

1
2 FROM THE OFFICE OF JOSPEH J. CZARNEZKI
3 MILWAUKEE COUNTY CLERK
4

5 County Ordinance No. 16-16
6

7 File No. 15-783
8

9
10 AN ORDINANCE
11

12 The County Board of Supervisors of the County of Milwaukee does ordain as follows:
13

14 **Section 1. Chapter 42 of the Milwaukee County Ordinances is amended as**
15 **follows:**
16

17 Chapter 42 – ~~DISADVANTAGED BUSINESS ENTERPRISE AND AIRPORT-~~
18 ~~CONCESSION DISADVANTAGED BUSINESS~~ TARGET BUSINESS ENTERPRISE
19 PARTICIPATION IN COUNTY CONTRACTING

20 42.01. - Policy.

21 ~~Based upon the findings contained in county board file no. 92-474 and all other~~
22 ~~documents and reports contained therein,~~ It is the county's policy to comply with all
23 federal requirements relating to the Disadvantaged Business Enterprise (DBE) Program
24 and the Airport Concession Disadvantaged Business Enterprise (ACDBE) Program and
25 to require opportunities for participation by DBE and ACDBE firms ~~in county contracting.~~
26 ~~The provisions of this chapter will apply to both county and federally funded projects.~~

27 Disadvantaged Business Enterprises Program and Airport Concession
28 Disadvantaged Business Enterprises Program participation opportunities provided for all
29 projects funded with federal money, including, but not limited to, the Federal Transit
30 Administration (FTA), Federal Aviation Administration (FAA) and Federal Highway
31 Administration (FHWA) shall comply with Title 49 of the Code of Federal Regulations,
32 Parts 23 and 26, as amended from time to time, and all other appropriate federal laws
33 and regulations, as applicable, now in effect or to take effect in the future and fully
34 comply with laws and regulations related to use of federal funds.

35 It is the county's policy to comply with state requirements relating to minority and
36 women business enterprises as applicable, and fully comply with laws and regulations
37 related to use of state funds.

38 It is the county's policy to require opportunities for participation of Disadvantaged
39 Business Enterprise (DBE), Minority-Owned Business Enterprises (MBE), Woman-
40 Owned Business Enterprises (WBE), Airport Concession Disadvantaged Business
41 Enterprise (ACDBE), and Small Business Enterprise (SBE), to be known as Milwaukee
42 County Target Enterprises (MCTE), in identified Milwaukee County contracting.

43 42.02. - Definitions.

- 44 (1) For all ~~projects~~ contracts subject to this chapter funded with federal and/or county
45 money ~~and those funded only by county money~~, the following definitions shall apply;
- 46 (a) Airport Concession means one (1) or more of the types of for-profit businesses
47 defined in 49 CFR Part 23, Section 23.3 under the definition listed in
48 paragraphs (1) or (2) of this definition:
- 49 (1) A business, located on an airport that is engaged in the sale of consumer
50 goods or services to the public under an agreement with Milwaukee County,
51 another concessionaire, or the owner or lessee of a terminal, if other than
52 Milwaukee County; or
- 53 (2) A business conducting one (1) or more of the following covered activities,
54 even if it does not maintain an office, store, or other business location on an
55 airport, as long as the activities take place on the airport: management
56 contracts and subcontracts, a web-based or other electronic business in a
57 terminal or which passengers can access at the terminal, an advertising
58 business that provides advertising displays or messages to the public on
59 the airport, or a business that provides goods and services to
60 concessionaires.
- 61 ~~(a)~~(b) Airport concession disadvantaged business enterprise (ACDBE) means a
62 concession that is a for-profit small business concern that is at least fifty-one
63 (51) percent owned by one (1) or more individuals who are both socially and
64 economically disadvantaged, or in the case of a corporation, in which fifty-one
65 (51) percent of the stock is owned by one (1) or more such individuals; and
66 whose management and daily operations are controlled by one (1) or more
67 socially and economically disadvantaged individuals who own it. Milwaukee
68 County shall use the definition of ACDBE, now in effect or to take effect in the
69 future, as defined by the United States Department of Transportation.
- 70 ~~(b)~~(c) Commercially useful function. A DBE MCTE performs a commercially useful
71 function when it is responsible for execution of the work of the contract and is
72 carrying out its responsibilities by actually performing, managing, and
73 supervising the work involved. To perform a commercially useful function, the
74 DBE MCTE must also be responsible, with respect to materials and supplies
75 used on the contract, for negotiating price, determining quality and quantity,
76 ordering the material, and installing (where applicable) and paying for the
77 material itself. To determine whether a DBE MCTE is performing a
78 commercially useful function, all facts and circumstances are considered
79 including, but not limited to, the amount of work subcontracted, industry
80 practices, whether the amount the firm is to be paid under the contract is
81 commensurate with the work it is actually performing and the DBE MCTE credit
82 claimed for its performance of the work, and other relevant factors.
- 83 ~~(c)~~ Concession means one (1) or more of the types of for-profit businesses defined
84 in 49 CFR Part 23, Section 23.3 under the definition listed in paragraphs (1) or
85 (2) of this definition:-

