

CHAPTER 8
CONTRACTS FOR SERVICES AND PUBLIC IMPROVEMENTS

561—8.1(8A) Contract policy. All service and public improvements contracts with the department shall be awarded on a competitive basis to the maximum practical extent. All contracts shall be in written form.

561—8.2(8A, 26, 455B, 573) Contracts for public improvements.

8.2(1) Definition. As used in these rules, “public improvement” means public improvement as defined in Iowa Code section 26.2. Iowa Code section 73.3, relating to reciprocal resident bidder preference, shall apply to department contracts for public improvements.

8.2(2) Bidding process. The department shall use the bidding processes identified in Iowa Code chapter 26.

8.2(3) Approval and Award of Contracts. All contracts for public improvements in excess of \$100,000 shall be approved by the director and the appropriate commission.

8.2(4) Change orders and extra work orders. All change orders and extra work orders shall be approved by the director before the work is performed, except in emergency situations. In addition, any order or accumulation of orders which increases the amount of the original contract by more than \$50,000 or 10 percent of the original contract, whichever is greater, shall also be approved by the appropriate commission.

8.2(5) Interest on retained funds.

a. Scope. This rule implements Iowa Code subsection 573.12(3) regarding payment to a contractor of interest earned on retained funds. This rule does not address payment of interest under Iowa Code section 573.14.

b. General requirements.

(1) Interest shall be paid pursuant to Iowa Code section 573.12.

(2) Interest shall be paid on retained funds of a contract only if the accrued interest on those funds is at least \$25. This dollar threshold reflects the cost to the department of processing an interest payment on retained funds in contracts for the construction of public improvements.

(3) Interest shall not be paid on retained funds of a contract declared in default.

c. Procedures.

(1) Interest shall begin to accrue on retained funds on the date the first progress payment is issued. An interest rate shall be established on this date in accordance with Iowa Code section 12C.6. This interest rate shall apply for the duration of the contract.

(2) In general, interest shall continue to accrue on retained funds until the date final payment is approved by the chief engineer. Final payment is payment of retained funds less assessed liquidated damages, if applicable.

(3) Notwithstanding paragraph “b”, interest shall cease to accrue on retained funds:

- Upon the expiration of 60 days following field acceptance of a project if the contractor has failed to submit to the department the documentation necessary for final payment, as specified in the contract provision.

- Upon the court obtaining jurisdiction of the retained funds pursuant to Iowa Code section 573.16. Retained funds turned over to the court will include the interest accrued on those funds to the date the action was filed, if the interest has not been paid to the contractor.

561—8.3(8A, 455A) Contracts for services.

8.3(1) Services defined. The term “services” shall be as defined in 11 Iowa Administrative Code section 118.3, adopted as required by Iowa Code section 8A.311.

8.3(2) Purchasing Standards for Service Contracts. The department shall comply with the provisions of 11 Iowa Administrative Code chapters 117 through 121 (as of June 25, 2024).

8.3(3) Approval of service contracts. All contracts for services in excess of \$50,000 shall be approved by the director and the appropriate commission.

8.3(4) Service contract amendments and change orders. All service contract amendments and change orders that increase the amount of the original contract by more than \$50,000 or 10 percent of the original contract, whichever is greater, shall also be approved by the appropriate commission.

561—8.4(456A) Contracts for sale of timber. When the total cost of a public sale of timber exceeds the sum of \$5,000 as estimated by the department, the department shall advertise by publishing a notice by email or through mail, and by posting on the State of Iowa bid opportunities site. The notices shall be not less than 15

days prior to the date set for receiving bids. The notice to bidders (invitation for bids) shall conform as nearly as possible to the formal competitive process used by the department. All timber buyers and timber sales agreements must comply in all respects with Iowa Code section 456A.36.

These rules are intended to implement Iowa Code sections 455A.4, 456A.20(2), and 573.12(3).