

# Efficiencies of Design-Bid-Build

State Government Efficiency Review Committee

Thursday, October 29, 2015

2:30 p.m. – Iowa State Capitol - Room 116

## Introductions

- Doug Struyk - Legal Counsel - Iowa Competitive Bidding Alliance
- Harold Pike - General Contractor - Iowa Competitive Bidding Alliance
- Edd Soenke – Architect - Iowa Competitive Bidding Alliance
- Dave Scott - Government Relations - American Council of Engineering Companies

## Opening Remarks by Harold Pike

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## The key points of our presentation today:

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- Design-Bid-Build an efficient way to construct public improvements while protecting the taxpayer with a clear, open, and transparent process.
- Design-Build is less efficient, is less transparent, it excludes bidders, and is open to manipulation by contractors and government entities.
- The Board of Regents is not following Iowa Code when constructing public improvements with Design-Build and Construction Manager at Risk.

To understand competitive bidding and efficiencies, we must understand the laws governing competitive bidding and the basis for those laws.

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Competitive bidding in granting public improvement contracts is for the protection of the public. *Istari Construction, Inc. v. City of Muscatine*, 330 N.W.2d 798, 800 (Iowa 1983); 1983 Op.Att'y Gen. 57, 61.

Competitive bidding for public improvements is primarily governed by Iowa Code chapter 26\*.

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\*There are also other code sections that address competitive bidding in specific situations in addition to Iowa caselaw that applies to all competitive bidding.

## What is Competitive Bidding in Iowa? Richard H. Lytle AG Opinion 94-4-2

The general rule on competitive bidding is as follows:

- Public authorities cannot lawfully ask each bidder to make his own plans and specifications and to base his bid thereon, and then, after the bids are received, adopt one of the offered plans with its specifications and accept the accompanying bid. Such a procedure would be destructive of competitive bidding and would give public officials an opportunity to exercise favoritism in awarding contracts. A contract cannot be said to have been let to the lowest and best bidder unless all bidders have been invited to bid upon the same specification.

64 Am. Jur. 2d Public Works and Contracts § 50, at 901-02 (1972).

## What is Competitive Bidding in Iowa? Richard H. Lytle AG Opinion 94-4-2

- Competitive bidding in granting public improvement contracts is for the protection of the public. *Istari Construction, Inc. v. City of Muscatine*, 330 N.W.2d 798, 800 (Iowa 1983); 1983 *Op. Att'y Gen.* 57, 61. To allow truly competitive bidding, the proposed plans and specifications on file for the project should be prepared by a disinterested competent engineer and available for inspection by interested parties and all bidders. *Northwestern Light & Power Co. v. Town of Grundy Center*, 220 Iowa 108, 261 N.W. 604, 609-10 (1935). The plans and specifications should be sufficiently specific in accordance with established and recognized standards to enable all bidders to bid upon the same identical proposition. *Id.* It is the duty of bidders to base their bids on the plans and specifications on file. *Brutsche v. Incorporated Town of Coon Rapids*, 220 Iowa 1295, 264 N.W. 696, 698 (1936).

Iowa Code section 26.3(1) – in part  
Competitive bids for public improvement contracts.

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- If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars, or the adjusted competitive bid threshold established in section 314.1B, the governmental entity shall advertise for sealed bids for the proposed public improvement by publishing a notice to bidders.

Iowa Code section 26.3(2) – in part  
Competitive bids for public improvement contracts.

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- A governmental entity shall have an engineer licensed under chapter 542B, a landscape architect licensed under chapter 544B, or an architect registered under chapter 544A prepare plans and specifications, and calculate the estimated total cost of a proposed public improvement.

## Iowa Code section 26.7(1) Notice to bidders.

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The notice to bidders shall adequately notify a potential bidder of a proposed bid and shall include 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 governmental entity.
- c. The general nature of the public improvement on which bids are requested.
- d. In general terms, when the work must be commenced and completed.
- e. That each bidder shall accompany the bid with a bid security as defined in section 26.8 and as specified by the governmental entity.
- f. Any further information which the governmental entity deems pertinent.