- 86 ~~(1) A business, located on an airport that is engaged in the sale of consumer~~
87 ~~goods or services to the public under an agreement with Milwaukee County,~~
88 ~~another concessionaire, or the owner or lessee of a terminal, if other than~~
89 ~~Milwaukee County.~~
- 90 ~~(2) A business conducting one (1) or more of the following covered activities,~~
91 ~~even if it does not maintain an office, store, or other business location on~~
92 ~~an airport as long as the activities take place on the airport: management~~
93 ~~contracts and subcontracts, a web-based or other electronic business in a~~
94 ~~terminal or which the passengers can access at the terminal, an advertising~~
95 ~~business that provides advertising displays or messages to the public on~~
96 ~~the airport, or a business that provides goods and services to~~
97 ~~concessionaires.~~
- 98 (d) *Concessionaire* means a firm that owns and controls a concession or a portion
99 of a concession. Concession for purposes of the Chapter is a business located
100 on Milwaukee County lands or within its facilities engaged in the sale of
101 consumer goods and services directly to the public under an agreement with
102 Milwaukee County.
- 103 (e) *Contract* means a legally binding relationship obligating a seller to furnish
104 materials, supplies or services (including, but not limited to, construction and
105 professional services) and the buyer to pay for them. ~~For purposes of this part,~~
106 ~~a lease is considered to be a contract.~~
- 107 (f) *Disadvantaged business enterprise (DBE)* means a for-profit small business
108 concern which is at least fifty-one (51) percent owned by one (1) or more
109 individuals who are both socially and economically disadvantaged or, in the
110 case of a corporation in which fifty-one (51) percent of the stock is owned by
111 one or more such individuals; and whose management and daily operations are
112 controlled by one or more of the socially and economically disadvantaged
113 individuals who own it. Milwaukee County shall use the definition of DBE, now
114 in effect or to take effect in the future, as defined by the United States
115 Department of Transportation and associated certification requirements.
- 116 (g) *Good faith efforts* means efforts to achieve a ~~DBE or ACDBE~~ MCTE goal or
117 other requirement, which by their scope, intensity, and appropriateness to the
118 objective, can reasonably be expected to fulfill the program requirement.
- 119 (h) *Joint venture* means an association of a ~~DBE or ACDBE~~ MCTE firm and one (1)
120 or more other firms to carry out a single, for-profit business enterprise, for which
121 the parties combine their property, capital, efforts, skills and knowledge, and in
122 which the ~~DBE or ACDBE~~ MCTE is responsible for a distinct, clearly defined
123 portion of the work of the contract and whose share in the capital contribution,
124 control, management, risks, and profits of the joint venture are commensurate
125 with its ownership interest.
- 126 (i) Milwaukee County Target Enterprise (MCTE) means a for-profit small business
127 that qualifies as an Airport Concession Disadvantaged Business Enterprise
128 (ACDBE), Disadvantaged Business Enterprise (DBE), Minority Business

- 129 Enterprise (MBE), Small Business Enterprise (SBE), Woman-Owned Business
 130 Enterprise (WBE) and/or similarly designated business as defined and/or
 131 qualified within this chapter.
- 132 (j) Minority-Owned Business Enterprise (MBE) means a for-profit small business
 133 that is at least fifty-one (51) percent owned by one (1) or more individuals who
 134 both belong to an ethnic minority group such as but not limited to: Native
 135 American, Black American, Hispanic American, Asian Pacific American, or Sub-
 136 continent Asian American or, in the case of a corporation in which fifty-one (51)
 137 percent of the stock is owned by one or more such individuals; and whose
 138 management and daily operations are controlled by one or more of the ethnic
 139 minority individuals who own it.
- 140 (i) ~~Race-conscious measure or program is one that focuses specifically on assisting~~
 141 ~~only DBEs or ACDBEs, including women-owned DBEs and ACDBEs.~~
- 142 (j) ~~Race neutral measure or program is one that is, or can be, used to assist all~~
 143 ~~small businesses. For purposes of this part, race neutral includes gender~~
 144 ~~neutrality.~~
- 145 (k) *Small business enterprise (SBE)* means an organized, for-profit business that is
 146 independently owned and operated and not dominant in its field. ~~Depending on~~
 147 ~~the industry, size standard eligibility is based on the average number of~~
 148 ~~employees for the preceding twelve months or on sales volume average over a~~
 149 ~~three-year period. In no case will a firm be an eligible SBE in any federal fiscal~~
 150 ~~year if the firm (including its affiliates) has had average annual gross receipts,~~
 151 ~~as defined by United States Small Business Administration (SBA) regulations~~
 152 ~~(see 13 CFR 121.402), over the firm's previous three fiscal years in excess of~~
 153 ~~\$4 million, or if the owner(s) of the firm exceed the personal net worth (PNW)~~
 154 ~~described in 49 CFR Part 26. Milwaukee County shall use the definition of SBE,~~
 155 now in effect or to take effect in the future, as defined by the United States
 156 Small Business Administration (SBA) and associated identification
 157 requirements.
- 158 (l) *Socially and economically disadvantaged individual* means any individual who is
 159 a citizen (or lawfully admitted permanent resident) of the United States, ~~and~~
 160 ~~who is~~ as defined by the United States Small Business Administration (SBA)
 161 and associated identification requirements:
- 162 (1) ~~Any individual who the county finds to be a socially and economically~~
 163 ~~disadvantaged individual on a case-by-case basis.~~
- 164 (1)(2) Any individual in the following groups, members of which are rebuttably
 165 presumed to be socially and economically disadvantaged:
- 166 (i) "Black Americans" which includes persons having origins in any of the
 167 black racial groups of Africa;
- 168 (ii) "Hispanic Americans" which includes persons of Mexican, Puerto
 169 Rican, Cuban, Dominican, Central or South American or other Spanish
 170 or Portuguese culture or origin, regardless of race;

- 171 (iii) "Native Americans" which includes persons who are American Indians,
 172 Eskimos, Aleuts or Native Hawaiians;
- 173 (iv) "Asian Pacific Americans" which includes persons whose origins are
 174 from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos,
 175 Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the
 176 Philippines, Burnei, Samoa, Guam, the U.S. Trust Territories of the
 177 Pacific Islands (Republic of Palau), the Commonwealth of the Northern
 178 Marinas, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of
 179 Micronesia or Hong Kong;
- 180 (v) "Sub-continent Asian Americans" which includes persons whose origins
 181 are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands,
 182 Nepal or Sri Lanka;
- 183 (vi) Women;
- 184 (vii) Any additional groups whose members are designated as socially and
 185 economically disadvantaged by the SBA at such time the SBA
 186 designation becomes effective.
- 187 (m) Women-Owned Business Enterprise (WBE) means a for-profit small business
 188 which is at least fifty-one (51) percent owned by one (1) or more women or, in
 189 the case of a corporation in which fifty-one (51) percent of the stock is owned
 190 by one or more women; and whose management and daily operations are
 191 controlled by one or more of the women who own it.

192 42.03. - Enforcing department.

193 The community business development partners department will be the enforcing
 194 department and is hereinafter referred to as "CBDP".

195 42.04. - Function of the community business development partners department (CBDP).

- 196 (1) In accordance with 49 CFR Parts 23 and 26, the CBDP director ~~of CBDP~~ is
 197 designated as the county's disadvantaged business enterprise liaison officer
 198 ("DBELO") and the airport concession disadvantaged business enterprise liaison
 199 officer ("ACDBELO") with duties and responsibilities as defined by United States
 200 Department of Transportation.
- 201 (2) ~~Recommend to the county board appropriate annual percentage requirements for~~
 202 ~~DBE and ACDBE participation in county contracting. The director shall ensure that~~
 203 ~~the overall triennial DBE and ACDBE percentage goals, including race neutral and~~
 204 ~~race conscious components, are set in accordance with the requirements of 49 CFR~~
 205 ~~Parts 23 and 26 as currently enforced or as amended. The CBDP director shall~~
 206 report annually to the county board appropriate annual percentage goals for
 207 participation of Target Enterprises in Milwaukee County contracting and associated
 208 activities and efforts to achieve said goals.
- 209 (3) The CBDP director shall ensure that the overall triennial DBE and ACDBE
 210 percentage goals, including race neutral and race conscious components, are set in
 211 accordance with the federal requirements as established by the United States
 212 Department of Transportation.

