

HOUSE FILE 2713

AN ACT

CHANGING THE BID THRESHOLD REQUIREMENT FOR CERTAIN PUBLIC  
IMPROVEMENT CONTRACTS AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 38.1 CITATION.

This chapter shall be known and may be cited as the "Iowa  
Construction Bidding Procedures Act".

Sec. 2. NEW SECTION. 38.2 DEFINITIONS.

As used in this chapter, unless the context clearly  
indicates otherwise:

1. "Estimated total cost of a public improvement" or  
"estimated total cost" means the estimated total cost to the  
governmental entity to construct a public improvement,  
including cost of labor, materials, equipment, and supplies,  
but excluding the cost of architectural or engineering design  
services and inspection.

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.

3. "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 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 chapter 388 by its employees or performed for a rural water district under chapter 357A by its employees.

4. "Repair or maintenance work" means the preservation of a road, street, bridge, culvert, storm sewer, sanitary sewer, or other public facility 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.

Sec. 3. NEW SECTION. 38.3 COMPETITIVE BIDS FOR PUBLIC IMPROVEMENT CONTRACTS.

1. 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 as provided in section 362.3.

Additionally, the governmental entity may publish a notice in a relevant contractor organization publication and a relevant contractor plan room service with statewide circulation, provided that a notice is posted on a website sponsored by either a governmental entity or a statewide association that represents the governmental entity. The notice to bidders shall be published more than twenty days but not more than forty-five days before the date for filing bids.

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

3. Sections 38.4 through 38.13 apply to all competitive bidding pursuant to this section.

Sec. 4. NEW SECTION. 38.4 EXEMPTIONS FROM COMPETITIVE BIDS AND QUOTATIONS.

Architectural or engineering design services procured for a public improvement are not subject to sections 38.3 and 38.14.



Sec. 5. NEW SECTION. 38.5 PROHIBITED CONTRACTS.

If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars, or as established in section 314.1B, a governmental entity shall not divide the public improvement project into separate parts, regardless of intent, if a resulting part of the public improvement project is not let in accordance with section 38.3.

Sec. 6. NEW SECTION. 38.6 DONATED FUNDS.

If private funds are offered to a governmental entity for a building or an improvement to be used by the public and such funds are conditioned upon private construction of the building or improvement, this chapter shall not apply to the project if the governmental entity does not contribute any funds to such construction.

Sec. 7. NEW SECTION. 38.7 NOTICE TO BIDDERS.

The notice to bidders shall adequately notify a potential bidder of a proposed bid and shall include the following items:

1. The time and place for filing sealed proposals.
2. The time and place sealed proposals will be opened and considered on behalf of the governmental entity.
3. The general nature of the public improvement on which bids are requested.
4. In general terms when the work must be commenced and completed.
5. That each bidder shall accompany the bid with a bid security as defined in section 38.8 and as specified by the governmental entity.
6. Any further information which the governmental entity deems pertinent.

The notice to bidders may provide that bids will be received for the furnishing of all labor and materials and furnishing or installing equipment under one contract, or for parts thereof in separate sections.

On public improvements to be financed wholly or partially by special assessments against benefited property, the governmental entity, in the notice to bidders, may request aggregate bids for all projects included in any resolution of necessity, notwithstanding variations in the sizes of the improvements and notwithstanding that some parts of the improvements are assessable and some nonassessable, and may

award the contract to the lowest responsive, responsible bidder submitting the lowest aggregate bid.

Sec. 8. NEW SECTION. 38.8 BID SECURITY.

1. Each bidder shall accompany its bid with a bid security as security that the successful bidder will enter into a contract for the work bid upon and will furnish after the award of contract a corporate surety bond, acceptable to the governmental entity, for the faithful performance of the contract, in an amount equal to one hundred percent of the amount of the contract. The bid security shall be in an amount fixed by the governmental entity, and shall be in the form of a cashier's check or certified check drawn on a state-chartered or federally chartered bank, or a certified share draft drawn on a state-chartered or federally chartered credit union, or the governmental entity may provide for a bidder's bond with corporate surety satisfactory to the governmental entity. The bid bond shall contain no conditions except as provided in this section.

