RIPKE

Sue Ripke

From: Mike Beimer <mbeimer@cityofmtvernon-ia.gov>
Sent: Friday, June 13, 2014 10:06 AM
To: Sue Ripke
Subject: Fwd: Mt Vernon electrical work for street lights
Attachments: 0494_001.pdf; Untitled attachment 00027.htm

FYI

Sent from my iPad

Begin forwarded message:

> **From:** Robert Hatala <rhatala@simmonsperrine.com>
> **Date:** June 13, 2014 8:41:03 AM CDT
> **To:** "Jim Moore - City of Mt. Vernon (djmoore591@gmail.com)" <djmoore591@gmail.com>, "'Eric9265@aol.com'" <Eric9265@aol.com>, "Francesca Thompson (Fthompson.mv@gmail.com)" <Fthompson.mv@gmail.com>, "'Marianne Taylor'" <mariannejtaylor@gmail.com>, "'wjniemi@aol.com'" <wjniemi@aol.com>, "Jamie Hampton (jamiehampton23@gmail.com)" <jamiehampton23@gmail.com>
> **Cc:** Mike Beimer <mbeimer@cityofmtvernon-ia.gov>, "Dan Boggs P. E. " <dboggs@cityofmtvernon-ia.gov>
> **Subject: Mt Vernon electrical work for street lights**
>
> I talked to Dan yesterday about the electrical work needed for street lights and whether it needed to go through the bidding process. I am attaching information on the bidding process. Essentially, an improvement related to a street project must be competitively bid pursuant to Chapter 26 if the cost is expected to exceed $49,000. If not, then the City can follow its own policy. Competitive quotes are not required. Note that the benchmarks triggering public bidding requirements are different for "vertical infrastructure". I believe that the present project is clearly "horizontal infrastructure" and the $49,000 limit applies.
>
> There is a provision in Section 384.103 that allows the competitive bidding process to be avoided if it is "emergency work." For a project to fall under the emergency work exception, the city council must make a finding that the delay caused by the public bidding process might cause serious loss or injury to the city. The city council must make a finding that instituting emergency work is necessary and shall procure a certificate from a competent registered professional engineer or architect, not in regular employ by the city, certifying that emergency repairs are necessary.

Robert S. Hatala
Simmons Perrine Moyer Bergman PLC
115 3rd St SE STE 1200
Cedar Rapids IA 52401
Telephone: 319-366-7641, ext. 241
Facsimile: 319-366-1917

Office of Local Systems

Bid and Quote Thresholds for Iowa Cities and Counties

Background

Iowa Code Section 314.1B establishes horizontal and vertical bid threshold subcommittees that meet at least every other year to adjust the bid and quote thresholds for city and county projects. These thresholds become effective on Jan. 1 of the year following the year in which the adjustment is made.

Bid and Quote Threshold History

Year Effective	Threshold	Horizontal Infrastructure			Vertical Infrastructure		
		Cities		Counties	Cities or other governmental entities		Counties
		≤ 50,000 pop.	> 50,000 pop.		< 50,000 pop.	≥ 50,000 pop.	
2014	Competitive bid	$49,000	$70,000	$91,000	$130,000	$130,000	$130,000
	Competitive quote	N/A	N/A	N/A	$50,000	$72,000	$94,000
2013	Competitive bid	$49,000	$70,000	$91,000	$130,000	$130,000	$130,000
	Competitive quote	N/A	N/A	N/A	$50,000	$72,000	$94,000
2012	Competitive bid	$47,000	$67,000	$87,000	$125,000	$125,000	$125,000
	Competitive quote	N/A	N/A	N/A	$48,000	$69,000	$91,000

