

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

FROM THE OFFICE OF JOSPEH J. CZARNEZKI

MILWAUKEE COUNTY CLERK

County Ordinance No. 12-3

File No. 12-74

AN ORDINANCE

The County Board of Supervisors of the County of Milwaukee does ordain as follows:

SECTION 1. Section 30.04(5)(b) of the General Ordinances of Milwaukee County is hereby amended as follows:

30.04 Audit authority; complaints and filing fees; penalties; hearings; duty of contractor and subcontractor to make and keep payroll records; proof of compliance with chapter 30.

1) Audit authority. Every contract for the performance of a public work of the county shall require every contractor to permit the county, by its duly authorized representatives, to audit payroll records of the contractor relating to the county contract at all times during the performance of the contract and for three (3) years after completion thereof. If requested by any person, upon the payment of the deposit fee and filing of the verified complaint described below, the county shall audit the payroll records of the contractors, subcontractors or agents to ensure compliance with this chapter.

(2) Complaint and filing fee. Audit requests from third parties shall be based upon verified complaints which shall be filed with the department and shall, upon filing, become public records. The director shall establish a complaint format and an audit complaint filing fee not to exceed fifty dollars (\$50.00) which shall be paid to the department upon the filing of a complaint requesting an audit. Such fee shall be applied toward the costs of the audit. If the contractor, subcontractor or agent subject to the audit is found to be in compliance with this chapter the department shall retain a sufficient amount from said deposit to cover the costs of the audit and return the balance of said deposit, if any, to the person who signed the complaint. If noncompliance is established, the full deposit shall be returned to the person who signed the complaint, and the costs of the audit shall be charged against the contractor and deducted from any payments due the contractor on the project.

(3) Penalties. If the contractor, subcontractor, or agent is determined by the audit to be in violation of this chapter, the director may declare the contractor in default

47 and seek recourse against the contractor's bond for payment of the unpaid
48 wages or benefits determined to be due offended employees of the contractor. If
49 the county is holding monies due or to become due to the contractor on the
50 contract, a sum sufficient to make whole the offended employees of the contractor
51 may be withheld from the contractor, paid to the employees, and charged against
52 the balance due the offending contractor. The director may, in addition, declare
53 the offending contractor ineligible to bid on contracts or subcontracts on county
54 projects for up to three (3) years from the date of completion of the audit.

55

56 (4) Hearing. Any contractor or subcontractor subject to this chapter who is found
57 to be in violation hereof and who is penalized as provided in paragraph (3),
58 above, is entitled to a hearing as provided under chapter 110 of the Code.

59

60 (5) Duty to keep payroll records, production of payroll records.

61

62 (5)(b) In addition to any disclosures of records required in proceedings initiated
63 by the complaint of third parties in the manner described above, every
64 contractor shall, upon written demand from the appropriate director of
65 transportation (or designee) or the director of administrative services (or
66 designee) and development or such other officer as may be designated by the
67 county board, file a true and correct copy of any such payroll records, including
68 those of any subcontractor, with the county clerk. The copies so furnished shall
69 be public records. Every contract for public works executed by the county shall
70 contain the language in this subparagraph.

71

72 **SECTION 2.** Sections 44.001(b), 44.02, 44.03, 44.04, 44.05, 44.06, 44.07(b),
73 44.08, 44.09(a), 44.11, 44.12, 44.13(1), 44.13(2), 44.14(1), 44.14(2), and 44.16(3) of
74 the General Ordinances of Milwaukee County is hereby amended as follows:

75

76 44.001 Public Works contracts.

77

78 44.001 Exception. Notwithstanding any conflicting provisions of the
79 Milwaukee County Ordinances, the appropriate Director of Transportation (or
80 designee) or the Director of Administrative Services (or designee) is hereby
81 authorized, to the fullest extent of the grant of authority contained in 1999 Wis.
82 Act 9, Sec. 1580m, to proceed with the construction of the project known as
83 the sheriff's department training academy according to the design-build
84 construction process.

85

86 44.02 Separate letting.

87

88 44.02 For purposes of this chapter for contracts calling for the construction,
89 repair, remodeling, or improvement of any public building or structure or utility
90 usage other than highway structures and facilities, the appropriate director of
91 transportation (or designee) or the director of administrative services (or
92 designee) may bid projects based on a single or multiple division of work.

93 Contracts shall be awarded according to the division of work selected for
94 bidding. The county may set out in any public contract reasonable and lawful
95 conditions, as to the hours of labor, wages, residence, character and
96 classification of workers to be employed by any contractor, and to classify
97 such contractors as to financial responsibility, competency and ability to
98 perform work.
99

100 44.03 Solicitation of bids.

101
102 44.03 The appropriate department of transportation or the department of
103 administrative services shall solicit sealed bids by public notice inserted at
104 least twice in a newspaper and/or trade magazine of county-wide circulation
105 with the last publication occurring at least seven (7) days prior to bid opening.
106

107 44.04 Bidding and contract documents.