2. The governmental entity shall fix the amount of bid security prior to ordering publication of the notice to bidders and such amount must equal at least five percent, but shall not exceed ten percent of either the estimated total contract cost of the public improvement, or the amount of each bid.

Sec. 9. NEW SECTION. 38.9 AWARD OF CONTRACT.

The contract for the public improvement must be awarded to the lowest responsive, responsible bidder. However, contracts relating to public utilities or extensions or improvements thereof, as described in sections 384.80 through 384.94, may be awarded by the city as it deems to be in the best interests of the city. This section shall not be construed to prohibit a governmental entity in the award of a contract for a public improvement or a governing body of a city utility from providing, in the award of a contract for a public improvement, an enhancement of payments upon early completion of the public improvement if the availability of the enhancement payments is included in the notice to bidders, the enhancement payments are competitively neutral to potential bidders, the enhancement payments are considered as a separate item in the public hearing on the award of contract, and the total value of the enhancement payments does not exceed ten percent of the value of the contract.



Sec. 10. NEW SECTION. 38.10 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 38.9, 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. The governmental entity shall retain the bid security furnished by the successful bidder until the approved contract form has been executed, and a bond filed by the bidder guaranteeing the performance of the contract, and the contract and bond, have been approved by the governmental entity. The provisions of chapter 573, where applicable, apply to contracts awarded under this chapter.

The governmental entity shall promptly return the checks or bidder's bonds of unsuccessful bidders to the bidders as soon as the successful bidder is determined or within thirty days whichever is sooner.

Sec. 11. NEW SECTION. 38.11 DELEGATION OF AUTHORITY.

When bids are required for any public improvement, the governmental entity may delegate, by motion, resolution, or policy to the city manager, clerk, engineer, or other public officer, as applicable, the duty of receiving and opening bids and announcing the results. The officer shall report the results of the bidding with the officer's recommendations to the next meeting of the governmental entity's governing body.

Sec. 12. NEW SECTION. 38.12 WHEN HEARING NECESSARY.

If the estimated total cost of a public improvement exceeds the competitive bid threshold in section 38.3, or as adjusted in section 314.1B, the governmental entity shall not enter into a contract for the public improvement until the governmental entity has held a public hearing and has approved the proposed plans, specifications, and form of contract, and estimated total cost of the public improvement. Notice of the hearing must be published as provided in section 362.3. At the hearing any interested person may appear and file objections to the proposed plans, specifications, contract, or estimated cost of the public improvement. After hearing objections, the governmental entity shall by resolution enter

its decision on the plans, specifications, contract, and estimated cost. This section does not apply to the state.

Sec. 13. NEW SECTION. 38.13 EARLY RELEASE OF RETAINED FUNDS.

Payments made by a governmental entity or the state department of transportation for the construction of public improvements and highway, bridge, or culvert projects shall be made in accordance with the provisions of chapter 573, except as provided in this section. For purposes of this section, "department" means the state department of transportation.

1. At any time after all or any part of the work on the public improvement or highway, bridge, or culvert project is substantially completed, the contractor may request the release of all or part of the retained funds owed. The request shall be accompanied by a sworn statement of the contractor that, ten calendar days prior to filing the request, notice was given as required by subsection 7 to all known subcontractors, sub-subcontractors, and suppliers.

2. Except as provided under subsection 3, upon receipt of the request, the governmental entity or the department shall release all or part of the retained funds. Retained funds that are approved as payable shall be paid at the time of the next monthly payment or within thirty days, whichever is sooner. If partial retained funds are released pursuant to a contractor's request, no retained funds shall be subsequently held based on that portion of the work. If within thirty days of when payment becomes due the governmental entity or the department does not release the retained funds due, interest shall accrue on the amount of retained funds at the rate of interest that is calculated as the prime rate plus one percent per year as of the day interest begins to accrue until the amount is paid.

