

# INSTRUCTIONAL MEMORANDUMS

## To Local Public Agencies



To: Counties and Cities	Date: November 4, 2022
From: Local Systems Bureau	I.M. No. 5.030
Subject: Iowa DOT Letting Process	

**Contents:** This Instructional Memorandum (I.M.) provides guidance, instructions, and information for Local Public Agency (LPA) projects that are let through the Iowa DOT letting process. It includes descriptions of the procedures, beginning with turning a project in for letting and continuing through obtaining an executed contract between the LPA and the responsible bidder who has submitted the lowest responsive bid.

[Attachment A](#) - Iowa DOT Pre-Letting Process flowchart

[Attachment B](#) – Iowa DOT Post-Letting Process flowchart

[Attachment C](#) – Sample Resolution for a County to Delegate Contract Signing in Doc Express

### Introduction

There are many State and Federal rules, policies, or procedures that apply to construction contract lettings conducted by the Iowa DOT. The Iowa DOT's process for advertising, letting, and awarding Federal-aid highway construction contracts must comply with 23 CFR 635. For LPA Federal-aid projects, the Iowa DOT is responsible for monitoring the LPA's compliance with these rules, policies, and procedures. The Iowa DOT requires all LPA Federal-aid projects, except those listed in [I.M. 5.120](#), Local Letting Process - Federal-aid, be advertised, let, and awarded through the Contracts and Specifications Bureau. The Iowa DOT also requires that all LPA Federal-aid Swap projects be let through the Iowa DOT, per the [Federal-aid Swap Policy](#) approved by the Iowa DOT Commission. The Iowa DOT also requires all County Farm-to-Market projects be let at the Iowa DOT.

The Iowa DOT letting procedures cover all Federal requirements for Buy America, Non-collusion Affidavit, Non-discrimination Affidavit, Lobbying Certification, Certification of Non-segregated Facilities, exclusion of debarred contractors, Equal Employment Opportunity and Affirmative Action compliance reviews, and DBE program administration.

[Iowa Code Section 26.3](#), which applies to cities but not counties, states that 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 posting a notice to bidders not less than thirteen and not more than forty-five days before the date for filing bids in a relevant contractor plan room service with statewide circulation, in a relevant construction lead generating service with statewide circulation, and on an internet site sponsored by either a governmental entity or a statewide association that represents the governmental entity.

For projects let at the Iowa DOT, the relevant contractor plan room service with statewide circulation is the Iowa DOT [Contracts and Specifications webpage](#). The relevant construction lead generating service with statewide circulation is [Bid Express](#). The internet site sponsored by a governmental entity is also the Iowa DOT Contracts and Specifications Bureau's website showing lettings: <https://iowadot.gov/contracts/plans-and-estimation-proposals>. The Iowa DOT also advertises lettings with the Des Moines Register newspaper.

### Preparation

1<sup>st</sup> Tuesday of the month 2 months before letting

After completion of the requirements for [I.M. 3.700](#), Check and Final Plans, the Iowa DOT's letting process begins on the first Tuesday of the month 2 months before the anticipated letting date. The Administering Bureau shall submit the plans, Special Provisions, the LPA's cost estimate, and other required documents to the Iowa DOT's Contracts and Specifications Bureau in accordance with [I.M. 3.010](#), Project Development Submittal Dates and Information.

The LPA's estimate will be used as a supporting document by the Contracts and Specifications Bureau when preparing the Iowa DOT's estimate for Federal-aid projects. The Iowa DOT's estimate will be used as the basis for obligation of Federal funds. The LPA will use its estimate to analyze the bids and make the award decision. If there is a significant difference between the Iowa DOT's estimate and the LPA's estimate, the

Contracts and Specifications Bureau will contact the LPA to determine why. The Contracts and Specifications Bureau may revise the Iowa DOT's estimate as a result. Both estimates are considered confidential information as per Iowa Code 22.7; therefore, the Contracts and Specifications Bureau will not release either estimate before or after the letting.