2011	Competitive bid	$47,000	$67,000	$87,000	$100,000	$100,000	$100,000
	Competitive quote	N/A	N/A	N/A	$46,000	$67,000	$88,000
2010	Competitive bid	$48,000	$69,000	$90,000	$100,000	$100,000	$100,000
	Competitive quote	N/A	N/A	N/A	$45,000	$65,000	$85,000
2009	Competitive bid	$45,000	$65,000	$85,000	$100,000	$100,000	$100,000
	Competitive quote	N/A	N/A	N/A	$45,000	$65,000	$85,000
2007	Competitive bid	$40,000	$57,000	$75,000	$100,000	$100,000	$100,000
	Competitive quote	N/A	N/A	N/A	$40,000	$57,000	$75,000
2005	Competitive bid	$36,000	$51,000	$67,000	$25,000	$25,000	$50,000
	Competitive quote	N/A	N/A	N/A	N/A	N/A	N/A
2003	Competitive bid	$35,000	$50,000	$65,000	$25,000	$25,000	$50,000
	Competitive quote	N/A	N/A	N/A	N/A	N/A	N/A

Notes:

- The thresholds shown above apply to construction, reconstruction, or improvement projects. Repair or maintenance projects are not subject to these thresholds.
- Competitive quote procedures are not required for horizontal infrastructure.
- Competitive quote procedures for vertical infrastructure were not implemented until Jan 1, 2007.

Definitions

- **Construction, reconstruction or improvement**

  For horizontal infrastructure, these terms are as defined in 761 Iowa Administrative Code Chapter 178. For vertical infrastructure, these terms describe work that results in a betterment to a facility by improving either the original design of the facility or the function of the facility.

- **Repair or maintenance**

  As defined in 761 Iowa Administrative Code Chapter 180.

- **Competitive bid threshold**

  The maximum estimated total cost of a road, bridge, culvert, or other public improvement project for which a public advertisement and bid letting is not required.

- **Competitive quote threshold**

  The maximum estimated total cost of a public improvement project, other than a road, bridge or culvert project, for which the competitive quotation process is not required. The competitive quotation process is prescribed by 761 Iowa Administrative Code Chapter 180.

- **Governmental entities**

  As defined in 761 Iowa Administrative Code Chapter 180.

- **Horizontal infrastructure**

  Any publicly owned road, bridge or culvert.

- **Public improvement**

  As defined in 761 Iowa Administrative Code Chapter 180.

- **Vertical infrastructure**

  As defined in 761 Iowa Administrative Code Chapter 180.

CHAPTER 180
PUBLIC IMPROVEMENT QUOTATION PROCESS FOR GOVERNMENTAL ENTITIES

761—180.1(314) Purpose. The purpose of these rules is to prescribe the manner by which governmental entities shall administer competitive quotations for public improvement contracts, in accordance with Iowa Code section 26.14.

761—180.2(314) Contact information. Questions regarding this chapter may be directed to the Office of Facilities Support, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—180.3(314) Definitions.

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

"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.

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

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

"Responsible quotation" means a quotation submitted by a contractor who is capable of performing the work. To be considered responsible, the contractor must possess the necessary financial and technical capability to perform the work, as well as the ability to complete the work as demonstrated by past performance or other appropriate considerations.

"Responsive quotation" means a quotation in which the contractor agrees to do everything required by the governmental entity's solicitation of quotations and by the plans and specifications and other related documents, without any conditions, qualifications or exclusions.

"Vertical infrastructure" means buildings, all appurtenant structures, utilities, incidental street improvements including sidewalks, site development features, recreational trails, and parking facilities. Vertical infrastructure does not include any work constructed in conjunction with or ancillary to highway, street, bridge or culvert projects, including but not limited to utilities and sidewalks.

761—180.4(314) Types of projects.

180.4(1) *Public improvement.* A public improvement involves new construction, reconstruction, or an improvement that results in betterment to a facility by improving either the original design of the facility or the function of the facility.

180.4(2) *Repair or maintenance work.* Repair or maintenance work involves work that is needed to keep or restore a facility so that it may continue to operate according to its original function or design. Repair or maintenance work may be performed by employees of a governmental entity regardless of the estimated total cost of the repair or maintenance work. If a governmental entity is unable to perform the work using its own employees, the governmental entity must follow the appropriate public improvement process set out in Iowa Code section 26.3 or 26.14, based on the estimated total cost of the work.