3. If at the time of the request for the release of the retained funds labor or materials are yet to be provided, an amount equal to two hundred percent of the value of the labor or materials yet to be provided, as determined by the governmental entity's or the department's authorized contract representative, may be withheld until such labor or materials are provided. For purposes of this section, "authorized contract representative" means the person chosen by the governmental entity or the department to represent its interests or the person designated in the contract as the



party representing the governmental entity's or the department's interest regarding administration and oversight of the project.

4. An itemization of the labor or materials yet to be provided, or the reason that the request for release of retained funds is denied, shall be provided to the contractor in writing within thirty calendar days of the receipt of the request for release of retained funds.

5. For purposes of this section, "substantially completed" means the first date on which any of the following occurs:

a. Completion of the public improvement project or the highway, bridge, or culvert project or when the work on the public improvement or the highway, bridge, or culvert project has been substantially completed in general accordance with the terms and provisions of the contract.

b. The work on the public improvement or on the designated portion is substantially completed in general accordance with the terms of the contract so that the governmental entity or the department can occupy or utilize the public improvement or designated portion of the public improvement for its intended purpose. This paragraph shall not apply to highway, bridge, or culvert projects.

c. The public improvement project or the highway, bridge, or culvert project is certified as having been substantially completed by either of the following:

(1) The architect or engineer authorized to make such certification.

(2) The authorized contract representative.

d. The governmental entity or the department is occupying or utilizing the public improvement for its intended purpose. This paragraph shall not apply to highway, bridge, or culvert projects.

6. The contractor shall release retained funds to the subcontractor or subcontractors in the same manner as retained funds are released to the contractor by the governmental entity or the department. Each subcontractor shall pass through to each lower tier subcontractors all retained fund payments from the contractor.

7. Prior to applying for release of retained funds, the contractor shall send a notice to all known subcontractors, sub-subcontractors, and suppliers that provided labor or materials for the public improvement project or the highway,

bridge, or culvert project. The notice shall be substantially similar to the following:

"NOTICE OF CONTRACTOR'S REQUEST FOR EARLY RELEASE OF RETAINED FUNDS

You are hereby notified that [name of contractor] will be requesting an early release of funds on a public improvement project or a highway, bridge, or culvert project designated as [name of project] for which you have or may have provided labor or materials. The request will be made pursuant to Iowa Code section 38.13. The request may be filed with the [name of governmental entity or department] after ten calendar days from the date of this notice. The purpose of the request is to have [name of governmental entity or department] release and pay funds for all work that has been performed and charged to [name of governmental entity or department] as of the date of this notice. This notice is provided in accordance with Iowa Code section 38.13."

Sec. 14. NEW SECTION. 38.14 COMPETITIVE QUOTATIONS FOR PUBLIC IMPROVEMENT CONTRACTS.

1. Competitive quotations shall be required for a public improvement having an estimated total cost that exceeds the amount provided in this section, but is less than the competitive bid threshold established in section 38.3.

2. Unless the threshold amount is adjusted pursuant to section 314.1B, the competitive quotation threshold shall be as follows:

a. Sixty-seven thousand dollars for a county, including a county hospital.

b. Fifty-one thousand dollars for a city having a population of fifty thousand or more.

c. Fifty-one thousand dollars for a school district having a population of fifty thousand or more.

d. Fifty-one thousand dollars for an aviation authority created within a city having a population of fifty thousand or more.

e. Thirty-six thousand dollars for a city having a population of less than fifty thousand, for a school district having a population of less than fifty thousand, and for any other governmental entity.

f. The threshold amount applied to a city applies to a city hospital.