## Iowa Code section 26.9 – in part Award of contract.

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- The contract for the public improvement **must be awarded to the lowest responsive, responsible bidder.**

## Iowa Code section 26.10(1)

### Opening and considering bids.

- The governmental entity shall open, announce the amount of the bids, and file all proposals received, at the time and place specified in the notice to bidders. **The governmental entity may, by resolution, award the contract for the public improvement to the bidder submitting the lowest responsive, responsible bid, determined as provided in section 26.9, or the governmental entity may reject all bids received,** fix a new date for receiving bids, and order publication of a new notice to bidders.

## Competitive Bidding in Iowa is Design – Bid - Build

- Governmental entity solicits architects, engineers or landscape architects (design professional) through a Request for Interests and Qualifications
- Selects design professional
- The design professional prepares a design and construction documents
- The governmental entity advertises for bids based upon the construction documents
- The governmental entity awards the contract to the lowest responsive, responsible bidder(s)
- Winning bidder performs the work contracted for with the governmental entity
- Design professional continually inspects the job site for compliance with the contract and the construction documents

## What is the Bidding Process used by the Iowa Board of Regents???

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Iowa State University Capital Planning Process

[http://www.fpm.iastate.edu/planning/capital\\_planning\\_process/](http://www.fpm.iastate.edu/planning/capital_planning_process/)

## ISU Capital Planning Process: Design Architect Selection

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- Following completion of the Building Program, and complying with the Board of Regents Procedural Guide, Facilities Planning administers the selection of the project architect. An advertisement is placed in the Des Moines Register and the Iowa Chapter of the American Institute of Architects is notified of the university's readiness to receive letters of interest and qualification materials from firms interested in providing design services for the project. From the responses, the architect selection committee chooses a short-list of firms (usually three to five) that have the best experience and ability for further consideration.
- The architect's basic services are carried out in five phases as described later in this report:
  - Schematic Design
  - Design Development
  - Construction Documents
  - Bidding
  - Construction Administration

## ISU Capital Planning Process: Design Construction Delivery Method

- Early in the design phase, decisions must be made on the delivery system that will be utilized to construct the planned facility. Generally, the delivery systems that are available to public projects in Iowa utilize procurement by the conventional design-bid-build process and are either (1.) contracted with a single prime contract or (2.) multiple prime contracts.
- An alternative to the conventional procurement method, which has been infrequently used by ISU, is design-build. This method of procurement is at its greatest advantage when the owner can award the design-build contract on factors other than cost, i.e. quality of design. In accordance with State of Iowa bidding requirements, the university must contract with the lowest responsible bidder, thereby negating the possibility of awarding to the best design-for-the-cost. Under these requirements, it is difficult to develop a set of project requirements that ensure the quality of the low bid design will meet the university's needs.
- The decision on which delivery system to use is made by Facilities Planning with input from the client, architect, and consultants, Associate Vice President for Facilities, and other appropriate university parties. This decision is made based on a number of factors including the individual characteristics of the project, the project size, the required construction schedule, and the current state of the construction market in Iowa.

## ISU Capital Planning Process: Design Project Design – Schematic Design

### Schematic Design

- This is the first phase of the Basic Services provided by the architect to the project. Development during this phase involves meetings with the Planning Committee and other university representatives to study and analyze the project requirements. From these meetings and the Building Program, the architect prepares schematic design studies consisting of drawings and other documents illustrating the scale and relationship of project components, including such considerations of structure and materials as may be appropriate at this time. The objective at this stage is to clarify the Building Program, explore the most promising alternative design solutions, and provide a reasonable basis for analyzing the cost of the project. The architect is expected to continue generating studies until they arrive at a clearly defined, feasible concept that meets the project requirements and is approved by the project manager.

## ISU Capital Planning Process: Design Project Design – Design Development

### Design Development

- During design development, the design team works out a clear, coordinated description of all aspects of the design. This typically includes fully developed floor plans, sections, exterior elevations, and for particular areas or aspects of the building, interior elevations, reflected ceiling plans, wall sections, and key details. These items are worked out at a scale that minimizes the possibility of major modifications during the construction documents phase. **These drawings become the basis for the construction documents that follow. The basic mechanical, electrical, plumbing, and fire protection systems are also accurately defined if not fully drawn. All major issues that could cause significant restudy during the construction documents phase should be resolved before the end of the design development phase.**

