



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 9, 2007

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

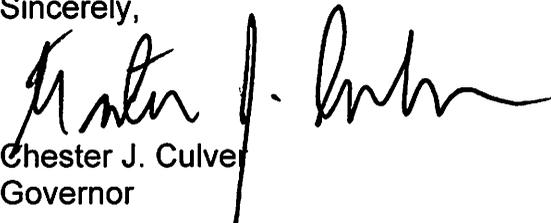
Dear Mr. Secretary:

I hereby transmit:

House File 830, an Act relating to the construction bidding procedures Act by modifying procedures and requirements for letting public improvement contracts, and making corrections.

The above House File is hereby approved this date.

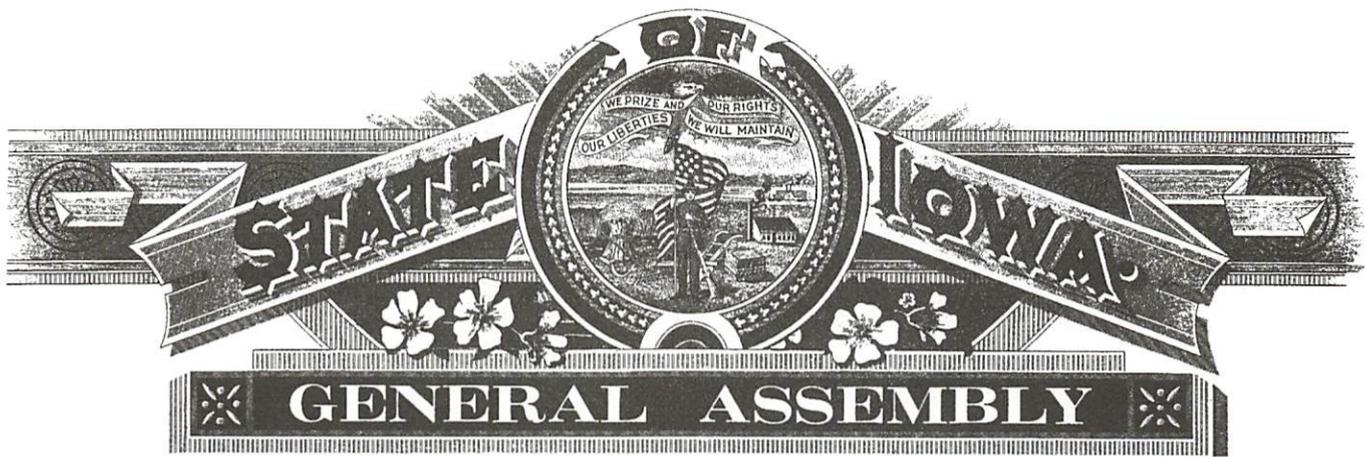
Sincerely,


Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 830

AN ACT

RELATING TO THE CONSTRUCTION BIDDING PROCEDURES ACT BY
MODIFYING PROCEDURES AND REQUIREMENTS FOR LETTING PUBLIC
IMPROVEMENT CONTRACTS, AND MAKING CORRECTIONS.

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

Section 1. Section 26.2, subsection 1, Code 2007, is amended to read as follows:

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, landscape architectural, or engineering design services and inspection.

Sec. 2. Section 26.2, subsection 4, Code 2007, is amended to read as follows:

4. "Repair or maintenance work" means the preservation of a road, street, bridge, culvert building, storm sewer, sanitary sewer, or other public facility or structure so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility or structure to its original condition with the same design.

Sec. 3. Section 26.3, subsections 1 and 2, Code 2007, are amended to read as follows:

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~~. The notice to bidders shall be published at least once, not less than four 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 served by the governmental entity. 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, 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.

Sec. 4. Section 26.4, Code 2007, is amended to read as follows:

26.4 EXEMPTIONS FROM COMPETITIVE BIDS AND QUOTATIONS.

Architectural, landscape architectural, or engineering design services procured for a public improvement are not subject to sections 26.3 and 26.14.

Sec. 5. Section 26.8, subsection 1, Code 2007, is amended to read as follows:

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~~ bidder's bond shall contain no conditions except as provided in this section.

Sec. 6. Section 26.10, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The date and time that each bid is received by the governmental entity, together with the name of the person receiving the bid, shall be recorded on the envelope containing the bid. All bids received after the deadlines for submission of bids as stated in the project specifications shall not be considered and shall be returned to the late bidder unopened. 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. The governmental entity shall retain the bid security furnished by the successful bidder until the approved contract form has been executed, ~~and~~ a bond has been filed by the bidder guaranteeing the performance of the contract, and the contract and bond~~7~~ have been approved by the governmental entity. The provisions of chapter 573, where applicable, apply to contracts awarded under this chapter.

Sec. 7. Section 26.11, Code 2007, is amended to read as follows:

26.11 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 regular meeting of the governmental entity's governing body or at a special meeting called for that purpose.

Sec. 8. Section 26.13, subsection 3, Code 2007, is amended to read as follows:

3. If labor and materials are yet to be provided at the time of the request for the release of the retained funds ~~labor-or-materials-are-yet-to-be-provided~~ is made, 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.

Sec. 9. Section 26.14, Code 2007, is amended to read as follows:

26.14 COMPETITIVE QUOTATIONS FOR PUBLIC IMPROVEMENT CONTRACTS.

1. Competitive quotations shall be required for a public improvement having an estimated total cost that exceeds the applicable threshold amount provided in this section, but is less than the competitive bid threshold established in section 26.3.

