



COUNTY OF MILWAUKEE  
INTEROFFICE COMMUNICATION

Office of the Comptroller

**DATE:** August 22, 2017  
**TO:** Theodore Lipscomb, Sr., Chairperson, County Board of Supervisors  
**FROM:** Scott B. Manske, Comptroller  
**SUBJECT:** Authorization to Pay for Legal Services (Informational Only)

**Policy Issue**

Milwaukee County Code of General Ordinances Section 56.30(9) requires that a written contract be signed and executed before professional services in an amount greater than \$2,000 are performed by an outside party.

**Background**

On April 18, 2017, a staff member of the Audit Services Division (ASD), Office of the Comptroller, received a deposition subpoena in the matter of U.S. Eastern District of Wisconsin Case 2017CV156, *Daniel Black v. David Clarke, et al.*

In the months prior ASD staff tried to interview staff of the Milwaukee County Sheriff's Office (MCSO) as part of an investigation per Milwaukee County Code of General Ordinances Section 34.095. MCSO denied the request.

It was determined that the Office of Corporation Counsel (OCC) could not represent ASD nor MCSO in these matters due to a conflict of interest.

On April 20, 2017, OCC drafted a contract for Attorney Stadler of Mallery & Zimmerman to serve ASD as legal counsel for two tasks:

- 1) To represent ASD at the April 26, 2017, deposition in the matter of *Daniel Black v. David Clarke, et al.* and
- 2) To represent ASD in an affirmative declaratory judgement action concerning its authority under MCCGO 34.09(5) in conducting county investigations

Attorney Stadler began to provide services related to task 1) above on April 21, 2017, since the deposition date was quickly approaching. ASD had understood that the contract was signed, but later learned this was not the case.

On April 25, 2017, OCC advised ASD that a conflict of interest would likely exist if Attorney Stadler were to represent ASD in the case above relating to the County Board's powers to grant authority to ASD due to Attorney Stadler's ongoing representation of the County Executive in a separate case but also relating to the County Board's powers. Therefore OCC advised ASD to retain different legal counsel for the pending matters. The contract for Attorney Stadler's services was never signed.

Per OCC's advice and as authorized in File [17-324](#), ASD has now retained different legal counsel to perform task 2) above (to represent ASD in an affirmative declaratory judgement action concerning its authority under MCCGO 34.09(5) in conducting county investigations).

Mallery & Zimmerman has invoiced ASD for services in an amount of \$3,557.30 to complete task 1) above (to represent ASD at the April 26, 2017, deposition in the matter of *Daniel Black v. David Clarke, et al.*).

### **Recommendation**

The Comptroller's office recommends that the County Board waive Milwaukee County Code of General Ordinances Section 56.30(9) and authorize the Comptroller to pay Mallery & Zimmerman for services rendered without a contract in an amount of \$3,557.30. Sufficient funds are available within Org. 3700 (Office of the Comptroller).



Scott B. Manske  
Comptroller

### **Attachments**

- Cc: Supervisor Peggy A. West, Chairwoman, Finance and Audit Committee  
Chris Abele, County Executive  
Rick Norris, Director, Community Business Development Partners, Department of Administrative Services  
Finance and Audit Committee  
Kelly Bablitch, Chief of Staff, County Board  
Raisa Koltun, Chief of Staff, Office of the County Executive  
Teig Whaley-Smith, Director, Department of Administrative Services  
Jerry Heer, Director of Audits, Audit Services Division, Office of the Comptroller  
Steve Cady, Research & Policy Director, Research Services Division, Office of the Comptroller  
Janelle Jensen, Legislative Services Division Manager, Office of the County Clerk