

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Regulatory Analysis

Notice of Intended Action to be published: 27—Chapter 6
“Contracts for Public Improvements and Professional Services”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 161A
State or federal law(s) implemented by the rulemaking: Iowa Code section 26.3 and chapters 159, 161A, 207, and 208

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

July 14, 2026
9 to 10 a.m.

Borlaug Conference Room
Hoover State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Soil Conservation and Water Quality Division no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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1305 East Walnut Street
Des Moines, Iowa 50319
Email: colin.tadlock@iowaagriculture.gov

Purpose and Summary

The proposed rulemaking establishes rules for public bidding for outside consulting for professional technical services and for construction projects bid by the Division.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
 - **Classes of persons that will bear the costs of the proposed rulemaking:**
No costs are incurred by the public to comply with this proposed rulemaking.
 - **Classes of persons that will benefit from the proposed rulemaking:**
No persons will directly benefit from modifications to Chapter 6. Modifications will clarify public bidding requirements and establish clear thresholds for competitive solicitation of professional services and construction associated with soil conservation and water quality activities.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**
There will be no significant impact associated with this proposed rulemaking.
 - **Qualitative description of impact:**
There will be no significant impact associated with this proposed rulemaking.
3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Implementation costs associated with implementation of procurement rules for professional services are limited to a minor percentage of administrative costs associated with staff time to disseminate procurement materials, evaluate proposals, reward contracts, and develop contract documents.

- **Anticipated effect on State revenues:**

There will be no effect on State revenues in association with this proposed rulemaking.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Not applicable.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Not applicable.

6. Alternative methods considered by the agency:

- **Description of any alternative methods that were seriously considered by the agency:**

The Division considered making no changes to the existing rules.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Changes were made to existing rules to eliminate fixed cost estimate thresholds that trigger procurement requirements to indexed thresholds established by the state, which account for current economic conditions and reasonable procurement cost thresholds, balancing efficiency with fiscal stewardship.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking will have no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 27—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
CONTRACTS FOR PUBLIC IMPROVEMENTS
AND PROFESSIONAL SERVICES

27—6.1(17A,159,161A,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.

PART 1
PUBLIC IMPROVEMENTS

27—6.2(17A,26,159,161A,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 8A.311B, relating to reciprocal resident bidder preference, shall apply to division contracts for public improvements.

6.2(2) *Invitation for bids.* The division will solicit bids in accordance with Iowa Code section 26.3(1) and 26.3(2).

6.2(3) *Invitation for bids.* The division will accept bids that fall into accordance with Iowa Code sections 26.7(1) and 26.10(1).

6.2(4) *Solicitation of quotations.* The division will follow the competitive quotations process outlined in Iowa Code section 26.14 when applicable.

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.

PART 2
PROFESSIONAL SERVICES

27—6.3(17A,159,161A,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) *Prequalification of professional firms or individuals.*

a. The division shall prequalify professional firms or individuals interested in performing the types of professional services regularly required by the division and keep a current list of such firms

or individuals. Prequalification is not an award and does not create an obligation on behalf of the division.

b. An open invitation to qualify for the types of professional services required by the division shall be periodically advertised by posting to at least one relevant lead-generating service with statewide circulation, by posting to the department's webpage, and by such other means as may be appropriate. Interested firms or individuals shall be requested to provide a statement of qualifications, including but not limited to information relative to the number, qualifications, and experience of their professional staff and any specialized expertise that may be appropriate. Statements of qualifications shall be evaluated by a committee of at least three individuals established by the administrator. Following evaluation, the committee shall submit a decision recommendation to the administrator.

c. Prequalified firms or individuals shall be required to maintain eligibility requirements established by the division. Unless such eligibility requirements fail to be maintained, prequalified firms or individuals will remain qualified for a period of up to six years.

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 prequalified 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, proposals may be solicited if it is in the best interest of the state.

b. For contracts estimated to exceed \$10,000, prequalified firms or individuals shall be invited to submit proposals for the performance of the needed services. 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 criteria established by the division, which may include but not be limited to:

- (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) Specialized expertise.
- (4) Proposed method of accomplishing the desired service.

After evaluating the proposals, the committee shall submit a written recommendation of the most qualified firm or individual to the administrator.

c. The administrator shall accept the recommendation and enter into contract negotiations with said firm or individual. 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.

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 advertisings 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 section 26.3.