before the work or service is performed, except in emergency situations, or where such approval would result in unreasonable delay.

These rules are intended to implement Iowa Code chapters 17A, 159, 161A, 207 and 208 and Iowa Code section 26.3.

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