## ISU Capital Planning Process: Design Project Design – Construction Documents

### Construction Documents

**The construction documents phase includes the preparation of working drawings and specifications describing in technical detail the construction contract work to be done.** This includes the materials, equipment, workmanship, and finishes required for architectural, structural, mechanical and electrical work, and related site work, utility connections, and special equipment. **The architect is responsible for developing the technical specifications and drawings necessary for relaying this information.**

## ISU Capital Planning Process: Construction Bidding and Award

Every project manual contains the Board of Regents standard bidding and construction documents. The documents include the following:

- Advertisement for Bids
- Instructions to Bidders
- Form of Bid
- Bid Bond
- Equal Employment Opportunity Data Reporting Form and Certificate of Reporting
- Targeted Small Business Contract Form and Participation Form
- Certified Targeted Small Business Directory
- Form of Agreement Between Owner and Contractor
- Contract Performance and Payment Bond Form
- General Conditions of the Contract
- Supplementary Conditions
- Special Conditions

• On bid day, a representative from Facilities Planning opens and reads the bids at a public opening.

• After the bid opening, the bids are reviewed and a determination is made as to whether a recommendation for award of contract will be made to the low bidder. The following items may be considered:

- Are the bids within the budget?
  - How many bids were received? Was there adequate competition in the bidding?
  - How close were the bids to the estimate?
  - Does the bid amount fairly represent the project scope?
  - Is the low bidder qualified to do the project?
- The review of the bids will generally include the client, the architect, and Facilities Planning staff. In some cases, consultation with the Vice President for Business and Finance or with the Board Office may be required.

## Analysis of the ISU Capital Planning Process

- The ISU planning process outlines very clearly the Design - Bid - Build (DBB) process.
- ISU DBB clearly recognizes the importance of the architects and engineers in the development of plans, monitoring the construction, and final acceptance of the work.
- With ISU DBB the construction plans are provided to interested bidders so that all bids are based on the same specifications.
- With ISU DBB work is let to the lowest responsible, responsive bidder.

## Iowa Code section 26.2(2)

### Definitions

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- “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.**

## Iowa Code section 262.34(1)

Improvements - advertisement for bids - disclosures - payments.

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- When the estimated cost of construction, repairs, or improvement of buildings or grounds under charge of the state board of regents exceeds one hundred thousand dollars, **the board shall advertise for bids for the contemplated improvement or construction and shall let the work to the lowest responsible bidder. However, if in the judgment of the board bids received are not acceptable, the board may reject all bids and proceed with the construction, repair, or improvement by a method as the board may determine.** All plans and specifications for repairs or construction, together with bids on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under this section shall be accompanied by a deposit of money, a certified check, or a credit union certified share draft in an amount as the board may prescribe.

## ISU Capital Planning Process: Design Construction Delivery Method

- **Early in the design phase**, decisions must be made on the delivery system that will be utilized to construct the planned facility
- An alternative to the conventional procurement method, which has been infrequently used by ISU, is design-build. **This method of procurement is at its greatest advantage when the owner can award the design-build contract on factors other than cost, i.e. quality of design. In accordance with State of Iowa bidding requirements, the university must contract with the lowest responsible bidder, thereby negating the possibility of awarding to the best design for the cost.** Under these requirements, it is difficult to develop a set of project requirements that ensure the quality of the low bid design will meet the university's needs.
- **The decision on which delivery system to use is made by Facilities Planning** with input from the client, architect, and consultants, Associate Vice President for Facilities, and other appropriate university parties. This decision is made based on a number of factors including the individual characteristics of the project, the project size, the required construction schedule, and the current state of the construction market in Iowa.

## The Function of Iowa Code section 262.34(1)

1. Does the estimated cost of construction exceed \$100,000?
  - a. No, then competitive bidding is not necessary
  - b. Yes, then the Board shall advertise for bids for the contemplated improvement
2. Board receives bids on the contemplated improvement
  - a. The Board shall let the work to the lowest responsible bidder, **OR**
  - b. If in the judgment of the Board bids received are not acceptable, the Board may reject all bids
3. **If the Board rejects all bids**
  - a. **Board may rebid, or**
  - b. **Proceed with a method as the Board may determine**

## The Function of Iowa Code section 262.34(1)

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4. If the Board decides to proceed by another method it **must** rebid the project and may select another method.
  - a. Design Build
    - i. **Phase I**
      - i. Following the review, evaluation, and rating of these proposals, the Owner intends to **select** not less than two (2) and not to exceed five (5), of the highest rated contractors to receive a Phase II Request For Proposal (RFP).
    - ii. **Phase II**
  - b. Construction Management (CM)
    1. CM Agency
    2. CM at Risk

## Are the Regents Complying with 262.34?

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- What are the Regents advertising for when they start the process?
- What is the responding contractor bidding on or to? Is there a complete set of plans for the initial competitive bidding?
- Regents are making the determination to follow alternative delivery methods early in the process by their own words.
- They are not accepting bids, rejecting all bids, and then proceeding with another method as clearly articulated in the Code.