3. a. When a competitive quotation is required, the governmental entity shall make a good faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations may be obtained from contractors after the governmental entity provides a description of the work to be performed, including the plans and specifications prepared by an architect or engineer, if required under chapter 542B or 544A, and an opportunity to inspect the work site. The contractor shall include in the quotation the price for labor, materials, equipment, and supplies required to perform the work. If the work can be performed by an employee or employees of the governmental entity, the governmental entity may file a quotation for the work to be performed in the same manner as a contractor.

b. The governmental entity shall designate the time, place, and manner for filing quotations, which may be received by mail, facsimile, or electronic mail. The governmental entity shall record the approved quotation in meeting minutes. Quotations approved outside a meeting of the governing body of a governmental entity shall be included in the minutes of the next meeting of the governing body. The governmental entity shall award the contract to the contractor submitting the lowest responsive, responsible quotation subject to section 38.9, or the governmental entity may reject all of the quotations.

c. If a public improvement may be performed by an employee of the governmental entity, the amount of estimated sales and fuel tax which a contractor identifies in its quotation shall be deducted from the contractor's price for determining the lowest responsive bidder. If no quotations are received to perform the work, or if the governmental entity's estimated cost to do the work with its employee is less than the lowest responsive, responsible quotation received, the governmental entity may authorize its employee or employees to perform the work.

Sec. 15. NEW SECTION. 38.15 STRUCTURE DEMOLITION PROJECT.

A governmental entity may enter into annual contracts with multiple contractors for structure demolition projects, with each project having a total estimated cost of one hundred thousand dollars or less, or each project having a total

estimated cost equal to or less than the competitive bid threshold as established in section 314.1B. The governmental entity shall solicit contractors by publishing a notice as provided in section 362.3. A contractor is eligible to perform structure demolition work for the governmental entity after the contractor executes an annual demolition contract in a form satisfactory to the governmental entity, including a bond and insurance. For the twelve-month period following execution of the contract or contracts, the governmental entity may obtain competitive proposals from each eligible contractor as necessary for the demolition of structures. The contractor submitting the lowest responsible proposal shall enter into a contract addendum to perform the work.

Sec. 16. Section 8A.311, subsection 10, paragraph a, Code Supplement 2005, is amended to read as follows:

a. When the estimated total cost of construction, erection, demolition, alteration, or repair of a public improvement exceeds ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B, the department shall ~~solicit-bids-on-the proposed-improvement-by-publishing-an-advertisement-in-a-print format.--The-advertisement-shall-appear-in-two-publications-in a-newspaper-published-in-the-county-in-which-the-work-is-to-be done.--The-first-advertisement-for-bids-appearing-in-a newspaper-shall-be-not-less-than-fifteen-days-prior-to-the date-set-for-receiving-bids.--The-department-may-publish-an advertisement-in-an-electronic-format-as-an-additional-method of-soliciting-bids-under-this-paragraph~~ comply with chapter 38.

Sec. 17. Section 28J.9, subsection 18, paragraph b, Code Supplement 2005, is amended to read as follows:

b. Except as provided in paragraph "c", when the cost of a contract for the construction of a building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. Each such contract shall be let



to the lowest responsive and responsible bidder. Every contract shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, and signed by an authorized officer of the port authority and by the contractor.

Sec. 18. Section 35A.10, subsections 2 and 3, Code 2005, are amended to read as follows:

2. The commandant and the commission shall have plans and specifications prepared by the department of administrative services for authorized construction, repair, or improvement projects in excess of ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B. An appropriation for a project shall not be expended until the department of administrative services has adopted plans and specifications and has completed a detailed estimate of the cost of the project, prepared under the supervision of a registered architect or registered professional engineer.

3. The director of the department of administrative services shall, in writing, let all contracts for authorized improvements in excess of ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B in accordance with chapter 8A, subchapter III, and chapter 38. The director of the department of administrative services shall not authorize payment for construction purposes until satisfactory proof has been furnished by the proper officer or supervising architect that the parties have complied with the contract.

Sec. 19. Section 73A.1, subsection 2, Code Supplement 2005, is amended to read as follows:

2. "Municipality" as used in this chapter means township, ~~school-corporation, and~~ or the state fair board.

Sec. 20. Section 73A.2, Code 2005, is amended to read as follows:

73A.2 NOTICE OF HEARING.