108
109 44.04 Bidding and contract documents shall be prepared by the appropriate
110 department of transportation or the department of administrative services or
111 private consultants and reviewed by the appropriate director of transportation
112 (or designee) or the director of administrative services (or designee), for
113 conformity with project requirements. Such project requirements may include
114 special employment considerations and goals as determined by the director.
115 Single source or brand name products, materials or processes may be
116 specified whenever the department ascertains the need for such
117 specifications; otherwise, the term "or approved equal" shall be used and the
118 department shall establish uniform and fair rules for such approvals.
119

120 44.05 Delivery of bid and contract documents.

121
122 44.05 Bid and contract documents shall be delivered by the appropriate
123 department of transportation or the department of administrative services to
124 prospective bidders who deposit cash or credit in an amount determined by
125 the appropriate director of transportation (or designee) or the director of
126 administrative services (or designee) to cover cost of document preparation. In
127 lieu of deposit, the appropriate department of transportation or the department
128 of administrative services may accept deposit guarantee cards issued by
129 organized contractor associations, approved by the appropriate director of
130 transportation (or designee) or the director of administrative services (or
131 designee), guaranteeing return of plans and specifications or payment of
132 deposit. Cash or credit deposits shall be refunded upon return of the
133 documents in good order and condition, reasonable wear and tear excepted,
134 within ten (10) days after bid opening, or be forfeited.
135

136 44.06 Bid opening.

137

138 44.06 Bid opening times shall be scheduled by the appropriate department of
139 transportation or the department of administrative services. A member of that
140 department shall be present at all such bid openings. All sealed bids shall be
141 delivered to, and received by, the office of the county clerk prior to the time set
142 for the opening of said bid. The county clerk, or designee, shall open bids of
143 qualified bidders only, and shall inspect each bid to ascertain whether it
144 conforms to the bid signature affidavit and bond requirements, and shall reject
145 any bid found not to be in compliance with said elements. Evidence of failure
146 of compliance shall be retained by the county clerk and said rejected bid shall
147 be immediately returned to the bidder accompanied by notice of reason for
148 rejection.
149

150 44.07 Bid requirements, disqualification and rejection of bids.

151
152 44.07(b) Bidder's certificate. A sworn statement shall be incorporated in the
153 bid that the bidder has examined and carefully completed the bid and contract
154 documents supplied by the appropriate department of transportation or the
155 department of administrative services and checked it in detail before
156 submission.
157

158 44.08 Bid rejection and forfeiture.

159
160 44.08 Bids received after the time set for closing and bids of contractors not
161 qualified by the appropriate director of transportation (or designee) or the
162 director of administrative services (or designee) shall be returned unopened to
163 bidders. Bids which fail to conform to signature, affidavit and bond
164 requirements, shall be rejected by the director and returned to the bidder. If a
165 bidder awarded a contract fails to return the signed contract and executed
166 performance bond within ten (10) days from receipt thereof or within such
167 additional time for which there exists an excusable delay approved by the
168 director, the bid bond and/or deposit shall be forfeited as liquidated damages.
169 Upon such forfeiture, the contract may be awarded by the director to the next
170 lowest, responsible, responsive bidder or readvertised and/or relet to public
171 bid or cancelled if the next lowest responsive, responsible bidder is not within
172 the project budget. The director is authorized to reject all bids, or cancel the
173 entire bid, after consultation with corporation counsel has determined that
174 such action is in the best interest of the county. The rejected bidder may
175 appeal the decision in accordance with chapter 110 of the Code. The county,
176 through its appropriate director of transportation (or designee) or the director
177 of administrative services (or designee), reserves the right to accept or reject
178 all bids, or cancel the entire bid, in its best interest.
179

180 44.09 Bid withdrawal, correction and contract reward.

181
182 44.09(a) Bid withdrawal. A bidder may withdraw at any time prior to the time
183 set for bid closing and submit a new bid if done prior to bid closing. A bidder

184 claiming an error or omission after bid closing but prior to bid opening shall
185 immediately notify the appropriate department of transportation or the
186 department of administrative services (or designee) and the bid shall be
187 returned immediately and the bidder shall not be eligible to bid on the work
188 unless it is relet by advertisement.

189
190 44.11 Change orders.

191
192 44.11 All contracts shall contain provisions for issuing change orders. The
193 appropriate director of transportation (or designee) or the director of
194 administrative services (or designee) or designee is authorized to approve and
195 issue such orders when required to meet conditions not reasonably foreseen
196 at the date of bid submission. No contract amount plus authorized change
197 orders shall exceed funds appropriated for the project unless the county
198 appropriates the necessary additional funds.

199
200 44.12 Escalator clauses.

201
202 44.12 Public works contracts in excess of fifty thousand dollars (\$50,000.00)
203 and with a projected performance period in excess of six (6) months may, at
204 the discretion of the appropriate director of transportation (or designee) or the
205 director of administrative services (or designee), contain escalator clauses
206 providing for additional payment to contractors for increased prices. Bidders,
207 to be eligible for such payment, shall submit with bids, a schedule of materials
208 and equipment which may escalate. No increase shall be allowed in excess of
209 fifteen (15) percent of the scheduled price of any item or the actual cost to the
210 contractor, whichever is less.