## Statutory Interpretation

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When confronted with the task of statutory interpretation, this court has stated:

The goal of statutory construction is to determine legislative intent. We determine legislative intent from the words chosen by the legislature, not what it should or might have said. Absent a statutory definition or an established meaning in the law, words in the statute are given their ordinary and common meaning by considering the context within which they are used. Under the guise of construction, an interpreting body may not extend, enlarge or otherwise change the meaning of a statute.

*Auen v. Alcoholic Beverages Div.*, 679 N.W.2d 586, 590 (Iowa 2004) (citations omitted).

## Statutory Interpretation

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The interpretation of a statute requires an assessment of the statute in its entirety, not just isolated words or phrases. *State v. Young*, 686 N.W.2d 182, 184–85 (Iowa 2004). Indeed, “we avoid interpreting a statute in such a way that portions of it become redundant or irrelevant.” *T & K Roofing Co. v. Iowa Dep't of Educ.*, 593 N.W.2d 159, 162 (Iowa 1999). We look for a reasonable interpretation that best achieves the statute's purpose and avoids absurd results. *Harden v. State*, 434 N.W.2d 881, 884 (Iowa 1989).

*State v. Gonzalez*, 718 N.W.2d 304, 307 (Iowa 2006)

## What is Competitive Bidding in Iowa? Richard H. Lytle AG Opinion 94-4-2

- There is no basis for competitive bidding where a successful bidder prepares the plans and specifications upon which that bidder submits a proposal, when those plans and specifications are not open to inspection nor available to other bidders. *Town of Grundy Center*, 220 Iowa at 120, 261 N.W. at 610. Such a procedure “would in effect abolish the rule entirely which requires competitive bidding” and would “open the door to fraud and favoritism, and in effect nullify the very purpose of the law requiring competitive bidding.” *Id.*

## What is Design Build?

- Design-Build is a project delivery method for which both design and construction services are provided under one contract. Design-Build services may include architecture, engineering, and related design services provided by a design profession required for a given project and the labor, materials, and other construction services for the project.

## What is Design Build?

- The Design-Build approach can take on a variety of forms. The preferred method in higher education is the Design-Build Bridging approach, under which the Owner first engages the services of a separate design firm to assist in the initial development of schematic design documents. When the schematic design documents are sufficiently developed, the project is submitted to a competitive bidding process where teams of designers and builders submit detailed proposals based on the initial schematic design documents. Evaluation of proposals occurs in stages, with the Owner first evaluating a team's credentials and quality of design using a point system. A sealed envelope containing the cost proposal is opened and the numbers are inserted into a weighted formula along with the design and qualifications points. Award is given to the firm that optimizes all evaluation criteria.

## What is Design Build?

- **Phase I** - Potential contractors shall submit their general information, relevant past performance, team experience & approach, project understanding & approach, project management, safety, and other factors or capability information for review and consideration by the Owner
  - Following the review, evaluation, and rating of these proposals, the Owner intends to select not less than two (2) and not to exceed five (5), of the highest rated contractors to receive a Phase II Request For Proposal (RFP).
- **Phase II** - Phase II Offerors shall provide a technical and cost proposal for consideration by the Owner. The Owner will review the technical and cost proposals of the Phase II Offerors. Evaluations will be conducted in general accordance with the evaluation criteria set out in Section 00120 – RFQ and RFP Evaluation and Basis for Award.