- 213 ~~(3)~~(4) The CBDP director shall recommend to the county board other appropriate policies
214 which encourage SBE, DBE and ACDBE Target Enterprise participation in county
215 contracting.
- 216 ~~(4)~~(5) The CBDP director ~~in~~ consultation with the county's office of corporation counsel,
217 ~~the director~~ shall revise and/or update the DBE Target Enterprise participation
218 utilization specifications language to ensure such language is included in county
219 contracts.
- 220 ~~(5)~~(6) The CBDP director shall establish SBE, DBE and ACDBE Target Enterprise
221 contract compliance monitoring and reporting procedures.
- 222 (7) ~~The department shall report annually to the county board on SBE, DBE and ACDBE~~
223 ~~participation levels on all contracts subject to this chapter. The director shall provide~~
224 ~~outreach services to SBEs, DBEs and ACDBEs and community organizations to~~
225 ~~advise them of contracting opportunities with the county. The CDBP director shall~~
226 ~~report annually to the county board on Target Enterprise participation levels subject~~
227 ~~to this chapter.~~
- 228 (8) The CDBP director shall provide outreach services to Target Enterprises and
229 community organizations to advise them on contracting opportunities within the
230 county.
- 231 ~~(8)~~(9) The CBDP director shall ensure all that department/division heads and contract
232 administrators make available bid notices and requests for proposals to SBEs,
233 DBEs and ACDBEs Target Enterprises in a timely manner.
- 234 ~~(9)~~(10) ~~The director shall assist department/division heads and contract administrators to~~
235 ~~identify contracts where DBE and ACDBE race conscious and race neutral goals~~
236 ~~can be included in contract solicitations. The CDBP director shall assist all~~
237 ~~department/division heads and contract administrators to identify opportunities~~
238 ~~where Target Enterprise participation goals can be included in competitive~~
239 ~~solicitations, purchases and acquisitions performed within Milwaukee County.~~
- 240 ~~(10)~~(11) ~~County contracts may not be awarded without the written approval of the CDBP~~
241 ~~director or designee who will ensure that the required SBE, DBE or ACDBE~~
242 ~~participation is included on all contracts. County contracts, subject to this chapter~~
243 ~~shall be countersigned by the CDBP director or designee providing that~~
244 ~~requirements of this Chapter have been satisfied. No contract is valid until so~~
245 ~~countersigned.~~
- 246 (12) Milwaukee County Board of Supervisors shall not approve any contract covered by
247 this chapter that requires positive board action, without a CDBP counter signature.
- 248 ~~(11)~~(13) ~~All contract solicitations subject to this chapter will require the approval of the~~
249 ~~CBDP director or designee who will ensure that an appropriate DBE or ACDBE~~
250 ~~goal is assigned and/or consideration is given to participation by SBEs. All~~
251 ~~solicitations subject to this chapter shall be reviewed by CDBP director or designee~~
252 ~~who shall ensure that an appropriate Target Enterprise goal is assigned or~~
253 ~~consideration is given to participation prior to release of any solicitation. All~~
254 ~~department/division heads and contract administrators shall comply with this~~
255 ~~requirement. The CDBP director shall establish a format to ensure compliance.~~

256 The CBDP director shall carryout this responsibility without delay, but within three
257 business days.

258 ~~(12)~~(14) CBDP is responsible for reviewing and approving good faith effort waiver requests
259 when the contractually assigned DBE or ACDBE goal is not met by a contractor or
260 consultant. CBDP is solely responsible for reviewing and determining prior to any
261 award that the established participation goal has been properly achieved, the
262 partial achievement/good faith effort has been properly achieved and/or good faith
263 effort has been properly achieved. This determination shall be made as a matter of
264 responsiveness in all competitive solicitations. The CBDP director shall carryout
265 this responsibility without delay, within three business days.

266 42.05. - Certification of DBEs and ACDBEs, and verification of SBEs. Certification,
267 verification, and establishment of status as a Milwaukee County Target Enterprise
268 (MCTE).

269
270 (1) Certification of DBEs and ACDBEs

271 ~~(1)~~(a) The certification of DBE and ACDBE, and verification of SBE firms shall be
272 the responsibility of CBDP.

273 ~~(2)~~(b) Certification of DBE and ACDBE firms shall be governed by the standards
274 and guidelines of 49 CFR Parts 23 and 26 and the processes and procedures
275 established by the Wisconsin Unified Certification Program (WIUCP) or other
276 certifying bodies recognized by the United States Department of
277 Transportation. Verification of SBE firms shall be governed by these same
278 standards, minus any and all reference to race, gender and/or social
279 disadvantage.

280 ~~(3)~~(c) As a member of the Wisconsin Unified Certification Program (WIUCP), all
281 DBE and ACDBE certification and removal decisions may be appealed to the
282 WIUCP in accordance with 49 CFR Parts 23 and 26.

283 ~~(4)~~(d) The CBDP director is authorized to establish new or amended procedures for
284 certification in accordance with the WIUCP agreement signed by the county
285 and the members of the WIUCP and in accordance with 49 CFR Parts 23 and
286 26.

287 (2) Recognition, certification, verification and establishment of MBE, WBE and SBE
288 status.

289 (a) As an alternative, or in addition to, conducting its own certification or
290 establishment of status, as defined in this chapter, the CBDP director may
291 designate certain eligible public agencies to recognize businesses as meeting
292 eligibility standards and requirements necessary to participate as a MBE, WBE
293 or SBE in Milwaukee County contracting. Such designation may be by way of
294 (i) entering a memorandum of understanding with any agency and to accept
295 MBE, WBE and SBE designations issued by such agencies; or (ii) accepting
296 MBE, WBE and SBE status as accepted and recognized by other governmental
297 agencies. The CBDP director is empowered to enter into such contractual
298 agreements or memoranda of understanding on such terms and conditions as

299 he or she may deem necessary or appropriate. CBDP may also recognize any
300 combination of Target Enterprise classification statuses toward goal attainment
301 where one or more of Milwaukee County status designations are applicable.