Before any municipality shall enter into any contract for any public improvement to cost ~~twenty-five-thousand-dollars or more~~ in excess of the competitive bid threshold in section 38.3, or as established in section 314.1B, the governing body proposing to make the contract shall adopt proposed plans and specifications and proposed form of contract, fix a time and place for hearing at the municipality affected or other nearby

convenient place, and give notice by publication in at least one newspaper of general circulation in the municipality at least ten days before the hearing.

Sec. 21. Section 73A.18, Code 2005, is amended to read as follows:

73A.18 WHEN BIDS REQUIRED -- ADVERTISEMENT -- DEPOSIT.

When the estimated total cost of construction, erection, demolition, alteration or repair of a public improvement exceeds ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B, the municipality shall advertise for bids on the proposed improvement by two publications in a newspaper published in the county in which the work is to be done. The first advertisement for bids shall be not less than fifteen days prior to the date set for receiving bids. The municipality shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if in the judgment of the municipality bids received are not acceptable, all bids may be rejected and new bids requested. A bid shall be accompanied, in a separate envelope, by a deposit of money or a certified check or credit union certified share draft in an amount to be named in the advertisement for bids as security that the bidder will enter into a contract for the doing of the work. The municipality shall fix the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The checks, share drafts or deposits of money of the unsuccessful bidders shall be returned as soon as the successful bidder is determined, and the check, share draft or deposit of money of the successful bidder shall be returned upon execution of the contract documents. ~~This-section-does-not-apply-to-the-construction,-erection,-demolition,-alteration-or-repair-of-a-public-improvement-when-the-contracting-procedure-for-the-doing-of-the-work-is-provided-for-in-another-provision-of-law-~~

Sec. 22. Section 161C.2, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Any work project with an estimated cost ~~of-twenty-five-thousand-dollars-or-more~~ in excess of the competitive bid threshold in section 38.3, or as established in section 314.1B shall be undertaken as a public contract as provided in chapters 73A and 573. The local contracting organization



shall designate a contracting officer and shall establish procedures to manage the contract, approve bills for payment, and review proposed change orders or amendments to the contract.

Sec. 23. Section 218.58, subsections 2 through 4, Code 2005, are amended to read as follows:

2. The director shall have plans and specifications prepared by the department of administrative services for authorized construction, repair, or improvement projects costing over ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B. An appropriation for a project shall not be expended until the department of administrative services has adopted plans and specifications and has completed a detailed estimate of the cost of the project, prepared under the supervision of a registered architect or registered professional engineer. Plans and specifications shall not be adopted and a project shall not proceed if the project would require an expenditure of money in excess of the appropriation.

3. The department of administrative services shall comply with the competitive bid procedures in chapter 38 to let all contracts under chapter 8A, subchapter III, for authorized construction, repair, or improvement of departmental buildings, grounds, or equipment.

4. If the director of the department of human services and the director of the department of administrative services determine that emergency repairs or improvements estimated to cost more than ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B are necessary to assure the continued operation of a departmental institution, the requirements of subsections 2 and 3 for preparation of plans and specifications and competitive procurement procedures are waived. A determination of necessity for waiver by the director of the department of human services and the director of the department of administrative services shall be in writing and shall be entered in the project record for emergency repairs or improvements. Emergency repairs or improvements shall be accomplished using plans and specifications and competitive procurement quotation or bid procedures, as applicable, to the greatest extent possible, considering the necessity for rapid completion of the project. A waiver of the requirements of

subsections 2 and 3 does not authorize an expenditure in excess of an amount otherwise authorized for the repair or improvement.

Sec. 24. Section 262.34, subsection 4, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. The contractor shall release retained funds to the subcontractor or subcontractors in the same manner as retained funds are released to the contractor by the board. Each subcontractor shall pass through to each lower tier subcontractors all retained fund payments from the contractor.

Sec. 25. Section 297.7, subsection 1, Code 2005, is amended to read as follows:

1. ~~Sections 73A.2 and 73A.18 are~~ Chapter 38 is applicable to the construction and repair of school buildings and other public improvements as defined in section 38.2.