211
212 44. 13 Allowance of partial payments on county public works contracts; who to
213 authorize.

214
215 44.13(1) Partial payments for incurred costs shall be made by the county to
216 the contractor from time to time as the work proceeds, upon application as
217 specified in the contract documents and when approved by the head of the
218 department having jurisdiction over the contract. In making such payments,
219 ten (10) percent of the amount approved shall be retained until final
220 completion and acceptance of all work covered by the contract; provided that
221 after fifty (50) percent of the work has been completed and if the appropriate
222 director of transportation (or designee) or the director of administrative
223 services (or designee) determines that the contractor's performance and
224 progress are satisfactory, partial payments in full for the work subsequently
225 completed may be made.

226
227 44.13(2) Partial payments may include the cost of building and construction
228 materials and equipment for future incorporation in the work, upon
229 presentation by contractors of receipted bills or other satisfactory evidence of

230 payment, and proof of proper storage and protection as required by the
231 appropriate department of transportation or the department of administrative
232 services.

233
234 44.14 Award of public works contracts.

235
236 44.14(1) The appropriate director of transportation (or designee) or the
237 director of administrative services (or designee) shall, in his or her sole
238 discretion, establish procedures for awarding all public works contracts where
239 the aggregate amount of any such contract is less than five thousand dollars
240 (\$5,000.00). Except as provided in the preceding sentence and in subsection
241 (4) below, a minor public works contract less than twenty thousand dollars
242 (\$20,000.00) may be awarded to the lowest qualified responsible bidder after
243 solicitation of three (3) informal bids, or may be performed by county forces,
244 provided sufficient county funds are available. Contracts greater than twenty
245 thousand dollars (\$20,000.00) shall be awarded to the lowest, responsive,
246 responsible bidder after solicitation of formal bids.

247
248 44.14(2) The appropriate director of transportation (or designee) or the
249 director of administrative services (or designee) shall award and execute all
250 public works contracts where the amount of any such contract is five
251 thousand dollars (\$5,000.00) or more.

252
253 44.016 Minority/women business enterprise program.

254
255 44.16(3) The appropriate director of the department of transportation (or
256 designee) or the director of administrative services (or designee), is further
257 authorized and empowered by this section to effectuate and establish
258 appropriate procedures, standards and bid specifications to implement and
259 achieve the county policies and goals contained in chapter 42.

260
261 **SECTION 3.** Sections 56.20(3)(4) and 56.30(4)(a)(1) of the General Ordinances
262 of Milwaukee County is hereby amended as follows:

263
264 56.20 Centralized administration of public works contracts and construction.

265
266 (1) Policy. Uniformity of bid documents, contracts and procedures for
267 construction of public works projects and centralization in one (1) office of related
268 activities is essential to efficient management of public construction programs.

269
270 (2) Definitions. As used in this ordinance:

271 (a) "Public work project" means all projects for construction, repair,
272 remodeling or major maintenance or capital improvements subject to s.
273 59.08, Wis. Stats., and authorized by the county board or departments of
274 county government, including boards and commissions.

275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319

(b) "Administration" means preparation of preliminary and final plans, specifications, project and professional service cost estimates, and bid documents; analysis of bids, preparation of schedules for plans, bidding and construction completion, making recommendations for award of contract, contract drafting, inspection of construction during work progress and reporting scheduled progress to responsible department on a monthly basis; drafting and recommending contract change orders and certificates of payment, and maintaining project records; establishment of a program for maintaining structural integrity of all capital improvements and routine major maintenance; recommending professional architectural, engineering and specialized trade consultants, drafting contracts and issuance of certificates of payment for such professional service, and review of all plans and specifications prepared by such professional consultants.

(3) Central office. Administration of all public work projects shall be the function of, and centralized in, the appropriate department of transportation or the department of administrative services.

(4) Service charge. The cost of all services performed by the appropriate department of transportation or the department of administrative services shall be charged, where applicable, against the project account, the department for which the services are rendered, or the revolving fund established in conformity with section 56.12 of the Code.

56.30 Professional Services.

(4)(a)(1) During its annual budget process, departments shall provide a list to the county board of which capital projects contained in the recommended budget are intended to require the assistance of a professional services consultant. Departments are authorized to enter into contractual services or professional services agreements as may be required for specific capital improvement projects which have been approved by the county board through the budget process. Expenditures shall only be for those projects and professional services specifically identified in the budget write-up reviewed by the committee on finance and audit during the budget review process and approved by the county board, or for those projects approved by action of the county board. The budget write-up shall contain specific information as to the scope of the project, professional services required and estimated cost of the professional services work to be performed. The appropriate department of transportation or the department of administrative services shall provide in February of each year to the committee on finance and audit and the committee on transportation, public works and transit an updated report on public works capital projects requiring the use of a professional services contract. Any professional services work costing more than twenty thousand dollars

320 (\$20,000.00) which is not identified in the February report shall require county
321 board approval.

322

323 **SECTION 4.** This ordinance shall become effective upon publication.

324

325

Adopted by the Milwaukee County Board of Supervisors

326

327

February 2, 2012

328

Engrossed by County Clerk 2/23/12