302
303 (b) If in the CBDP director's judgment, or otherwise required by law, additional
304 requirements to the certification or recognition by any eligible certifying agency
305 or governmental body are warranted, the director is authorized to impose such
306 additional requirements before accepting such a firm's MCTE designation.

307
308 (c) If CBDP terminates an MCTE's recognition, certification, verification or
309 establishment of status as a MBE, WBE and SBE, the change in status, as a
310 Target Enterprise, shall have no impact on current county contracts.

311
312 (d) The CBDP director shall make available the names, contact information, and
313 other information regarding agency bodies and processes related to attaining
314 status as a MCTE. The CBDP director shall make efforts to raise awareness
315 and actively provide information to the business community for attainment of
316 status as a MCTE.

317 (e) The CBDP director is authorized to adopt such rules and regulations as he or
318 she may deem appropriate to assure proper administration and enforcement of
319 the provisions of this section.

320 42.06. - Professional and non-professional service contracting.

321 All county department/division heads and contract administrators are required to
322 provide written notification to CBDP as further described herein prior to any solicitation
323 or contract soliciting for professional and non-professional services contracts as defined
324 in sections 32.20(2) and (17) and 56.30 of this Code with an anticipated total dollar
325 value exceeding \$10,000 that are subject to the provision of the Chapter. Annual-
326 percentage goals for DBE and ACDBE participation on professional and non-
327 professional services contracts will be established as set forth by county ordinance.

328 (1) Notification. For all contracts requiring passive or positive approval by the
329 Milwaukee County Board Regardless of the dollar amount of the contract, all county
330 department/division heads and contract administrators shall are required to notify
331 CBDP in writing, in a format to be determined by CBDP. This notification shall occur
332 prior to publication of an RFP or an RFQ any solicitation or entry into any
333 unsolicited contract. Notification shall not be less than three business days prior to
334 release or signature. The department/division head and contract administrator is-
335 required to submit a DBE participation recommendation form to CBDP for approval.
336 Notification shall include a Target Enterprise participation goal recommendation for
337 review by CBDP. The department/division head and/or contract administrator shall
338 notify the office and the comptroller, in writing, of its selection regardless of whether
339 or not a DBE or ACDBE is selected. No contract shall be issued without review and
340 written approval by CBDP that provisions of this section have been met. CBDP may
341 administratively require notification and processes for departments for contracts not
342 subject to passive or positive approval by the Milwaukee County Board.

- 343 (2) Notification Review and Goal Establishment. CBDP will review each notification
344 provided and establish, where feasible, a percentage goal for up to the total contract
345 value, of prime contract and subcontract awards to be set aside for participation by
346 SBEs during DBE participation recommendation review. A "set aside" is the
347 reserving of a contract or a portion of a contract exclusively for participation by
348 SBEs, regardless of the owner's race or gender. a Milwaukee County Target
349 Enterprise. Participation goals shall be set based upon the nature of the contract or
350 acquisition and capacity within the Target Enterprise community and other factors
351 as established by CBDP. Milwaukee County Departments shall be provided training
352 by CBDP and shall make themselves knowledgeable of the factors related to
353 contract participation by MCTEs. The MCTE participation goal shall be established
354 without delay, but within three business days of notification.
- 355 (3) A "set aside" is the reserving of a contract or a portion of a contract exclusively for
356 participation by SBEs, regardless of the owner's race or gender. The CBDP director,
357 with agreement by the department may during the notification review and goal
358 establishment process set aside participation goals for Target Enterprises with an
359 SBE status.
- 360 ~~(3)~~(4) CBDP requires contractors/consultants to submit DBE documentation with their
361 original bid/proposal as a matter of responsiveness. Documents and language,
362 upon goal establishment. CBDP shall provide department/division heads and
363 contract administrators with the appropriate and complete DBE MCTE
364 specification language, required contract provisions, instructions, forms,
365 documents, and procedures to be included with the bid/proposal solicitations or
366 contract. The department/division head or contract administrator shall forward all
367 DBE submissions to CBDP. CBDP will review responses to assure submission of
368 the required forms and documentation. CBDP shall make determinations as to
369 bidder/proposer responsiveness to DBE requirements, and may reject and
370 remove from further consideration all bids/proposals submitted without proper
371 documentation. Department/division heads and contract administrators shall be
372 encouraged to provide CBDP opportunities to explain MCTE utilization
373 requirements at pre-bid meetings and shall be identified as a resource to
374 bidders/proposers in solicitation documents.
- 375 (5) Responsiveness. Department/division heads and contract administrators shall
376 require contractors/consultants, to submit participation documentation as provided
377 by CBDP with their original bid/proposal as a matter of responsiveness.
- 378 (6) Review of responsiveness and achievement. The department/division head,
379 solicitation administrator, or contract administrator shall provide CBDP all
380 documents under section 42.06. CBDP shall review bid/proposal submissions for
381 the required forms and documentation. Solely, using original submissions, CBDP
382 shall make a determination as to each bidder/proposer having met the participation
383 goal, or having provided a good faith effort. The determination shall be rendered on
384 a pass/fail basis. CBDP and the contracting department shall reject and remove
385 from further consideration all bids/proposals determined to have failed participation
386 responsiveness in their submission. Determination results shall be submitted to the
387 contracting department without delay, but within three business days of CBDP

388 having been provided documentation. Any bidder or proposer having failed shall be
389 notified by CBDP, in writing, 24 hours after determination. Bidders/proposers may
390 appeal determination as provided within MCGO, Chapter 32 or 110, as applicable,
391 based upon original submission, and shall not be provided opportunity to add or
392 subtract from their original submission.

393 ~~(4)~~(7) The owner contracting department shall require all prime contractors/consultants to
394 submit a ~~DBE or ACDBE~~ Target Enterprise participation utilization report with all
395 payment requests, in a format to be determined by CBDP. ~~Copies of utilization~~
396 reports and payment requests shall be forwarded to CBDP for review.
397 Department/Division heads and contract administrators shall ensure that all final
398 payment requests are accompanied with a signed affidavit verifying that the ~~DBE~~
399 and/or ACDBE Target Enterprise participation requirement has been met, either at
400 the prime or sub-contracted level.

401 ~~(5)~~(8) Department/division heads and contract administrators shall comply with the
402 provisions of this section to ensure opportunities for the utilization of ~~DBE and~~
403 ~~ACDBE firms~~ Target Enterprises on county professional and non-professional
404 service contracts. All department/division heads shall submit annually to CBDP a
405 ~~DBE/ACDBE~~ Target Enterprise participation utilization plan form, as provided by
406 CBDP, no later than by December 15 of each year. The plan shall provide the
407 following information:

408 (a) Total number of projected professional and non-professional services contracts
409 to be awarded by department/division for the coming year.