TABULATION OF		EXPLANATION:		
FBH Associates Incorporated 904 East Grand Ave. Des Moines, IA 50309		University of Iowa Facilities Management 200 University Services Building Iowa City, IA 52242		
Project Name: HAWKEYE TENNIS AND RECREATION COMPLEX - Indoor Turf Addition (RFQ/RFP)				
DATE OF BID	RFQ: 09252013	RFP: 07/16/2013		
PROJECT NUMBER: U of I	0365101			
NAME OF BIDDER	Estimate	Russell Construction Co. Inc. Davenport, IA	Carl A. Nelson and Company Burlington, IA	Weitz Company LLC Des Moines, IA
RTO Received		x	x	x
RFP Received		x	x	x
Technical Proposal Points (500 Max)	477.6	432.00	411.875	
Cost Proposal Points (500 Max)	500	500	500	
<b>TOTAL POINTS (1000 Max)</b>	<b>977.6</b>	<b>932.00</b>	<b>911.875</b>	
Cost Proposal:		\$15,680,000.00	\$11,850,000.00	\$10,351,000.00
APPROVED:	NOTES:			
University Business Manager	Date			
Bid Opened and Certified By: Sadie Greiner	Project Manager: Jan Harvey	Construction Manager: Afsha Schmitz		

TABULATION OF DESIGN/BUILD PROPOSALS:			
Project Name: BUCHANAN RESIDENCE HALL-BUILDING #2 (RFQ/RFP)		Iowa State University Facilities Planning and Management Ames, IA 50011-4001	
Due Dates of Proposals:	RFQ: 12/1/14	RFP: 3/2/15	
Project Number	CP002055		
PROPOSER NAME AND ADDRESS	Opus Design Build LLC 1820 NW 118th Street, Suite 150 Clive, IA 50325	Ryan Companies US, Inc. 14001 University Avenue, Suite 300 Clive, IA 50325	The Weitz Company LLC 5901 Thornton Avenue Des Moines, IA 50321
RFQ Received	X	X	X
RFP Received	X	X	X
Technical Proposal Points	379	347	368
Cost Proposal Points	400	389	389
<b>Total Proposal Points</b>	<b>779</b>	<b>736</b>	<b>757</b>
Bidder Status Form	X	-	-
EEO Forms	DR	DR	CR
TSB Form	X	-	X
Acknowledge Addendum (1-5)	X	X	X
Cost Proposal	\$38,950,000	\$40,000,000	\$40,000,000
	Awarded		
NOTES:	Design Build Project		

TABULATION OF		EXPLANATION:			
PEH Associates, Inc. 854 East Grand Ave. Des Moines, IA 50309 Project Name: Madison Street Residence Hall – Construct New Facility (RFQ/RFP)		University of Iowa Facilities Management 200 University Services Building Iowa City, IA 52242			
DATE OF BID	RFQ 11/15/2014 RFP 1/8/2015				
PROJECT NUMBER: U of I	0416801				
NAME OF BIDDER	Estimate	Miron Construction Co.	Wetzel Company, LLC.	Ryan Companies.	
LOCATION OF BIDDER		Cedar Rapids, IA	Des Moines, IA	Cedar Rapids, IA	
RFQ Received		x	x	x	
RFP Received		x	x	x	
Technical Proposal Points (500 Max)	463.69	447.22	405.69		
Cost Proposal Points (500 Max)	500	500	500		
	463.69	447.22	405.69		
Cost Proposal		\$77,999,997	\$78,000,000	\$78,000,000	
APPROVED:	NOTES: Design Build Project				
University Business Manager	Date				
RFQ Opened and Certified By: Sadie Grainer	Project Manager: Julie Chitupach	Construction	Alisha Schmitz		

## The Iowa Board of Regents Comments on Design-Bid-Build vs. Design Build

- Under the traditional design-bid-build method, factors such as quality of materials or work which is proposed to be furnished are typically not a consideration in the award process because the owner has provided detailed specifications, as part of the bidding documents.
- These factors become highly relevant when awarding a contracts using an alternative delivery method, because the owner provides conceptual plans, as opposed to detailed specifications, in advance of bidding with the expectation that bidders will draft a more detailed proposal to meet the owner's needs.

