

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, and 314.1A, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 180, “Public Improvement Quotation Process for Governmental Entities,” Iowa Administrative Code.

The proposed amendments make the following changes to Chapter 180:

- Item 1 updates the title of Chapter 180 to add reference to vertical infrastructure. Item 2 makes changes to the rule explaining the purpose of the chapter to more accurately correspond to the content in Chapter 180. Items 1 and 2 clarify that the chapter affects competitive quotations for public improvement contracts for vertical infrastructure.

- Item 3 updates the contact information to correct the name of the office responsible for this chapter and to add a telephone number for the Office of Support Services.

- Item 4 adds a reference to Iowa Code chapter 26, Public Construction Bidding, to a parenthetical implementation statute and revises the definitions of “estimated total cost of a public improvement,” “governmental entity,” “public improvement,” and “repair or maintenance work” to refer to the definitions in Iowa Code section 26.2. The definitions within Iowa Code section 26.2 will be the definitions the Department uses in these rules for these specific terms.

- Item 5 updates the Department’s Web site reference. The Department’s main Web site address is used instead of a more specific link that may change. This Web site reference is consistent with changes made in other Department chapters.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Operations and Finance Division, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us).
5. Be received by the Department’s rules administrator no later than September 19, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, September 21, 2017, at 10 a.m. in the Administration Building, First Floor, South Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 26.2, 26.14, 314.1A and 314.1B.

The following amendments are proposed.

ITEM 1. Amend **761—Chapter 180**, title, as follows:

**PUBLIC IMPROVEMENT QUOTATION PROCESS FOR GOVERNMENTAL ENTITIES FOR VERTICAL INFRASTRUCTURE**

ITEM 2. Amend rule 761—180.1(314) as follows:

**761—180.1(314) Purpose.** The purpose of these rules is to prescribe the manner by which governmental entities shall administer competitive quotations for public improvement contracts for vertical infrastructure, in accordance with Iowa Code section 26.14.

ITEM 3. Amend rule 761—180.2(314) as follows:

**761—180.2(314) Contact information.** Questions regarding this chapter may be directed to the Office of Facilities Support Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1299.

ITEM 4. Amend rule 761—180.3(314) as follows:

**761—180.3(314) Definitions.**

*“Estimated total cost of a public improvement”* means ~~the estimated total cost to the governmental entity to construct a public improvement, including the cost of labor, materials, equipment, and supplies, but excluding the cost of architectural or engineering design services and inspection as defined in Iowa Code section 26.2.~~

*“Governmental entity”* means ~~the state, political subdivisions of the state, public school corporations, and all officers, boards, or commissions empowered by law to enter into contracts for the construction of public improvements, excluding the state board of regents and the state department of transportation as defined in Iowa Code section 26.2.~~

*“Public improvement”* means ~~a building or construction work which is constructed under the control of a governmental entity and is paid for in whole or in part with funds of the governmental entity, including a building or improvement constructed or operated jointly with any other public or private agency, but excluding urban renewal demolition and low rent housing projects, industrial aid projects authorized under Iowa Code chapter 419, emergency work or repair or maintenance work performed by employees of a governmental entity, and excluding a highway, bridge, or culvert project, and excluding construction or repair or maintenance work performed for a city utility under Iowa Code chapter 388 by its employees or performed for a rural water district under Iowa Code chapter 357A by its employees as defined in Iowa Code section 26.2.~~

*“Repair or maintenance work”* means ~~the preservation of a road, street, bridge, culvert, storm sewer, sanitary sewer, or other public facility (vertical infrastructure) so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility to its original condition with the same design as defined in Iowa Code section 26.2.~~

*“Responsible quotation”* means a quotation submitted by a contractor who is capable of performing the work. To be considered responsible, the contractor must possess the necessary financial and technical capability to perform the work, as well as the ability to complete the work as demonstrated by past performance or other appropriate considerations.

*“Responsive quotation”* means a quotation in which the contractor agrees to do everything required by the governmental entity’s solicitation of quotations and by the plans and specifications and other related documents, without any conditions, qualifications or exclusions.

*“Vertical infrastructure”* means buildings, all appurtenant structures, utilities, incidental street improvements including sidewalks, site development features, recreational trails, and parking facilities. Vertical infrastructure does not include any work constructed in conjunction with or ancillary to highway, street, bridge or culvert projects, including but not limited to utilities and sidewalks.

ITEM 5. Amend subrule 180.5(1) as follows:

**180.5(1)** A governmental entity shall solicit competitive quotations for a public improvement when the estimated total cost of the public improvement exceeds the competitive quotation threshold established in Iowa Code section 26.14, as adjusted pursuant to Iowa Code section 314.1B, but is less than the competitive bid threshold established in Iowa Code section 26.3, as adjusted pursuant to Iowa Code section 314.1B. The adjusted thresholds are published on the ~~following Web~~

site: ~~[http://www.iowadot.gov/local\\_systems/publications/bid\\_limits.htm](http://www.iowadot.gov/local_systems/publications/bid_limits.htm)~~ department's Web site at [www.iowadot.gov](http://www.iowadot.gov).