410 (b) Total value of professional and non-professional services contracts to be
411 awarded and a dollar value by contract type.

412 (c) Designation of a department and/or division staff person as contact person(s) for
413 professional and non-professional services contracts.

414 (d) Value of contracts/subcontracts the department/division estimates will be
415 awarded to ~~DBEs or ACDBEs~~ Target Enterprises on professional and non-
416 professional services contracts.

417 (e) Percentage of total contract dollars that the department/division estimates will be
418 awarded to ~~DBEs or ACDBEs~~ Target Enterprises.

419 (9) CBDP shall establish processes for implementing the provisions in this section.

420 42.07. - Construction and Public Works Contracting.

421 ~~(1) The owner department shall consult with CBDP to determine an appropriate goal on~~
422 ~~all contracts.~~ Notification. The owner department of any construction project shall
423 submit written notification to CBDP prior to the publication of any solicitation or entry
424 into any unsolicited contract for Construction and Public Works. Contracts as
425 defined in Chapter 44 of this Code, with an anticipated total dollar value exceeding
426 \$10,000 are subject to the provision of the Chapter. Notification shall not occur less
427 than three business days prior to release or signature. The notification method shall
428 be determined by CBDP and include a Target Enterprise participation goal
429 recommendation.

- 430 (2) ~~The owner department shall submit an approved DBE participation~~
431 ~~recommendation form for each project. CBDP will establish, where feasible, a~~
432 ~~percentage, up to the total contract value, of prime contract and subcontract awards~~
433 ~~to be set aside for participation by SBEs during DBE participation recommendation~~
434 ~~review. A "set aside" is the reserving of a contract or a portion of a contract~~
435 ~~exclusively for participation by SBEs, regardless of the owner's race or gender.~~
436 Notification Review and Goal Establishment. CBDP will review each notification
437 provided and establish, where feasible, a percentage goal, for participation by
438 Milwaukee County Target Enterprises. Participation goals shall be set based upon
439 the nature of contract or acquisition and capacity within the Target Enterprise
440 community and other factors as established by CBDP. Milwaukee County
441 Departments shall be trained by CBDP and shall make themselves knowledgeable
442 of factors related to contract participation by MCTEs. The MCTE participation goal
443 shall be established without delay, but within three business days of notification.
- 444 ~~(3) CBDP shall provide the director of the owner department with appropriate DBE~~
445 ~~specification language and required contract provisions to be included in bidding~~
446 ~~and contract documents.~~
- 447 (3) A "set aside" is the reserving of a contract or a portion of a contract exclusively for
448 participation by SBEs, regardless of the owner's race or gender. The CBDP
449 Director, with agreement by the department may during the notification review and
450 goal establishment process set aside participation goals for Target Enterprises with
451 a SBE status.
- 452 (4) ~~CBDP requires contractors/consultants to submit DBE documentation with their~~
453 ~~original bid/proposal as a matter of responsiveness. Documents and language,~~
454 ~~upon goal establishment.~~ CBDP shall provide department/division heads and
455 contract administrators with the appropriate and complete DBE specification
456 language, required contract provisions, instructions, forms, documents, and
457 procedures to be included with the bid/proposal solicitations or contract. The
458 department/division head or contract administrator shall forward all DBE-
459 submissions to CBDP. CBDP will review responses to assure submission of the
460 required forms and documentation. CBDP shall make determinations as to
461 bidder/proposer responsiveness to DBE requirements, and may reject and remove
462 from further consideration all bids/proposals submitted without proper
463 documentation. Department/division heads and contract administrators shall be
464 encouraged to provide CBDP opportunities to explain MCTE utilization
465 requirements at pre-bid meetings and shall be identified as a resource to
466 bidders/proposers in solicitation documents.
- 467 (5) Responsiveness. Department/division heads and contract administrators shall
468 require contractors/consultants to submit participation documentation as provided
469 by CBDP with their original bid/proposal as a matter of responsiveness.
- 470 (6) Review of responsiveness and achievement. The department/division head,
471 solicitation administrator or contract administrator shall provide to CBDP all
472 documents provided under section 42.07(5) 'Responsiveness'. Submission shall
473 occur immediately following submission deadline. CBDP shall review bid/proposal

474 submissions for the required forms and documentation. Solely using original
475 submissions, CBDP shall make a determination as to each bidder/proposers having
476 met participation goal, or having provided a good faith effort. The determination
477 shall be rendered on a pass/fail basis. CBDP and the department/division head,
478 solicitation administrator or contract administrator shall reject and remove from
479 further consideration all bids/proposal's having been determined to have failed
480 participation responsiveness within their submission. Determinations results shall
481 submitted to the owner department without delay, but within three business days of
482 CBDP having been provided documentation. Any bidder of proposer having failed
483 shall be notified by CBDP writing 24 hours of determination. Any bidder of proposer
484 having failed shall be notified by CBDP, in writing, 24 hours after determination.
485 Bidders/proposers may appeal determination as provided within MCGO, Chapter 32
486 or 110, as applicable, based upon original submission, and shall not be provided
487 opportunity to add or subtract from their original submission.

488 ~~(7)(5)~~ The owner department shall require all prime contractors/consultants to submit a
489 Target Enterprise DBE or ACDBE utilization report with all payment requests
490 prepared in a method determined by CBDP. Copies of utilization reports and
491 payment requests shall be forwarded to CBDP for review. (6) Department/Division
492 heads and contract administrators shall ensure that all final payment requests are
493 accompanied with a signed affidavit verifying that the Target Enterprise participation
494 DBE and/or ACDBE requirement has been met, either at the prime or
495 subcontracted level.

496 ~~(8)(7)~~ The owner department with responsibility for project budget and schedule shall
497 submit an annual list of approved projects as defined in chapter 44, section 44.001,
498 whether funded with federal funds or solely with county funds. The director of the
499 owner department with responsibility for project budget and schedule must submit
500 the Target Enterprise participation DBE/ACDBE utilization plan by December 15 of
501 each year to CBDP based on the county board adopted budget. The list shall
502 provide the following information:

- 503 (a) A listing by division within the department of types of contracts to be awarded
504 and a dollar value by contract type based on the county board adopted budget.
505 (b) Designation of a department staff person as contact person(s) for each
506 construction contract.

507 42.08. - Enforcement and monitoring.