The LPA must request any special considerations for the project at this time. Examples include contract period requests and innovative contracting. For more information, refer to [I.M. 3.730](#), Innovative Contracting Procedures.

If any project clearances have not been obtained, or there are other conditions that require a Public Interest Finding (PIF), a PIF must be submitted by the LPA and approved by the Administering Bureau prior to this date. Otherwise, the project may not enter the letting process. For more information, refer to [I.M. 3.720](#), Public Interest Findings.

During the next 2 weeks, the Contracts and Specifications Bureau will review the plans and specifications to see if they are biddable. If the Contracts and Specifications Bureau determines that they are not biddable, they will notify the person listed as the "Designer Contact" in the Transportation Program Management System ([TPMS](#)) and on the Local Project Plan Turn-in Checklist of the required changes and copy the Administering Bureau. The Designer Contact must make the requested changes and supply revised plan sheets within the time frame specified by the Contracts and Specifications Bureau. The Designer Contact shall also provide a copy of any revised plans to the Administering Bureau. For more information on the Contracts and Specifications Bureau's plan requirements, refer to the Contracts and Specifications Bureau's [Letting Guidelines](#).

3<sup>rd</sup> Tuesday of the month 2 months before letting

This is the last day the Designer Contact may request changes to the plans and Special Provisions. During the next 2 weeks, the Contracts and Specifications Bureau begins to finalize the bidding proposal, and determine contract periods. The Contracts and Specifications Bureau will also review the projects to determine if projects should be packaged together. For more information on the contract periods and packaging of projects, refer to the Contracts and Specifications Bureau's [Letting Guidelines](#).

Last Tuesday of the month 2 months before letting

The Contracts and Specifications Bureau sends the proposed contract periods to the Administering Bureaus for their distribution to LPAs for review. If LPAs have any concerns regarding the proposed contract period for their projects, they contact the Contracts and Specifications Bureau and copy the Administering Bureau. Only minor adjustments to the contract periods will be considered.

1<sup>st</sup> Tuesday of the month 1 month before letting

This is the day the contract documents must be complete. If a PIF was submitted for a project clearance, the project clearance must be obtained by this date, except those submitted for Right-of-way parcels scheduled for condemnation. Otherwise, the Contracts and Specifications Bureau will withdraw the project from the letting.

The Contracts and Specifications Bureau submits all projects to the Federal Highway Administration (FHWA) for their review; and requests authorization. If the project has full oversight by FHWA, this submittal also includes the plans, specifications, and Iowa DOT cost estimate. During the next 2 weeks, FHWA reviews the projects submitted.

If FHWA determines that they cannot authorize a project for letting, they notify the Contracts and Specifications Bureau of the issue(s). The Contracts and Specifications Bureau then notifies the Administering Bureau of FHWA's issue(s). If the issues cannot be resolved and FHWA authorization obtained by the 3<sup>rd</sup> Tuesday of the month 1 month prior to letting, the Contracts and Specifications Bureau will withdraw the project from the letting. The Administering Bureau will contact the LPA to address the issue(s) and determine a new letting date. The LPA shall revise the plans and specifications as required and update the project information in TPMS.

The Contracts and Specifications Bureau holds their Disadvantaged Business Enterprises (DBE) Goal Setting Meeting and sets DBE goals for contracts as appropriate so the DOT can achieve their annual DBE Goal.

3<sup>rd</sup> Tuesday of the month 1 month before letting

The Contracts and Specifications Bureau is notified by the FHWA of the projects they have authorized for letting.

The Contracts and Specifications Bureau sends a Notice to Advertise to the Des Moines Register and posts a [Notice to Bidders](#) on its web site and the Bid Express ([BIDX](#)) web site.

