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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 ~~public~~
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 ~~Public Works~~
80 Transportation (or designee) or the Director of Administrative Services (or
81 designee) is hereby authorized, to the fullest extent of the grant of authority
82 contained in 1999 Wis. Act 9, Sec. 1580m, to proceed with the construction of
83 the project known as the sheriff's department training academy according to
84 the design-build 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 ~~public works~~ transportation (or designee) or the director of administrative
92 services (or designee) may bid projects based on a single or multiple division

93 of work. Contracts shall be awarded according to the division of work selected
94 for bidding. The county may set out in any public contract reasonable and
95 lawful 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 ~~public works~~ transportation or the
103 department of administrative services shall solicit sealed bids by public notice
104 inserted at least twice in a newspaper and/or trade magazine of county-wide
105 circulation with the last publication occurring at least seven (7) days prior to
106 bid opening.
107

108 44.04 Bidding and contract documents.

109
110 44.04 Bidding and contract documents shall be prepared by the appropriate
111 department of ~~public works~~ transportation or the department of administrative
112 services or private consultants and reviewed by the appropriate director of
113 ~~public works~~ transportation (or designee) or the director of administrative
114 services (or designee), or designee, for conformity with project requirements.
115 Such project requirements may include special employment considerations
116 and goals as determined by the director. Single source or brand name
117 products, materials or processes may be specified whenever the department
118 ascertains the need for such specifications; otherwise, the term "or approved
119 equal" shall be used and the department shall establish uniform and fair rules
120 for such approvals.
121

122 44.05 Delivery of bid and contract documents.

123
124 44.05 Bid and contract documents shall be delivered by the appropriate
125 department of ~~public works~~ transportation or the department of administrative
126 services to prospective bidders who deposit cash or credit in an amount
127 determined by the appropriate director of ~~public works~~ transportation (or
128 designee) or the director of administrative services (or designee) to cover cost
129 of document preparation. In lieu of deposit, the appropriate department of
130 ~~public works~~ transportation or the department of administrative services may
131 accept deposit guarantee cards issued by organized contractor associations,
132 approved by the appropriate director of ~~public works~~ transportation (or
133 designee) or the director of administrative services (or designee),
134 guaranteeing return of plans and specifications or payment of deposit. Cash or
135 credit deposits shall be refunded upon return of the documents in good order
136 and condition, reasonable wear and tear excepted, within ten (10) days after
137 bid opening, or be forfeited.
138

139 44.06 Bid opening.
140

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

152 44.07 Bid requirements, disqualification and rejection of bids.
153

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

159
160 44.08 Bid rejection and forfeiture.
161

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

181
182 44.09 Bid withdrawal, correction and contract reward.
183

184 44.09(a) Bid withdrawal. A bidder may withdraw at any time prior to the time
185 set for bid closing and submit a new bid if done prior to bid closing. A bidder
186 claiming an error or omission after bid closing but prior to bid opening shall
187 immediately notify the appropriate department of ~~public works~~ transportation
188 or the department of administrative services (or designee) and the bid shall be
189 returned immediately and the bidder shall not be eligible to bid on the work
190 unless it is relet by advertisement.

191
192 44.11 Change orders.

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

201 44.12 Escalator clauses.

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

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

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

227
228 44.13(2) Partial payments may include the cost of building and construction
229 materials and equipment for future incorporation in the work, upon

230 presentation by contractors of receipted bills or other satisfactory evidence of
231 payment, and proof of proper storage and protection as required by the
232 appropriate department of public works transportation or the department of
233 administrative services.

234
235 44.14 Award of public works contracts.

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

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

253
254 44.016 Minority/women business enterprise program.

255
256 44.16(3) The appropriate director of the department of public works
257 transportation (or designee) or the director of administrative services (or
258 designee), is further authorized and empowered by this section to effectuate
259 and establish appropriate procedures, standards and bid specifications to
260 implement and achieve the county policies and goals contained in chapter 42.
261

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

264
265 56.20 Centralized administration of public works contracts and construction.

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

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

272 (a) "Public work project" means all projects for construction, repair,
273 remodeling or major maintenance or capital improvements subject to s.

274 59.08, Wis. Stats., and authorized by the county board or departments of
275 county government, including boards and commissions.

276

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

290

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

294

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

300

301 | 56.30 Professional Services.

302

303 (4)(a)(1) During its annual budget process, departments shall provide a list to
304 the county board of which capital projects contained in the recommended
305 budget are intended to require the assistance of a professional services
306 consultant. Departments are authorized to enter into contractual services or
307 professional services agreements as may be required for specific capital
308 improvement projects which have been approved by the county board through
309 the budget process. Expenditures shall only be for those projects and
310 professional services specifically identified in the budget write-up reviewed by
311 the committee on finance and audit during the budget review process and
312 approved by the county board, or for those projects approved by action of the
313 county board. The budget write-up shall contain specific information as to the
314 scope of the project, professional services required and estimated cost of the
315 professional services work to be performed. The appropriate department of
316 ~~public works~~ transportation or the department of administrative services shall
317 provide in February of each year to the committee on finance and audit and the
318 committee on transportation, public works and transit an updated report on

319 public works capital projects requiring the use of a professional services
320 contract. Any professional services work costing more than twenty thousand
321 dollars (\$20,000.00) which is not identified in the February report shall require
322 county board approval.
323

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

325

326

Adopted by the Milwaukee County Board of Supervisors

327

328

February 2, 2012

329