508 (1) All contracts shall include provisions for Milwaukee County's right to perform
509 compliance reviews and audits. The county and CBDP reserves the right to
510 conduct compliance reviews and request, both from the prime contractor/consultant
511 and subcontractors/subconsultants or suppliers, concessionaires, documentation
512 necessary to verify each party's level of compliance. If the contractor/vendor is not
513 in compliance with DBE and/or ACDBE Target Enterprise participation contract
514 requirements, CBDP will notify the contractor/vendor in writing of required corrective
515 action to be taken and the associated time frame to bring into full compliance.

516 (2) All contracts shall include provisions, as provided by CBDP, stating should if the
517 contractor/consultant fail or refuse to take corrective action within the time specified

518 in the notice, the county at CDBP's request, may terminate or cancel the contract, in
519 whole or in part; withhold payments on the contract ~~until DBE and/or ACDBE~~
520 ~~contract compliance issues are resolved to the county's satisfaction~~; or impose
521 other appropriate sanctions, including the one identified in section 42.08(3) below.
522 The director of the owner department shall be notified by the director of CDBP when
523 sanctions are made against a contractor/consultant and shall comply with
524 determination.

525 (3) All contracts shall include provisions, as provided by CDBP, for tThe CDBP director
526 or designee ~~shall~~ to have the authority to withhold contractor/consultant payments
527 until ~~DBE and/or ACDBE~~ Target Enterprise participation requirements have been
528 met per contract. If the contractor/consultant has completed its contract, and the
529 goal was not met ~~due to an~~ and in absence of good faith on the part of the
530 contractor/consultant, the proper measure of damages for such noncompliance
531 shall be the dollar amount of the unmet portion of the ~~DBE and/or ACDBE~~
532 contracted Target Enterprise participation goal. The county may in such case retain
533 any unpaid contract amounts and retainage otherwise due the
534 contractor/consultant, up to the amount of the unmet goal. Milwaukee County may
535 bring suit to recover damages up to the amount of unmet goal, including interest at
536 the rate of twelve (12) percent annually, plus the county's costs, expenses and
537 actual attorney's fees incurred in the collection action.

538 (4) All contracts shall include provisions, as provided by CDBP, Ppursuant to 49 CFR
539 Part 26 it is county policy to ensure that all direct subcontractors or subconsultants
540 are promptly paid within seven (7) days of the prime contractor/consultant receiving
541 payment from the county, for all work satisfactorily completed. Subcontractors
542 receiving payments shall pay lower-tier subcontractors according to this same
543 prompt payment requirement. In the event a prime contractor/consultant fails to pay
544 subcontractors/ subconsultants within the stated timeframe, the CDBP director or
545 designee ~~may direct the owner department or~~ shall notify accounts payable head to
546 withhold payment to the prime contractor/consultant or impose other appropriate
547 sanctions in accordance with county ordinance. ~~The CDBP director or designee~~
548 ~~may authorize a waiver of the requirements of this chapter, as determined by CDBP~~
549 ~~pursuant to section 42.04(1), on a contract-by-contract basis, upon good cause~~
550 ~~shown.~~

551 (5) The CDBP Director may authorize a waiver of the requirements of this chapter on a
552 contract-by-contract basis, upon good cause shown and as permitted by statues,
553 laws, state and federal regulations.

554 42.09. - Appeals.

555 An aggrieved ~~prime contractor/consultant~~ party under chapter 42 of these
556 ordinances may appeal findings of noncompliance in accordance with procedures
557 established in Chapter 110 or Chapter 32 as applicable, of this Code.

558 **Section 2. Chapter 32 of the Milwaukee County Ordinances is amended as**
559 **follows:**

560 32.20. - Words and phrases defined.

561 In this subchapter, the following words and phrases have the designated meanings
562 unless a different meaning is expressly provided or the context clearly indicates a
563 different meaning:

- 564 (1) "Blanket contract" means a contract for purchases to be made as required over
565 a specific period of time for a fixed price, but no guaranteed quantity.
- 566 (2) "Contractual service" means all services except utilities, professional services,
567 chapter 44 public works contracts, and repairs or alterations to buildings or
568 structures.
- 569 (3) "Day" means the normal working day which excludes Saturdays, Sundays or
570 major holidays.
- 571 (4) "Department head" means the chief executive officer of a principal
572 administrative unit of county government who administratively reports directly to
573 a board, commission, the county executive or is an elected official.
- 574 (5) "Lowest bidder" means a person or firm which has submitted the most
575 advantageous price.
- 576 (6) "Procurement" means buying, purchasing renting, leasing, or otherwise
577 acquiring any supplies, materials, equipment and contractual services. It also
578 encompasses all functions that pertain to obtaining the above including
579 description of requirements, selection and solicitation of sources, preparation
580 and award of contract and all phases of administration; including ~~disadvantaged~~
581 ~~business enterprise~~ administration as defined in chapter 42 of these
582 ordinances, where applicable.
- 583 (7) "Professional service" carries the definition found in section 56.30(1)(a) of the
584 Code. Departments contracting for professional services will follow the
585 procedures set forth therein.
- 586 (8) "Qualified bidder" means a person or firm which has not been disqualified from
587 selling to the county because of unsatisfactory performance.
- 588 (9) "Responsible bidder" means a person or firm which has the capacity in all
589 respects to perform fully the contract requirements, and the integrity and
590 reliability which will assume good faith performance.
- 591 (10) "Responsive bidder" means a person or firm which has submitted a bid which
592 conforms in all material respects to the invitation to bid.
- 593 (11) "Specification" means any description of the physical or functional
594 characteristics, or of the nature of a supply service or other item. It may include
595 a description of any requirement for inspecting, testing or preparing a supply,
596 service or other item for delivery.
- 597 (12) "Standard" means that which is set and established by authority, custom or
598 general consent as the quality, quantity or method that is proper and adequate
599 for a given purpose.
- 600 (13) "Supplies, materials and equipment" means all commodities and other tangible
601 articles or things purchased from a county appropriation.

- 602 (14) Computation of time limits expressed in hours or days shall exclude Saturdays,
603 Sundays and legal holidays.
- 604 (15) "Negotiations" means contracting through the use of either competitive or other-
605 than-competitive proposals and/or discussions. Any contract having an
606 estimated aggregate value in excess of twenty thousand dollars (\$20,000.00)
607 awarded without using sealed bidding procedures is a negotiated contract.
- 608 (16) "Competitive range" means all offerors that are determined to have a
609 reasonable chance of being selected for award based on cost or price and other
610 factors stated in the solicitation. This definition applies only to negotiated
611 procurements as set forth in sections 32.36 through 32.52.
- 612 (17) "Service contract" means an agreement primarily related to staff services
613 including, but not limited to, housekeeping, security, landscaping, maintenance,
614 clerical services, food services, and other non-professional services.

