

House File 830 - Reprinted

HOUSE FILE _____
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 233)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the construction bidding procedures Act by
2 modifying procedures and requirements for letting public
3 improvement contracts, and making corrections.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1909HV 82
6 eg/gg/14

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1 1 Section 1. Section 26.2, subsection 1, Code 2007, is
1 2 amended to read as follows:

1 3 1. "Estimated total cost of a public improvement" or
1 4 "estimated total cost" means the estimated total cost to the
1 5 governmental entity to construct a public improvement,
1 6 including cost of labor, materials, equipment, and supplies,
1 7 but excluding the cost of architectural, landscape
1 8 architectural, or engineering design services and inspection.

1 9 Sec. 2. Section 26.3, subsections 1 and 2, Code 2007, are
1 10 amended to read as follows:

1 11 1. If the estimated total cost of a public improvement
1 12 exceeds the competitive bid threshold of one hundred thousand
1 13 dollars, or the adjusted competitive bid threshold established
1 14 in section 314.1B, the governmental entity shall advertise for
1 15 sealed bids for the proposed public improvement by publishing
1 16 a notice to bidders ~~as provided in section 362.3. The notice~~
1 17 ~~to bidders shall be published as provided in section 362.3,~~
1 18 ~~except that the notice shall be published more than twenty~~
1 19 ~~days but not more than forty-five days before the date for~~
1 20 ~~filing bids.~~ Additionally, the governmental entity may

1 21 publish a notice in a relevant contractor organization
1 22 publication and a relevant contractor plan room service with
1 23 statewide circulation, provided that a notice is posted on a
1 24 website sponsored by either a governmental entity or a
1 25 statewide association that represents the governmental entity.
1 26 ~~The notice to bidders shall be published more than twenty days~~
1 27 ~~but not more than forty-five days before the date for filing~~
1 28 ~~bids.~~

1 29 2. A governmental entity shall have an engineer licensed
1 30 under chapter 542B, a landscape architect licensed under
1 31 chapter 544B, or an architect registered under chapter 544A
1 32 prepare plans and specifications, and calculate the estimated
1 33 total cost of a proposed public improvement.

1 34 Sec. 3. Section 26.4, Code 2007, is amended to read as
1 35 follows:

2 1 26.4 EXEMPTIONS FROM COMPETITIVE BIDS AND QUOTATIONS.
2 2 Architectural, landscape architectural, or engineering
2 3 design services procured for a public improvement are not
2 4 subject to sections 26.3 and 26.14.

2 5 Sec. 4. Section 26.8, subsection 1, Code 2007, is amended
2 6 to read as follows:

2 7 1. Each bidder shall accompany its bid with a bid security
2 8 as security that the successful bidder will enter into a
2 9 contract for the work bid upon and will furnish after the
2 10 award of contract a corporate surety bond, acceptable to the
2 11 governmental entity, for the faithful performance of the
2 12 contract, in an amount equal to one hundred percent of the
2 13 amount of the contract. The bid security shall be in an
2 14 amount fixed by the governmental entity, and shall be in the
2 15 form of a cashier's check or certified check drawn on a
2 16 state-chartered or federally chartered bank, or a certified
2 17 share draft drawn on a state-chartered or federally chartered

2 18 credit union, or the governmental entity may provide for a
2 19 bidder's bond with corporate surety satisfactory to the
2 20 governmental entity. The ~~bid~~ bidder's bond shall contain no
2 21 conditions except as provided in this section.

2 22 Sec. 5. Section 26.10, unnumbered paragraph 1, Code 2007,
2 23 is amended to read as follows:

2 24 The governmental entity shall open, announce the amount of
2 25 the bids, and file all proposals received, at the time and
2 26 place specified in the notice to bidders. The governmental
2 27 entity may, by resolution, award the contract for the public
2 28 improvement to the bidder submitting the lowest responsive,
2 29 responsible bid, determined as provided in section 26.9, or
2 30 the governmental entity may reject all bids received, fix a
2 31 new date for receiving bids, and order publication of a new
2 32 notice to bidders. The governmental entity shall retain the
2 33 bid security furnished by the successful bidder until the
2 34 approved contract form has been executed, ~~and~~ a bond has been
2 35 filed by the bidder guaranteeing the performance of the
3 1 contract, and the contract and bond~~7~~ have been approved by the
3 2 governmental entity. The provisions of chapter 573, where
3 3 applicable, apply to contracts awarded under this chapter.

3 4 Sec. 6. Section 26.11, Code 2007, is amended to read as
3 5 follows:

3 6 26.11 DELEGATION OF AUTHORITY.