## Comparison of Relevant Factors

### Eight Public & Private Building Delivery Method Comparisons

Description		ADM
1 Schedule	Excellent	No Advantage
2 Budget	Meets or exceeds	Poor Track Record
3 Iowa Built	Uses In-State Companies	Track Record - Using Out of State Co's
4 Increase Competition	Uses multiple bidders	Track Record - Limited Bidders
5 Competitive Creativity	Excellent	Restricts Creativity
6 Locations	N/A	N/A
7 Non-Public Facility	N/A	N/A
8 Complexity	Determined by Bidders	Determined by Public Agency

## Comparison of Relevant Factors

### Seven Benefits of Public & Private Building Delivery Methods

Benefits		ADM
A. Cost	Least Expensive	More Expensive
B. Quality	Excellent	No Difference
C. Best Value	Excellent	No Difference
D. Transparency	Transparent	Non-Transparent
E. Delivery Process	Excellent	Subjective
F. Guarantees	Excellent	Limited
G. Owner's Risk	Low	High

## Relevant Facts about Design Build RFQs

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- Firms will not be evaluated in a blind examination when selected in Phase I
- Firms selected for Phase II will have to design the project sufficiently enough to provide a price to the Regents.
- Firms will expend significant time and money to design the facility to a point that they can provide a price to the Regents. This limits the number of bidders able to respond and therefore limits competition.
- The Regents may be paying non-selected bidders to cover their design cost in the non-successful bid.

## Impact of the Facts about Design Build RFQs

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- Regent RFQ evaluators can use prejudice when selecting contractors in Phase I.
- Firms selected to participate in Phase II will not be bidding on identical plans making evaluation difficult and inherently subjective and impossible to determine lowest responsible bidder.
- Firms required to expend monies to develop plans will limit the number of firms that are able to respond to the RFQ.
- The expenditure of monies to cover design costs of non-successful bidders seems counter intuitive to the Regents spending money to develop one plan and having all bidders respond based on that plan.

When factors other than lowest responsible, responsive bidder are considered the door opens for fraud.

“Inside the restaurant, a construction company owner leaned across the table and confirmed what Davis had been warned earlier: she would only ever win an Illinois state board’s approval for a much needed new hospital building if the contract, along with a substantial kickback, went to his firm.”

Iowa Alumni Magazine, April 2009



## HF 450 and amendment H1159

- Both are drafted to clarify that the current the concerns that have been raised in our discussion today.
- They clarify the advertisement and bidding process
- They do not limit what the Regents can do and do not change the intent and clear reading of law as drafted by the legislature in 262.34.
- They both protect the taxpayers by following competitive bidding protocols as historically used in Iowa.

## Questions and Discussion

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- Doug Struyk - Legal Counsel - Iowa Competitive Bidding Alliance
- Harold Pike - General Contractor - Iowa Competitive Bidding Alliance
- Edd Soenke – Architect - Iowa Competitive Bidding Alliance
- Dave Scott - Government Relations - American Council of Engineering Companies



**Iowa Code section 262.34(1)**

**Improvements — advertisement for bids — disclosures — payments.**

1. When the estimated cost of construction, repairs, or improvement of buildings or grounds under charge of the state board of regents exceeds one hundred thousand dollars, the board shall advertise for bids for the contemplated improvement or construction and shall let the work to the lowest responsible bidder. However, if in the judgment of the board bids received are not acceptable, the board may reject all bids and proceed with the construction, repair, or improvement by a method as the board may determine. All plans and specifications for repairs or construction, together with bids on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under this section shall be accompanied by a deposit of money, a certified check, or a credit union certified share draft in an amount as the board may prescribe.

1. Does the estimated cost of construction exceed \$100,000?
  - a. No, then competitive bidding is not necessary
  - b. Yes, then the Board shall advertise for bids for the contemplated improvement
2. Board receives bids on the contemplated improvement
  - a. The Board shall let the work to the lowest responsible bidder, **OR**
  - b. If in the judgment of the Board bids received are not acceptable, the Board may reject all bids
3. If the Board rejects all bids
  - a. Board may rebid, or
  - b. Proceed with a method as the Board may determine
4. If the Board decides to proceed by another method it **must** rebid the project and may select another method.
  - a. Design Build
    - i. **Phase I** - potential contractors shall submit their general information, relevant past performance, team experience & approach, project understanding & approach, project management, safety, and other factors or capability information for review and consideration by the Owner
      1. Following the review, evaluation, and rating of these proposals, the Owner intends to **select** not less than two (2) and not to exceed five (5), of the highest rated contractors to receive a Phase II Request For Proposal (RFP).
    - ii. **Phase II** - Phase II Offerors shall provide a technical and cost proposal for consideration by the Owner. The Owner will review the technical and cost proposals of the Phase II Offerors. Evaluations will be conducted in general accordance with the evaluation criteria set out in Section 00120 – RFQ and RFP Evaluation and Basis for Award.
  - b. Construction Management (CM)
    1. CM Agency
    2. CM at Risk