615 32.22. - Department of administrative services.

- 616 (1) The department of administrative services through its procurement division shall
617 have the following powers and perform the following duties:
- 618 (a) Adopt, promulgate, and from time to time amend rules, regulations and
619 procedures and enforce the provisions of this chapter.
- 620 (b) Purchase or contract for all supplies, materials, equipment and contractual
621 services.
- 622 (c) Prepare and maintain purchasing manuals setting forth the purchasing
623 procedures, rules and regulations.
- 624 (d) The director of the department of administrative services, or designee, shall
625 sign contracts or issue purchase orders for supplies, materials, equipment or
626 services when authorized under the provisions of this chapter.
- 627 (e) Develop and recommend standards for purchasing standardization committee
628 approval. Enforce the use of standards and specifications established under the
629 provisions of this chapter.
- 630 (f) Have charge of storage facilities established centrally for the use of all
631 departments.
- 632 (g) Conduct public auctions and accept competitive bids for the sale of county
633 property which has been declared surplus by the departments or the facilities
634 management division of the department of ~~public works~~ administrative services.
- 635 (h) Prescribe the manner of inspecting supplies, materials and equipment and of
636 determining compliance with specifications.
- 637 (i) Determine if bid deposits or performance bonds are necessary and prescribe
638 the amount.
- 639 (j) Make use of the laboratory, engineering, facilities and technical staffs of the
640 county and others as required.

641 32.23. - Purchasing standardization committee.

- 642 (1) There shall be a purchasing standardization committee composed of ~~three~~ (3) five
643 (5) private citizens: a representative of: the department of human resources, the
644 department of parks, recreation and culture, the department of ~~public works~~
645 transportation, the department of administrative services and the sheriff's
646 department. Each of the departmental representatives shall be selected by the
647 department head. The private citizen members are to be appointed by the county
648 executive for a term of four (4) years, subject to the confirmation of the county
649 board, and shall be residents of the county who are knowledgeable in procurement.
650 A representative of the corporation counsel's office and the procurement director or
651 his or her designee shall be technical advisers to the committee.
- 652 (2) The committee is empowered to do the following:
- 653 (a) Adopt operating rules and procedures, and shall elect a vice-chairperson, for a
654 one-year term, and such other officers as may be required.
- 655 (b) Review supplies, materials and equipment commonly used for adoption of
656 appropriate standards by all departments.
- 657 (c) Adopt, revise and promulgate written standards which satisfy the requirements
658 of the county. After adoption, they shall apply to every future purchase and
659 contract for the commodity described, unless exempted by the committee.
- 660 (3) Establish technical subcommittees.
- 661 (4) Hear appeals as defined in sections 32.26 and 32.51.
- 662 32.25. - Purchasing and contracting procedure.
- 663 (1) Acquisition of goods and services as provided for under Chapter 32 shall strive to
664 implement the principles of active and aggressive efforts to assist Milwaukee
665 County in meeting or exceeding its overall annual goal of participation of Target
666 Enterprise firms. An annual percentage goal for Target Enterprises participation in
667 supplies, materials and equipment purchases shall be established. And an annual
668 percentage goal for Target Enterprises participation in service contracts and
669 contractual services contracts shall be established as set forth by county ordinance.
670 The above procedures shall conform to the provisions as contained in chapter 42 of
671 these ordinances.
- 672 (4) 2) Purchases of supplies, materials, equipment and contractual services shall be
673 based on competitive bids. Bids may be rejected when it is determined by the
674 procurement director or his or her designee that to award a contract would not be in
675 the best interest of the county. The method of evaluating bids and awarding
676 contracts shall be stated in each bid document. Contracts shall be awarded to the
677 lowest, qualified, responsive, responsible bidder. If equal low and responsive bids
678 are received, the procurement director or his or her designee shall break the tie by a
679 lot drawing in the presence of a buyer and another member of the procurement
680 division at a specific time and date. The tied bidders shall receive written advance
681 notice.

- 682 (~~2~~ 3) *Discretionary purchases*. Any procurement having an estimated aggregate value
683 of ten thousand dollars (\$10,000.00) or less shall be made at the discretion of the
684 buyer.
- 685 (~~3~~ 4) *Open market purchase*. Any procurement having an estimated aggregate value in
686 excess of ten thousand dollars (\$10,000.00) and less than twenty-five thousand
687 dollars (\$25,000.00) shall be made by solicitation of three (3) quotations
688 documented by the buyer.
- 689 (~~4~~ 5) *Informal purchases*. Any procurement having an estimated aggregate value of
690 twenty-five thousand dollars (\$25,000.00) and less than fifty thousand dollars
691 (\$50,000.00) shall be solicited from all vendors of the item on the vendor's list
692 maintained by the procurement division and the contract awarded by sealed
693 bidding.
- 694 (~~5~~ 6) *Formal purchases*. Any procurement having an estimated aggregate value of fifty
695 thousand dollars (\$50,000.00) or more shall have sealed bids solicited by public
696 notice inserted at least once on the official county web-site at least two (2) weeks
697 before the bid opening date, and by posting official notice on the procurement board
698 in the procurement division office for the same period. The procurement division
699 shall solicit sealed bids by mail from all vendors of the item on the vendor list
700 maintained by the procurement division.
- 701 (~~6~~ 7) *Sealed bids*.
- 702 (a) All sealed bids shall be received in the office of the county clerk and transferred
703 to the procurement division at the time of bid opening, which shall be conducted
704 in public at a specified date, time and place.
- 705 (b) A summary of each bid, with the name of all bidders, shall be posted for public
706 inspection in the office of the procurement division during regular county
707 business hours for a period of not less than ten (10) days after award.
- 708 (c) A ~~non-collusive~~ statement of non-collusion requiring the signature of an
709 authorized officer of the bidder shall be included in each sealed bid. The
710 procurement director or his or her designee shall report suspected collusive
711 bids to the district attorney.
- 712 (~~7~~ 8) *Exceptions*.
- 713 (a) Competitive bidding requirements of this chapter shall apply, except as follows:
- 714 (1) When, after soliciting sealed bids, it is determined by the procurement
715 director or his or her designee, and verified by the purchasing
716 standardization committee, that no valid bids have been received, the
717 purchasing standardization committee may authorize procurement without
718 competition.
- 719 (2) Purchases from a single source which, by their nature, are not adapted to
720 award by competitive bidding as determined by the procurement director or
721 his or her designee and approved by the purchasing standardization
722 committee.