2. Unless the threshold ~~amount-is~~ amounts are adjusted pursuant to section 314.1B, the ~~competitive-quotation following~~ threshold amounts shall ~~be-as-follows~~ apply:

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. Good faith effort shall include advising all contractors who have filed with the governmental entity a request for notice of projects. The governmental entity shall provide such notice in a timely manner so that a requesting contractor will have a reasonable opportunity to submit a competitive quotation. 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, landscape architect, or engineer, if required under chapter 542B, 544B, 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. If the governmental entity receives no quotations after making a good faith effort to obtain quotations from at least two contractors regularly engaged in such work, the governmental entity may negotiate a contract with a contractor regularly engaged in such work.

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 award the contract to the contractor submitting the lowest responsive, responsible quotation subject to section 26.9, or the governmental entity may reject all of the quotations. The unconditional acceptance and approval of the lowest responsive, responsible quotation shall constitute the award of a contract. The governmental entity shall record the approved quotation in its meeting minutes. Quotations The contractor awarded the contract shall not commence work until the contractor's performance and payment bond has been approved by the governmental entity. A governmental entity

may delegate the authority to award a contract, to execute a contract, to authorize work to proceed under a contract, or to approve the contractor's performance and payment bond to an officer or employee of the governmental entity. A quotation approved outside a meeting of the governing body of a governmental entity shall be included in the minutes of the next regular or special meeting of the governing body. ~~The governmental entity shall award the contract to the contractor submitting the lowest responsive, responsible quotation subject to section 26.97 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 and the premium cost for the performance and payment bond which a contractor identifies in its quotation shall be deducted from the contractor's price for determining the lowest responsible bidder quotation. 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. 10. NEW SECTION. 26.14A ALTERNATIVE PROCEDURES.

1. When competitive quotations are required under section 26.14 for a public improvement, the governmental entity may proceed, in lieu of competitive quotations, as if the estimated total cost of the public improvement exceeds the competitive bid threshold under section 26.3.

2. If the total estimated cost of the public improvement does not warrant either competitive quotations under section 26.14 or competitive bidding under section 26.3, the governmental entity may nevertheless proceed with competitive quotations or competitive bidding for the public improvement.

Sec. 11. Section 314.1B, subsection 2, paragraphs b and d, Code 2007, are amended to read as follows:

b. The subcommittee appointed under this subsection shall review the competitive bid thresholds applicable to governmental entities under chapter 26. 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 adjustment. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

d. Beginning July 1, 2006, the subcommittee shall make adjustments to the competitive quotation threshold amounts in section 26.14 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~~ the methodology of paragraph "b".

Sec. 12. Section 314.1B, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. After 2012, the subcommittee shall adjust the competitive quotation threshold amounts in section 26.14 at the same time and by the same percentage as adjustments are made to the competitive bid threshold.

Sec. 13. Section 331.341, subsection 1, Code 2007, is 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 competitive bid threshold in section 26.3, or as established in section 314.1B, the board shall follow the competitive bid procedures for governmental entities in chapter 26 and the contract letting procedures in section 384.103. As used in this section, "public improvement" means the same as defined in section 26.2 as modified by this subsection.

Sec. 14. Section 380.4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the council, except when the mayor may vote to break a tie vote in a city with an even number of council members, as provided in section 372.4. Passage of a motion requires a majority vote of a quorum of the council. A resolution must be passed to spend public funds in excess of ~~twenty-five~~ one hundred thousand dollars on ~~any-one~~ a public improvement project, or to accept public improvements and facilities upon their completion. Each council member's vote on a measure must be recorded. A

measure which fails to receive sufficient votes for passage shall be considered defeated.

Sec. 15. Section 384.20, unnumbered paragraph 3, Code 2007, is amended to read as follows:

"Continuing appropriation" means the unexpended portion of the cost of public improvements, as defined in section ~~26-3~~ 26.2, which cost was adopted through a public hearing pursuant to section 26.12 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. 16. Section 384.23, Code 2007, is amended to read as follows:

384.23 CONSTRUCTION OF WORDS "AND" AND "OR."

As used in divisions III to ~~V~~ V of this chapter, the use of the conjunctive "and" includes the disjunctive "or" and the use of the disjunctive "or" includes the conjunctive "and," unless the context clearly indicates otherwise.

Sec. 17. Section 384.37, subsection 17, Code 2007, is amended to read as follows:

17. "Proposal" means a legal bid on work advertised for a public improvement under ~~division-VI-of-this~~ chapter 26.

Sec. 18. Section 384.53, Code 2007, is amended to read as follows:

384.53 PROCEDURES TO LET CONTRACT.

Contract letting procedures shall be as provided in ~~division-VI-of-this~~ chapter 26. The council may award any number of contracts for construction of any public improvement.

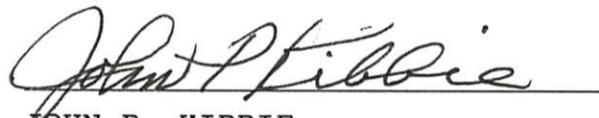
Sec. 19. Section 386.6, subsection 6, Code 2007, is amended to read as follows:

6. If the council orders the construction of the improvement, it shall proceed to let contracts therefor in accordance with chapter ~~384-division-VI~~ 26.

Sec. 20. Section 386.7, subsection 3, Code 2007, is amended to read as follows:

3. If the council orders the construction of the self-liquidating improvement, contracts for it shall be let in accordance with ~~division-VI-of~~ chapter 384 26.


PATRICK J. MURPHY
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 830, Eighty-second General Assembly.


MARK BRANDSGARD
Chief Clerk of the House

Approved May 9th, 2007


CHESTER J. CULVER
Governor