Sec. 26. Section 297.8, Code 2005, is amended to read as follows:

297.8 EMERGENCY REPAIRS.

When emergency repairs costing more than ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B are necessary in order to prevent the closing of any school, the provisions of the law with reference to advertising for bids shall not apply, and in that event the board may contract for such emergency repairs without advertising for bids. However, before such emergency repairs can be made to any schoolhouse, it shall be necessary to procure a certificate from the area education agency administrator that such emergency repairs are necessary to prevent the closing of the school.

Sec. 27. Section 314.1, subsection 2, Code 2005, is amended to read as follows:

2. Notwithstanding any other provision of law to the contrary, a public improvement that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert and that has a cost in excess of the applicable threshold in section 73A.18, 262.34, 297.7, 309.40, 310.14, or 313.10, ~~or 384.96,~~ as modified by the bid threshold subcommittee pursuant to section 314.1B, shall be advertised and let for bid, except such public improvements that involve emergency work pursuant to section 309.40A, 313.10, ~~384.95,~~ or 384.103, subsection 2. However, a public improvement that has



an estimated total cost to a city in excess of a threshold of fifty thousand dollars, as modified by the bid threshold subcommittee pursuant to section 314.1B, and that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert that is under the jurisdiction of a city with a population of more than fifty thousand, shall be advertised and let for bid.

Sec. 28. Section 314.1A, Code 2005, is amended to read as follows:

314.1A DETAILED COST ACCOUNTINGS BY CITIES AND COUNTIES -- RULES.

1. The department shall adopt rules prescribing the manner by which cities and counties shall provide a detailed cost accounting under section 309.93 or 312.14, of all instances of the use of day labor or public or private contracts for construction, reconstruction, or improvement projects ~~on highways~~ of a highway, bridge, or culvert within their jurisdiction.

2. The department shall adopt rules prescribing the manner by which governmental entities, as defined in section 38.2, shall administer section 38.14 concerning public improvement quotations.

3. The rules shall include definitions concerning types of projects and uniform requirements and definitions that cities and counties under subsection 1 and governmental entities under subsection 2 shall use in determining costs for such projects. The department shall establish ~~an~~ horizontal and vertical infrastructure advisory committee committees composed of representatives of public sector agencies, private sector vertical and horizontal contractor organizations, and certified public employee collective bargaining organizations to make recommendations for such rules.

Sec. 29. Section 314.1B, Code 2005, is amended to read as follows:

314.1B BID THRESHOLD SUBCOMMITTEE -- ADJUSTMENTS -- NOTICE.

1. HORIZONTAL INFRASTRUCTURE.

a. The director of the department shall appoint, from the members of the appropriate advisory committee established under section 314.1A, a horizontal infrastructure bid threshold subcommittee for highway, bridge, or culvert projects. The subcommittee shall consist of seven members,

three of whom shall be representatives of ~~local-public-sector agencies~~ cities and counties, three of whom shall be representatives of private sector contractor organizations, and with the remaining member being the director or the director's designee, who shall serve as chairperson of the subcommittee. A vacancy in the membership of the subcommittee shall be filled by the director.

~~2--a-~~ b. The subcommittee shall review the competitive bid thresholds applicable to city and county highway, bridge, and culvert projects. The subcommittee shall review price adjustments for all types of city and county highway, bridge, and culvert construction, reconstruction, and improvement projects, based on changes in the construction price index from the preceding year. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

~~b-~~ c. A bid threshold, under this subsection, shall not be adjusted to an amount that is less than the bid threshold applicable to a city or county on July 1, ~~2002~~ 2006, as provided in section 73A.18, 309.40, 310.14, or ~~314.17-or~~ 384-96. An adjusted bid threshold shall take effect as provided in subsection 3, and shall remain in effect until a new adjusted bid threshold is established and becomes effective as provided in this section.