761—180.5(314) Solicitation of quotations.

180.5(1) A governmental entity shall solicit competitive quotations for a public improvement when the estimated total cost of the public improvement exceeds the competitive quotation threshold established in Iowa Code section 26.14, as adjusted pursuant to Iowa Code section 314.1B, but is less than the competitive bid threshold established in Iowa Code section 26.3, as adjusted pursuant to Iowa Code section 314.1B. The adjusted thresholds are published on the following Web site: http://www.iowadot.gov/local_systems/publications/bid_limits.htm.

180.5(2) 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 shall be obtained by means of either an oral or a written solicitation directed to not less than two contractors.

180.5(3) Each solicitation shall include a description of the work to be performed, and plans and specifications for the work prepared by an architect or engineer if required by Iowa Code chapter 542B or 544A. (See 193B—Chapter 5 or rule 193C—1.5(542B) for additional guidelines.) In its solicitation, the governmental entity shall advise each contractor that it has an opportunity to inspect the work site. Each contractor requesting to inspect the work site shall be provided an equal and adequate opportunity to do so.

180.5(4) Additional information deemed pertinent by the governmental entity, or requested by a contractor, may be provided by the governmental entity if the same information is provided to all contractors from which quotations are solicited. If the information is provided in written form to a contractor, it shall be provided in the same form to all contractors from which quotations are solicited.

180.5(5) In its solicitation, the governmental entity shall:

a. Specify the required form and content of quotations. (See rule 761—180.7(314).)

b. Require that quotations be filed by a particular time, at a particular location and with a particular office or representative of the governmental entity.

c. Establish the acceptable method(s) for delivery of quotations. The governmental entity may specify any or all of the following methods of delivery: mail, facsimile, electronic mail, or delivery in-hand.

180.5(6) As required by Iowa Code section 573.2, the governmental entity shall in its solicitation inform quoting contractors of the obligation of the contractor awarded the contract to provide a performance and payment bond to secure the performance and timely completion of the work and to secure the payment of subcontractors and suppliers.

180.5(7) In its solicitation, the governmental entity may require each quoting contractor to:

a. Provide along with its quotation a quotation bond, or other quotation security or evidence of its responsibility, to assure that it will enter into a contract to perform the work and that it will provide the required performance and payment bond.

b. Commit to the execution of a contract for the work in a form required by the governmental entity.

c. Commit to commencement and completion dates for the work as directed by the governmental entity.

d. File evidence of insurance, as specified by the governmental entity, with its quotation, or commit to filing such evidence of insurance upon award of the contract to perform the work.

180.5(8) In its solicitation, the governmental entity may provide that it will issue special sales tax exemption certificates to contractors and subcontractors, pursuant to Iowa Code section 423.3, subsection 80.

761—180.6(314) Submission of competitive quotation by governmental entity. The governmental entity may itself file a competitive quotation to perform the work. The governmental entity's quotation shall be filed in the same manner as it requires quotations to be filed by contractors except as provided in subrule 180.7(3).

761—180.7(314) Form and content of competitive quotations.

180.7(1) A competitive quotation filed by a contractor or by the governmental entity shall be in writing and shall include the total price for labor, equipment, materials and supplies required to perform the work. A contractor shall not be required to include in its quotation or in individual quotation items a breakdown of costs for labor, materials, equipment and supplies. Competitive quotations filed by contractors shall include all other information, documentation or commitments required by the governmental entity in its solicitation of quotations.

180.7(2) If the governmental entity in its solicitation indicates its intention to file a competing quotation, contractors shall also separately identify in their quotations the premium cost for the required performance and payment bond and an estimate of the sales and fuel taxes they will incur in performing the work. However, if in its solicitation the governmental entity provides for the issuance of sales tax exemption certificates to the contractor and subcontractors performing the work, quoting contractors shall not include or separately identify estimated sales tax in their quotations.

180.7(3) A quotation submitted by a governmental entity need not include the information, documents or commitments required of quoting contractors in subrule 180.5(7). A governmental entity is not required to submit a performance and payment bond.