House File 450

H-1159

1 Amend House File 450 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. Section 262.34, subsection 1, Code  
5 2015, is amended to read as follows:

6 1. a. When the estimated cost of construction,  
7 repairs, or improvement of buildings or grounds under  
8 charge of the state board of regents exceeds one  
9 hundred thousand dollars, the board shall ~~advertise~~ do  
10 all of the following:

11 (1) Advertise for bids for the contemplated  
12 improvement or construction and shall let by publishing  
13 a notice to bidders. The notice to bidders shall be  
14 published at least once, not less than four days and  
15 not more than forty-five days before the date for  
16 filing bids, in a newspaper published at least once  
17 weekly and having general circulation in the geographic  
18 area of contemplated improvement or construction.  
19 Additionally, the board may publish a notice in a  
20 relevant contractor organization publication or  
21 relevant contractor plan room service with statewide  
22 circulation, provided that a notice is posted on an  
23 internet site sponsored by the board.

24 (2) Have an engineer licensed under chapter  
25 542B, a landscape architect licensed under chapter  
26 544B, or an architect registered under chapter 544A  
27 prepare plans and specifications and calculate the  
28 estimated total cost of the contemplated improvement  
29 or construction. The board shall ensure that a  
30 sufficient number of printed copies of the project's  
31 contract documents, including but not limited to all  
32 drawings, plans, specifications, and estimated total  
33 costs of the proposed improvement or construction,  
34 are made available for distribution at no charge to  
35 prospective bidders, subcontractor bidders, suppliers,  
36 and contractor plan room services.

37 (3) Let the work to the lowest responsible bidder.  
38 ~~However, if~~

39 b. If, in the judgment of the board, bids received  
40 are not acceptable, the board may reject all bids,  
41 after making a specific finding identifying the basis  
42 for the rejection of each bid received, and proceed  
43 with the construction, repair, or improvement by a  
44 method as the board may determine. All plans and  
45 specifications for repairs or construction, together  
46 with bids on the plans or specifications, shall be  
47 filed by the board and be open for public inspection.  
48 All bids submitted under this section shall be  
49 accompanied by a deposit of money, a certified check,  
50 or a credit union certified share draft in an amount as

- 1 the board may prescribe.>
- 2 2. Title page, lines 2 and 3, by striking <and
- 3 its application to certain government entities> and
- 4 inserting <conducted by the state board of regents>

PETTENGILL of Benton

Amend House File 450 as follows:

Section 1 is amended to read as follows:

It is the duty of the board to prescribe the manner and form of bids for the improvement or construction of buildings or structures under the charge of the state board of regents except as otherwise provided in this act. The board shall advertise to all of the following:

(1) Advertisements for bids for the improvement or construction of buildings or structures shall be published at least once, not less than four days and not more than forty-five days before the date for filing bids, in a newspaper published at least once weekly and having general circulation in the geographic area of contemplated improvement or construction.

(2) The board may publish a notice in a relevant contractor organization publication or relevant contractor plan room service with appropriate circulation, provided that a notice is posted on an internet site approved by the board.

(3) Have an engineer licensed under chapter 542, a landscape architect licensed under chapter 543, or an architect registered under chapter 544 prepare plans and specifications and estimate the estimated total cost of the contemplated improvement or construction. The board shall ensure that a sufficient number of printed copies of the project's contract documents, including but not limited to all drawings, plans, specifications, and estimated total cost of the proposed improvement or construction, are made available for distribution at no charge to prospective bidders, subcontractors, vendors, suppliers, and contractor plan room services.

(4) Let the work to the lowest responsible bidder, however:

(a) In the judgment of the board, bids received are not acceptable, the board may reject all bids after making a specific finding identifying the basis for the rejection of each bid received, and proceed with the construction, repair, or improvement by a method as the board may determine. All plans and specifications for repair or construction, together with bids on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under this section shall be accompanied by a deposit of money, a certified check, or a credit union certified share draft in an amount as