2. VERTICAL INFRASTRUCTURE.

a. The director of the department shall appoint, from the members of the appropriate advisory committee established under section 314.1A, a vertical infrastructure bid threshold subcommittee for public improvements as defined in section 38.2. The subcommittee shall consist of seven members, three of whom shall be representatives of governmental entities as defined in section 38.2, three of whom shall be representatives of private sector vertical infrastructure contractor organizations, and with the remaining member being the director or the director's designee, who shall serve as chairperson of the subcommittee. A vacancy in the membership of the subcommittee shall be filled by the director.

b. The subcommittee appointed under this subsection shall review the competitive bid thresholds applicable to governmental entities under chapter 38. The subcommittee shall review price adjustments for all types of construction, reconstruction, and public improvement projects based on the



changes in the construction price index, building cost index, and material cost index from the preceding year. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

c. The subcommittee shall not make an initial adjustment to the competitive bid threshold in section 38.3 to be effective prior to January 1, 2012. Thereafter, the subcommittee shall adjust the bid threshold amount in accordance with subsection 3 but shall not adjust the bid threshold to an amount less than the bid threshold applicable to a governmental entity on January 1, 2007.

d. Beginning July 1, 2006, the subcommittee shall make adjustments to the competitive quotation threshold in section 38.14 for vertical infrastructure in accordance with adjustments made by the horizontal infrastructure subcommittee under subsection 1 applicable to city and county highway, bridge, and culvert projects.

3. REVIEW -- PUBLICATION. The Each subcommittee shall meet to conduct the review and make the adjustments described in this section on or before August 1 of every other year, or of every year if determined necessary by the subcommittee, ~~with the first meeting occurring on or before August 1, 2002.~~ By September 1 of each year in which the a subcommittee makes adjustments in the bid or quotation thresholds, the director shall cause an advisory notice to be published in the Iowa administrative bulletin and in a newspaper of general circulation in this state, stating the adjusted bid and quotation thresholds to be in effect on January 1 of the following year, as established by the ~~subcommittee~~ subcommittees under this section.

Sec. 30. Section 330A.12, Code 2005, is amended to read as follows:

330A.12 AWARD OF CONTRACT.

All contracts entered into by an authority for the construction, reconstruction, and improvement of aviation facilities shall be entered into pursuant to and shall comply with the competitive bid procedures in chapter 73A 38. However, where an authority determines an emergency exists, it may enter into contracts obligating the authority for not in excess of ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B

per emergency without regard to the requirements of chapter 73A 38 and the authority may proceed with the necessary action as expeditiously as possible to the extent necessary to resolve such emergency.

Sec. 31. Section 331.341, subsections 1 and 2, Code 2005, are amended to read as follows:

1. When the estimated total cost of a public improvement, other than improvements which may be paid for from the secondary road fund, exceeds the ~~amount specified in section 309-40~~ competitive bid threshold in section 38.3, or as established in section 314.1B, the board shall follow the ~~contract-letting~~ competitive bid procedures provided for ~~cities~~ governmental entities in ~~sections-384-95-to-384-103~~ chapter 38. ~~However, in following those sections the board shall substitute the word "county" for the word "city", section 331-305 for section 362-3, shall consider "governing body" to mean the board, and shall exclude references to a city-utility, utility-board-of-trustees, or public utilities.~~ As used in this section, "public improvement" means the same as defined in section 384-95 38.2 as modified by this subsection.

2. The board shall give preference to Iowa products and labor in accordance with chapter 73 and shall comply with bid and contract requirements in ~~section-73-2~~ chapter 38.

Sec. 32. Section 331.341, subsection 4, Code 2005, is amended to read as follows:

4. If the contract price for a public improvement is ~~fifteen~~ twenty-five thousand dollars or more, the board shall require a contractor's bond in accordance with chapter 573.