The contract documents are made available at no cost in electronic format on the [Contracts and Specifications Bureau](#) web site. LPAs are encouraged to review the documents promptly. All questions from contractors about any of the contract documents must be directed to the Contracts and Specifications Bureau through Bid Express. LPAs are encouraged to promptly review any questions forwarded to them by the Contracts and Specifications Bureau, so contractors' questions are answered quickly.

After this day, all changes to the contract documents must be made by addendum. If the LPA believes an addendum is needed, the LPA shall send a request to the Contracts and Specifications Bureau, including the proposed text of the addendum, and copy the Administering Bureau. The Contracts and Specifications Bureau reviews the request and determines if an addendum will be prepared. If an addendum is deemed necessary, the Contracts and Specifications Bureau prepares and distributes the addendum to the prime contractors who have requested bidding documents. For more information on the criteria used to determine if an addendum is justified, refer to the Contracts and Specifications Bureau's [Letting Guidelines](#).

1<sup>st</sup> Tuesday of the month of letting

All condemnation hearings for previously unacquired right-of-way parcels must have been held so the project is cleared for letting. Otherwise, the project will be withdrawn from the letting.

All addendum requests should be submitted. Addendum requests submitted after this date may not be approved. If the Contracts and Specifications Bureau has not received confirmation of receipt of the addendum from all the prime contractors who have requested bidding documents prior to the letting, the project may be withdrawn from the letting. If an individual bidder does not acknowledge the addendum, that firm's bid will be deemed non-responsive.

### **Plan Changes and Addendums**

For information on plan changes and addendums after plan turn-in to the Contracts and Specifications Bureau, refer to the following information:

[https://iowadot.gov/contracts/electronicplanspecs/Plan\\_Changes\\_and\\_Addendums\\_Contracts.pdf](https://iowadot.gov/contracts/electronicplanspecs/Plan_Changes_and_Addendums_Contracts.pdf)

### **Letting**

The lettings are held the 3<sup>rd</sup> Tuesday of each month; except in January, when it is held the Wednesday after the 3<sup>rd</sup> Tuesday. Bids are due at 10:00 AM. The Contracts and Specifications Bureau downloads the bids at 800 Lincoln Way, Ames, Iowa, with the as-read-bid-totals available on [Bid Express](#) shortly after the reading. Any bid received after 10:00 AM is returned unopened to the bidder. Any bid deemed non-responsive will not be read or posted. The Apparent Low Bids, as read, are shown on [Bid Express](#).

### **Contract Award or Rejection**

All LPA projects let by the Iowa DOT shall be awarded on the basis of the responsible bidder submitting the lowest responsive bid ("low bidder"). The Contracts and Specifications Bureau ensures all bidders are responsible by only allowing pre-qualified contractors to bid. The Contracts and Specifications Bureau determines the low bidder and prepares the bid tabulations. The LPA makes the award determination after performing the bid analysis described below.

After bids are downloaded and reviewed, the letting gets processed by the Contracts and Specifications Bureau. Then, the Local Systems Bureau sends an email, instructing the LPA to take action to either award a contract to the low bidder or reject all bids within 30 days of the contract being uploaded to Doc Express (if over 30 days, the low bidder is allowed to withdraw their bid and their proposal guarantee will be returned to them with no penalty). The email also includes a tabulation of bids and Doc Express Instructions.

The Contracts and Specifications Bureau uploads the contract to Doc Express (for Federal-aid projects, a copy of [Form FHWA-1273](#), Required Contract Provisions, Federal-aid Construction Contracts, will be physically attached; the Davis-Bacon wage rates will also be attached to the contract).