3 7 When bids are required for any public improvement, the
3 8 governmental entity may delegate, by motion, resolution, or
3 9 policy to the city manager, clerk, engineer, or other public
3 10 officer, as applicable, the duty of receiving and opening bids
3 11 and announcing the results. The officer shall report the
3 12 results of the bidding with the officer's recommendations to
3 13 the next regular meeting of the governmental entity's
3 14 governing body or at a special meeting called for that
3 15 purpose.

3 16 Sec. 7. Section 26.13, subsection 3, Code 2007, is amended
3 17 to read as follows:

3 18 3. If labor and materials are yet to be provided at the
3 19 time of the request for the release of the retained funds
3 20 labor or materials are yet to be provided is made, an amount
3 21 equal to two hundred percent of the value of the labor or
3 22 materials yet to be provided, as determined by the
3 23 governmental entity's or the department's authorized contract
3 24 representative, may be withheld until such labor or materials
3 25 are provided. For purposes of this section, "authorized
3 26 contract representative" means the person chosen by the
3 27 governmental entity or the department to represent its
3 28 interests or the person designated in the contract as the
3 29 party representing the governmental entity's or the
3 30 department's interest regarding administration and oversight
3 31 of the project.

3 32 Sec. 8. Section 26.14, Code 2007, is amended to read as
3 33 follows:

3 34 26.14 COMPETITIVE QUOTATIONS FOR PUBLIC IMPROVEMENT
3 35 CONTRACTS.

4 1 1. Competitive quotations shall be required for a public
4 2 improvement having an estimated total cost that exceeds the
4 3 applicable threshold amount provided in this section, but is
4 4 less than the competitive bid threshold established in section
4 5 26.3.

4 6 2. Unless the threshold ~~amount is~~ amounts are adjusted
4 7 pursuant to section 314.1B, the ~~competitive quotation~~
4 8 following threshold amounts shall ~~be as follows~~ apply:

4 9 a. Sixty-seven thousand dollars for a county, including a
4 10 county hospital.

4 11 b. Fifty-one thousand dollars for a city having a
4 12 population of fifty thousand or more.

4 13 c. Fifty-one thousand dollars for a school district having
4 14 a population of fifty thousand or more.

4 15 d. Fifty-one thousand dollars for an aviation authority
4 16 created within a city having a population of fifty thousand or
4 17 more.

4 18 e. Thirty-six thousand dollars for a city having a
4 19 population of less than fifty thousand, for a school district
4 20 having a population of less than fifty thousand, and for any
4 21 other governmental entity.

4 22 f. The threshold amount applied to a city applies to a
4 23 city hospital.

4 24 3. a. When a competitive quotation is required, the
4 25 governmental entity shall make a good faith effort to obtain
4 26 quotations for the work from at least two contractors
4 27 regularly engaged in such work prior to letting a contract.
4 28 Quotations may be obtained from contractors after the

4 29 governmental entity provides a description of the work to be
4 30 performed, including the plans and specifications prepared by
4 31 an architect, landscape architect, or engineer, if required
4 32 under chapter 542B, 544B, or 544A, and an opportunity to
4 33 inspect the work site. The contractor shall include in the
4 34 quotation the price for labor, materials, equipment, and
4 35 supplies required to perform the work. If the work can be
5 1 performed by an employee or employees of the governmental
5 2 entity, the governmental entity may file a quotation for the
5 3 work to be performed in the same manner as a contractor. If
5 4 the governmental entity receives no quotations after making a
5 5 good faith effort to obtain quotations from at least two
5 6 contractors regularly engaged in such work, the governmental
5 7 entity may negotiate a contract with a contractor regularly
5 8 engaged in such work.

5 9 b. The governmental entity shall designate the time,
5 10 place, and manner for filing quotations, which may be received
5 11 by mail, facsimile, or electronic mail. The governmental
5 12 entity shall award the contract to the contractor submitting
5 13 the lowest responsive, responsible quotation subject to
5 14 section 26.9, or the governmental entity may reject all of the
5 15 quotations. The unconditional acceptance and approval of the
5 16 lowest responsive, responsible quotation shall constitute the
5 17 award of a contract. The governmental entity shall record the
5 18 approved quotation in its meeting minutes. ~~Quotations~~ The
5 19 contractor awarded the contract shall not commence work until
5 20 the contractor's performance and payment bond has been
5 21 approved by the governmental entity. A governmental entity
5 22 may delegate the authority to award a contract, to execute a
5 23 contract, to authorize work to proceed under a contract, or to
5 24 approve the contractor's performance and payment bond to an
5 25 officer or employee of the governmental entity. A quotation
5 26 approved outside a meeting of the governing body of a
5 27 governmental entity shall be included in the minutes of the
5 28 next regular or special meeting of the governing body. The
5 29 governmental entity shall award the contract to the contractor
5 30 submitting the lowest responsive, responsible quotation
5 31 subject to section 26.9, or the governmental entity may reject
5 32 all of the quotations.

