

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to the quotation process for governmental entities for public improvement for vertical infrastructure and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 180, “Public Improvement Quotation Process for Governmental Entities for Vertical Infrastructure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 314.1A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 26.2 and 314.1A.

Purpose and Summary

The proposed amendments add a new definition of “public improvement for vertical infrastructure” and remove unneeded definitions for “public improvement” and “repair or maintenance work” because the terms are no longer used within Chapter 180. The title of the chapter and wording within the chapter are proposed to be amended to coordinate with the changes made to the definitions. Also, rule 761—180.4(314) is proposed to be rescinded; this rule is no longer needed because of the other changes being made.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 25, 2022. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on October 28, 2022, via conference call at 9 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on October 25, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

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

**PUBLIC IMPROVEMENT QUOTATION PROCESS FOR GOVERNMENTAL ENTITIES FOR
PUBLIC IMPROVEMENT 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 contracts pertaining to a public improvement ~~contracts~~ for vertical infrastructure, in accordance with Iowa Code section 26.14.

ITEM 3. Amend rule 761—180.3(26,314) as follows:

761—180.3(26,314) Definitions.

~~“Estimated total cost of a public improvement”~~ means the same as defined in Iowa Code section 26.2.

~~“Governmental entity”~~ means the same as defined in Iowa Code section 26.2.

~~“Public improvement”~~ means as defined in Iowa Code section 26.2.

~~“Repair or maintenance work”~~ means 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 Public improvement for 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 those matters excluded from the definition of is a “public improvement” as defined in Iowa Code section 26.2(3)“a” and “b” but excludes those improvements in Iowa Code section 26.2(3)“b”(1) to (6).

ITEM 4. Rescind and reserve rule **761—180.4(314)**.

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

180.5(1) A governmental entity shall solicit competitive quotations for a public improvement for vertical infrastructure when the estimated total cost of the public improvement for vertical infrastructure 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 department's website at www.iowadot.gov.