**Note: There should be no discussions between the LPA and the low bidder until after the contract is fully executed and concurred by the Iowa DOT.**

### Bid Analysis

The LPA is responsible for reviewing the bid tabulations and documenting the basis for its decision to either award a contract or reject all bids. Factors to consider in the bid analysis should include the following:

1. Number of bids submitted on the project(s).
2. Distribution and range of bids received.
3. Urgency of the project(s).
4. Any unbalancing of unit bid items that may be detrimental to the contracting authority.
5. Current market conditions and workloads within the contracting industry.
6. Potential savings if the project(s) were re-advertised for another contract letting.
7. Potential changes to the project(s) or contract period that could affect the bid price.
8. Comparison of the low bidder to the bid prices of the other bidders on the project(s).
9. Comparison of bid prices with similar projects in the contract letting.
10. Justification for significant bid price differences.

As a condition of letting the project, the LPA should have adequate financial resources to award a contract if a reasonable bid is received. If the bid is within 10% of the LPA's estimate, the LPA should not reject a bid because of inadequate funds. The Department will not concur in the rejection of all bids in this circumstance, absent prior consultation with the Contracts and Specifications Bureau. Bids that exceed 110% of the LPA's estimate shall not be awarded, unless one of the following conditions is met:

1. There is adequate competition. Adequate competition shall be determined based on the number of competitive bids received and the percentage of the low bid in comparison to the LPA's estimate, as shown below:

Number of competitive bids received	Competition is considered adequate when the low bid does not exceed:
5 or more	120% of the engineer's estimate
4	115% of the engineer's estimate
3	110% of the engineer's estimate
2	105% of the engineer's estimate
1	100% of the engineer's estimate

Competitive bids are those that are less than 120% of the low bid.

2. The project is essential and deferral would be contrary to the public interest. Examples of such projects include, but are not limited to the following:
  - a. Safety projects where an extremely hazardous condition exists.
  - b. Projects that close a gap in a corridor.
  - c. Projects that are critical to other staged projects in a corridor.
3. Re-advertising the project without any change to the contract requirements would not likely result in a lower bid.
4. An error was made in the LPA's estimate, and the error, if corrected, would result in a bid below the LPA's estimate.

## Awarding a Contract

If the LPA elects to award a contract to the low bidder, the LPA should schedule the proposed contract for action at the next Board of Supervisors or City Council meeting. If the LPA is a City, a public hearing to approve the plans, specifications, form of contract, and estimated total cost of the public improvement, as required by [Iowa Code Chapter 26.12](#) must be held before a contract is awarded. A notice for the public hearing must be published as required by [Iowa Code Chapter 362.3](#). The City must record its decision to approve the items considered at the public hearing by resolution. After the Board of Supervisors or City Council passes a motion or resolution to award the proposed contract, the LPA shall utilize Doc Express to digitally sign the contract.

Beginning with the December 17, 2019 Iowa DOT Letting, the Board of Supervisors or City Council may delegate the execution of the contract to a full-time county or city employee, respectively. The county employee designated to execute the contract would most likely be the County Engineer. The city employee designated to execute the contract would most likely be the City Public Works Director or City Engineer. The employee designated to execute the contract shall be a full-time employee of the agency. For smaller cities that do not have any full-time employees, the mayor or city clerk may serve as the designated person to execute the contract. A consultant shall not serve as the designated person to execute the contract. If the Board of Supervisors or City Council chooses to designate the execution of the contract to a county or city employee, this shall be designated in a project specific resolution; see [Attachment C](#) for an example resolution. Each contract shall require a separate resolution. However, a single resolution may be utilized to both award the proposed contract, as well as designate the execution of the contract to another party. The Iowa DOT does not need a copy of this resolution. If the LPA would like to store the resolution in Doc Express, it can be stored in the "Agreement and Resolutions" drawer but shall not be uploaded as part of the contract.