5 33 c. If a public improvement may be performed by an employee
5 34 of the governmental entity, the amount of estimated sales and
5 35 fuel tax and the premium cost for the performance and payment
6 1 bond which a contractor identifies in its quotation shall be
6 2 deducted from the contractor's price for determining the
6 3 lowest responsible ~~bidder~~ quotation. If no quotations are
6 4 received to perform the work, or if the governmental entity's
6 5 estimated cost to do the work with its employee is less than
6 6 the lowest responsive, responsible quotation received, the
6 7 governmental entity may authorize its employee or employees to
6 8 perform the work.

6 9 Sec. 9. NEW SECTION. 26.14A ALTERNATIVE PROCEDURES.

6 10 1. When competitive quotations are required under section
6 11 26.14 for a public improvement, the governmental entity may
6 12 proceed, in lieu of competitive quotations, as if the
6 13 estimated total cost of the public improvement exceeds the
6 14 competitive bid threshold under section 26.3.

6 15 2. If the total estimated cost of the public improvement
6 16 does not warrant either competitive quotations under section
6 17 26.14 or competitive bidding under section 26.3, the
6 18 governmental entity may nevertheless proceed with competitive
6 19 quotations or competitive bidding for the public improvement.

6 20 Sec. 10. Section 380.4, unnumbered paragraph 1, Code 2007,
6 21 is amended to read as follows:

6 22 Passage of an ordinance, amendment, or resolution requires
6 23 a majority vote of all of the members of the council, except
6 24 when the mayor may vote to break a tie vote in a city with an
6 25 even number of council members, as provided in section 372.4.
6 26 Passage of a motion requires a majority vote of a quorum of
6 27 the council. A resolution must be passed to spend public
6 28 funds in excess of ~~twenty-five~~ one hundred thousand dollars on
6 29 ~~any one~~ a public improvement project, or to accept public
6 30 improvements and facilities upon their completion. Each
6 31 council member's vote on a measure must be recorded. A
6 32 measure which fails to receive sufficient votes for passage
6 33 shall be considered defeated.

6 34 Sec. 11. Section 384.20, unnumbered paragraph 3, Code
6 35 2007, is amended to read as follows:

7 1 "Continuing appropriation" means the unexpended portion of
7 2 the cost of public improvements, as defined in section ~~26.3~~
7 3 26.2, which cost was adopted through a public hearing pursuant
7 4 to section 26.12 and was included in an adopted or amended

7 5 budget of a city. A continuing appropriation does not expire
7 6 at the conclusion of a fiscal year. A continuing
7 7 appropriation continues until the public improvement is
7 8 completed, but expenditures under the continuing appropriation
7 9 shall not exceed the resources available for paying for the
7 10 public improvement.

7 11 Sec. 12. Section 384.23, Code 2007, is amended to read as
7 12 follows:

7 13 384.23 CONSTRUCTION OF WORDS "AND" AND "OR."

7 14 As used in divisions III to ~~VI~~ V of this chapter, the use
7 15 of the conjunctive "and" includes the disjunctive "or" and the
7 16 use of the disjunctive "or" includes the conjunctive "and,"
7 17 unless the context clearly indicates otherwise.

7 18 Sec. 13. Section 384.37, subsection 17, Code 2007, is
7 19 amended to read as follows:

7 20 17. "Proposal" means a legal bid on work advertised for a
7 21 public improvement under ~~division VI of this chapter~~ 26.

7 22 Sec. 14. Section 384.53, Code 2007, is amended to read as
7 23 follows:

7 24 384.53 PROCEDURES TO LET CONTRACT.

7 25 Contract letting procedures shall be as provided in
7 26 ~~division VI of this chapter~~ 26. The council may award any
7 27 number of contracts for construction of any public
7 28 improvement.

7 29 Sec. 15. Section 386.6, subsection 6, Code 2007, is
7 30 amended to read as follows:

7 31 6. If the council orders the construction of the
7 32 improvement, it shall proceed to let contracts therefor in
7 33 accordance with chapter ~~384, division VI~~ 26.

7 34 Sec. 16. Section 386.7, subsection 3, Code 2007, is
7 35 amended to read as follows:

8 1 3. If the council orders the construction of the
8 2 self-liquidating improvement, contracts for it shall be let in
8 3 accordance with ~~division VI of chapter 384~~ 26.

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8 5 eg:rj/jg/25