Sec. 33. Section 357.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

When the completed plans and specifications are on file with the county auditor, and the estimated total cost of the project exceeds the competitive bid threshold in section 38.3, or as established in section 314.1B, the board of supervisors shall ~~advertise for bids and shall publish a notice once each week for two consecutive weeks in some newspaper published in the county in which the improvement is to be constructed, setting forth the location and nature of the improvement and the date and place where bids will be received by the board~~ comply with the competitive bid procedures in chapter 38 for the construction of the project. The last published notice to



~~bidders shall be at least seven days before the time set for receiving bids. Bidders shall be required to submit certified checks or credit union certified share drafts for five percent of the amount of the bid.~~

Sec. 34. Section 357A.12, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The procedures for ~~contract letting~~ competitive bidding specified in ~~sections 384.95 through 384.102~~ chapter 38 and for emergency repairs as specified in section 384.103, subsection 2, shall apply to construction carried out pursuant to this chapter. ~~References in those sections to a city shall be applicable to a rural water district operating under this chapter, and references to a city council shall be applicable to the board of directors of a rural water district.~~

Sec. 35. Section 364.4, subsection 4, paragraph i, Code 2005, is amended to read as follows:

i. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section ~~384.95, subsection 1, except for purposes of section 384.102~~ 38.2, subsection 3, except for purposes of section 38.12. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligations to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is subject to ~~division VI of chapter 384~~ 38.

Sec. 36. Section 384.20, unnumbered paragraph 3, Code 2005, is amended to read as follows:

"Continuing appropriation" means the unexpended portion of the cost of public improvements, as defined in section ~~384.95~~ 38.3, which cost was adopted through a public hearing pursuant to section ~~384.102~~ 38.12 and was included in an adopted or amended budget of a city. A continuing appropriation does not expire at the conclusion of a fiscal year. A continuing appropriation continues until the public improvement is completed, but expenditures under the continuing appropriation shall not exceed the resources available for paying for the public improvement.

Sec. 37. Section 384.103, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

In that event the governing body may contract for emergency repairs without holding a public hearing and advertising for bids, and the provisions of ~~sections 384.96 to 384.102~~, chapter 38 do not apply.

Sec. 38. Section 390.3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

However, in the performance of a joint agreement, the governing body is not subject to statutes generally applicable to public contracts, including hearings on plans, specifications, form of contracts, costs, notice and competitive bidding required under ~~sections 384.95 through~~ chapter 38 and section 384.103, unless all parties to the joint agreement are cities located within the state of Iowa.

Sec. 39. Section 904.314, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The director shall cause plans and specifications to be prepared by the department of administrative services for all improvements authorized and costing over ~~twenty-five-thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B. An appropriation for any improvement costing over ~~twenty-five-thousand-dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B, shall not be expended until the adoption of suitable plans and specifications, prepared by a competent architect or engineer and accompanied by a detailed statement of the amount, quality, and description of all material and labor required for the completion of the improvement.

Sec. 40. Section 904.315, unnumbered paragraph 1, Code 2005, is amended to read as follows:

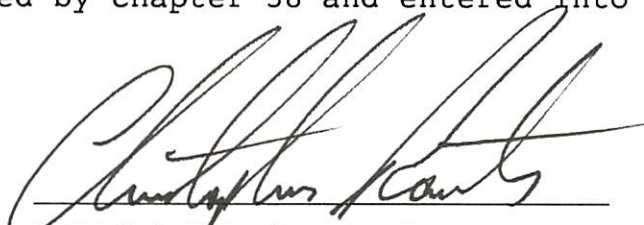
The director of the department of administrative services shall, in writing, let all contracts for authorized improvements ~~costing in excess of twenty-five-thousand-dollars~~ under chapter 8A, subchapter III, costing in excess of the competitive bid threshold in section 38.3, or as established in section 314.1B. Upon prior authorization by the director, improvements costing five thousand dollars or less may be made by the superintendent of any institution.

Sec. 41. Sections 384.95 through 384.102, Code 2005, are repealed.

Sec. 42. EFFECTIVE DATE. Sections 24, 28, and 29 of this Act take effect upon enactment and the remainder of this Act takes effect January 1, 2007.



Sec. 43. APPLICABILITY DATE. This Act applies to public improvement contracts governed by chapter 38 and entered into on or after January 1, 2007.



CHRISTOPHER C. RANTS  
Speaker of the House




JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2713, Eighty-first General Assembly.



MARGARET THOMSON  
Chief Clerk of the House

Approved March 29, 2006



THOMAS J. VILSACK  
Governor