Detailed instructions regarding the Contract Signing Process are located on Local Systems webpage. [https://iowadot.gov/local\\_systems/publications/local\\_jurisdictions/DocExpressLPAUsersGuideAppendix2.pdf](https://iowadot.gov/local_systems/publications/local_jurisdictions/DocExpressLPAUsersGuideAppendix2.pdf)  
The Prime Contractor that is the low bidder verifies their performance bond, uploads their Certificate of Insurance, and digitally signs the contract via Doc Express. If there are railroad provisions on the project, the Prime Contractor must also upload their Railroad Protective Liability Insurance as well as other documents required by the Special Provision or Developmental Specification. The LPA's Project Engineer shall verify that the Prime Contractor has uploaded all required documents, prior to the LPA's designee digitally signing the contract.

### Subcontractor Process:

To view the electronic file, the LPA must download and install the SiteXchange software. This step is only necessary the first time used. SiteXchange software is available to all users, at no cost, using the following link: [BidX utility files](#). Download the SiteXchange software (it will be a zip file), select the file subcon.exe and then select extract all files. This will create a folder to be used for saving the .con files at c:/Users/username/Desktop/SiteXchange.

Please see the following website for further information regarding the Subcontractor Process, including flowcharts and instructions: <https://iowadot.gov/contracts/lettings/subcontracting.pdf> If the Prime Contractor sends in the electronic subcontractor request (.con file) to the Contracts and Specifications Bureau at [dot.contracts@iowadot.us](mailto:dot.contracts@iowadot.us) prior to Iowa DOT's Concurrence signature, the Contracts and Specification Bureau will review and approve the subcontractor request and upload the tax certificates and the EEO/AA poster to the Contract Signing drawer in Doc Express. If the electronic subcontract request is submitted after the Iowa DOT's Concurrence or there is a change to the electronic subcontract request, the Prime Contractor and the LPA shall follow the instructions in I.M. 6.000, Attachment D.

The Contracts and Specifications Bureau determines if the submitted documents are acceptable, and if so, digitally signs the contract to indicate the Iowa DOT's concurrence in the contract award. The contract is then marked complete in Doc Express. **The Iowa DOT's Concurrence signature does not make the Iowa DOT a party to the contract; however, it is required before any work on the contract may begin in which Federal-aid reimbursement will be requested.**

## Rejecting all Bids

As a condition of letting the project, the LPA should have adequate financial resources to award a contract if a reasonable bid is received. If the bid is within 10% of the LPA's estimate, the LPA should not reject a bid because of inadequate funds. The Department will not concur in the rejection of all bids in this circumstance, absent prior consultation with the Contracts and Specifications Bureau. If the LPA desires to reject all bids and not award a contract to the low bidder, the LPA shall notify the Contracts and Specifications Bureau on LPA letterhead, asking for concurrence in rejecting all bids. The letter shall explain why the LPA desires to reject all bids. This should be done prior to the LPA taking formal action. The LPA shall include information on the bid analysis performed, and share its future plans for the project; i.e., whether it will be revised and re-let or if the project will be cancelled. If the project will be re-let, some type of change to the plans, specifications, or contract period should be made in order to obtain lower bids. After the Contracts and Specifications Bureau concurs with rejecting all bids, the LPA shall take formal action and notify the low bidder. Depending on when the contract will be re-let, Federal funding may need to be de-obligated. If the contract is not going to be re-let, the Federal funding shall be de-obligated. For additional information, refer to [I.M. 1.200](#), Federal Funds Management.

### Beginning Work

After Doc Express notification of Iowa DOT concurrence of the contract from the Iowa DOT, the contractor may begin work. The contractor should not be allowed to begin work prior to the Iowa DOT concurrence of the contract in case there are any problems with the required performance bonds, Certificate of Insurance, or subcontracts that would preclude Federal-aid reimbursement. For the same reason, the LPA should not hold a pre-construction meeting before receiving notification of Iowa DOT concurrence or the signed contract from the Contracts and Specifications Bureau.

The LPA should not delete substantial portions of the contract after the contract has been executed in order to bring the project within budget, as this could impact the bidding process.

For information regarding the procedures for construction contract administration, refer to [I.M. 6.000](#), Construction Inspection.