180.7(4) The governmental entity may require that quotations from contractors be submitted on a form prescribed by the governmental entity, provided the form complies with the requirements of these rules.

761—180.8(314) Evaluation of competitive quotations.

180.8(1) If a quoting contractor does not file a quotation in the form required by the governmental entity, or does not provide all information or documentation or make all commitments required by the governmental entity, or does not sign the quotation if required by the governmental entity, the quotation shall be determined to be nonresponsive and shall be rejected by the governmental entity.

180.8(2) If the governmental entity submits a quotation to perform the work, paragraphs *"a"* to *"c"* of this subrule are applicable. If the governmental entity does not submit a quotation, these paragraphs do not apply.

a. Because the governmental entity is not required to pay sales tax or fuel tax or to submit a performance and payment bond in connection with work performed by governmental employees using governmental equipment, each contractor's total quotation shall be adjusted to deduct the amounts identified in the quotation for estimated sales and fuel taxes and the bond premium. The amount of each contractor's adjusted quotation shall then be compared to the amount of the quotation submitted by the governmental entity for the purpose of determining if the governmental entity's quotation is the lowest responsive, responsible quotation.

b. If in its solicitation the governmental entity provides for the issuance of sales tax exemption certificates to the contractor and subcontractors performing the work, quoting contractors shall not include or separately identify estimated sales tax in their quotations, and the governmental entity shall not deduct estimated sales tax from the contractors' quotations for the purpose of determining if the governmental entity's quotation is the lowest responsive, responsible quotation.

c. The governmental entity may require the contractor to which the work is awarded to provide documentation of the premium cost incurred by it for the performance and payment bond and of all sales and fuel taxes paid by it and its subcontractors in connection with the work. The governmental entity may decline to pay the amounts identified by the contractor in its quotation for the bond premium and estimated sales and fuel taxes if these amounts are not properly documented as having been paid.

761—180.9(314) Award of contract and subsequent procedures.

180.9(1) Except as provided in subrule 180.9(3), the governmental entity shall award the contract for the work to the contractor submitting the lowest responsive, responsible quotation, subject to Iowa Code section 26.9, or the governmental entity may reject all of the quotations. A contract shall be considered awarded when the governmental entity unconditionally accepts and approves the lowest

responsive, responsible quotation. The governing body of the governmental entity shall record the approved quotation in its meeting minutes.

180.9(2) The governing body of a governmental entity may delegate the authority to award and execute contracts, or to award contracts and authorize the work to proceed, to an officer or employee of the governmental entity, provided that an award approved outside a meeting of the governing body shall be reported in the meeting minutes of the next regular meeting of the governing body.

180.9(3) If no quotations are received from contractors to perform the work or if the governmental entity's estimated cost to do the work with its employees, as reflected in its quotation, is less than the lowest responsive, responsible quotation received from a contractor, the governmental entity may authorize its employees to perform the work.

180.9(4) Upon the submission of the required performance and payment bond by the contractor to which the contract has been awarded and upon approval of the bond by the governmental entity, the governmental entity shall execute a contract to perform the work or shall authorize the contractor to proceed with the work.

180.9(5) Upon execution of the contract by the contractor and the governmental entity or upon authorization to proceed by the governmental entity and acknowledgment thereof by the contractor, the governmental entity shall release the quotation bonds or other quotation security submitted with the quotations received.

180.9(6) If the governmental entity is a city and the cost of the work will exceed the amount provided for in Iowa Code section 380.4, the governing body is required to pass a resolution approving the expenditure.

761—180.10(314) Retained funds. In addition to requiring the contractor to submit a performance and payment bond, the governmental entity is required to retain funds from each payment to the contractor for the benefit of subcontractors and suppliers, as provided in Iowa Code chapter 573, and is required to release retained funds upon substantial completion of the work, as provided in Iowa Code section 26.13.

These rules are intended to implement Iowa Code sections 26.2, 26.13, 26.14, 314.1A, 314.1B, and 573.2.

[Filed 4/16/07, Notice 2/28/07—published 5/9/07, effective 6/13/07]