- 723 (3) Purchases from any federal, state or local governmental unit or agency of
724 surplus materials, supplies, commodities or equipment, as approved by the
725 committee on finance, personnel and audit of the county board, and
726 otherwise when expressly authorized by the county board.
- 727 (4) Discretionary purchase of ten thousand dollars (\$10,000.00) or less as
728 authorized in subsection 32.25(2) of this section.
- 729 (5) Any contract for a public works construction project where the director of
730 ~~public works~~ the appropriate department or the department of administrative
731 services or his/her designee has recommended, and the procurement
732 director or his or her designee has agreed in writing, that the procurement
733 director or his or her designee shall negotiate for the purpose of services,
734 supplies, materials or equipment needed for such project.
- 735 (b) Purchase of name brand items for resale may be awarded to other than the low
736 bidder.
- 737 (c) Purchases required for immediate budgeted repairs, exclusive of inventory
738 items.
- 739 (d) Notwithstanding any other provisions of this chapter to the contrary, where
740 adequate competition exists, the ~~purchasing administrator~~ procurement director
741 or his or her designee shall have the authority, in any situation where a contract
742 is to be let through the bidding process, to reserve such contract exclusively for
743 vendors ~~listed~~ identified as small business enterprises (SBE) as defined in
744 ~~section 42.02(k)~~ chapter 42 of these ordinances. In such event, the bid
745 announcements shall indicate such reservation, citing this subsection as
746 authority therefor. Reservations by the procurement director or his or her
747 designee may be on a commodity basis or on an individual contract basis.
- 748 (e) Annually the county board shall adopt, as defined in chapter 42 of these
749 ordinances, by resolution a recommended minimum percentage goal for the
750 participation of ~~disadvantaged business enterprise vendors~~ Target Enterprises
751 in contracts awarded pursuant to chapter 32. Such goals are not mandatory;
752 however, the procurement director or his or her designee shall make diligent
753 efforts to achieve or exceed such annual participation goals. All written
754 solicitations and notices for bids promulgated or published pursuant to this
755 chapter shall contain language advising potential bidders of the provisions of
756 this subsection.
- 757 (~~8~~ 9) All contracts issued by the procurement division shall be reviewed for approval by
758 the corporation counsel prior to use.
- 759 (~~9~~ 10) Comptroller responsibility.
- 760 (a) All contracts issued by the division shall be reported to and countersigned by
761 the comptroller, under policies established by the comptroller, if he or she
762 determines that the county has, or will have, the necessary funds to pay the
763 liability that the county may incur under the contract. No contract is valid until so
764 countersigned.

765 (b) The comptroller shall, on a monthly basis, summarize the reports received from
766 the division concerning blanket contracts and provide one (1) copy to the
767 committee on finance, personnel and audit and one (1) copy to the county
768 executive.

769 (c) The comptroller shall deny payment for any payment request submitted by a
770 vendor to an administrator if all conditions of this chapter have not been met.
771 The comptroller shall report such denials and the reason for denial to the
772 committee on finance, personnel and audit along with the monthly report. In
773 such cases, the administrator may appeal the decision to the committee on
774 finance, personnel and audit.

775 32.40. - General.

776 (1) Requests for proposals (RFPs) are used in negotiated acquisitions to communicate
777 county requirements to prospective vendors and to solicit proposals from them.
778 Solicitations shall contain the information necessary to enable prospective vendors
779 to prepare proposals properly. Solicitation provisions and contract clauses may be
780 incorporated into the solicitations and contracts by reference.

781 (2) The procurement director or his or her designee shall furnish identical information
782 concerning a proposed acquisition to all prospective vendors.

783 (3) The procurement director or his or her designee shall solicit proposals only when
784 there is a definite intention to award a contract.

785 (4) A proposal received in response to an RFP is an offer that can be accepted by the
786 county to create a binding contract.

787 (5) Letter RFPs should be as clear and concise as possible, exclude any unnecessary
788 verbiage or notices; and, as a minimum, contain the following:

789 (a) RFP number and date.

790 (b) Name and address of contracting office.

791 (c) Type of contract contemplated.

792 (d) Quantity, description, and required delivery for the item.

793 (e) Applicable certifications and representations.

794 (f) Contract terms and conditions.

795 (g) Offer due date.

796 (h) Other relevant information; e.g., incentives, variations in delivery schedule, any
797 peculiar or different requirements, cost proposal support and different data
798 requirements.

799 (6) Solicitation for services as defined in section 32.20(2) and (17) with an aggregate
800 value in excess of fifty thousand dollars (\$50,000.00) shall be approved by the
801 county board prior to award. Approval shall not be requested until after completion
802 of the protest and appeal process outlined in sections 32.50 and 32.51 of this
803 subchapter.

804 (7) Notwithstanding any other provisions of this chapter to the contrary, where
805 adequate competition exists, the ~~purchasing administrator~~ [procurement director or
806 his or her designee] shall have the authority, in any situation where a contract is to
807 be let through the negotiated acquisition process, to reserve such contract
808 exclusively for vendors ~~listed~~ identified as small business enterprises (SBE) as
809 defined in ~~section 42.02(k)~~ chapter 42 of these ordinances. In such event, the
810 solicitation announcements shall indicate such reservation, citing this subsection as
811 authority therefore. Reservations by the ~~purchasing administrator~~ [procurement
812 director or his or her designee] may be on a commodity basis or on an individual
813 contract basis.

814 32.96. - Real estate.

815 (1) Manage, sell and acquire real estate for the county. Specific responsibilities include
816 managing and leasing improved and unimproved properties, including air space
817 parking lots for the state department of transportation (~~WIDOT~~ WisDOT). County
818 surplus real estate and tax foreclosure properties in the county suburbs are sold by
819 the division.

820 (2) Land sales shall follow the policy and procedure for disposition of real estate as
821 recommended by the committee on economic and community development (ECD
822 committee), approved by the county board and implemented by the Department of
823 ~~Administration~~ Administrative Services (DAS) - Economic Development Division.

824 (3) Sales of tax foreclosure properties shall be consistent with the provisions of s. 6.03.

825 (4) All land sales not covered by 6.03 shall be referred to the ECD committee for
826 disposition and the ECD committee may consider any of the following policies for
827 such disposition:

828 (a) A site-specific plan because of the unique character or location of the property.

829 (b) A request for proposal (RFP) process which is intended to be a formal process
830 that is generally reviewed in closed hearings if such hearings are deemed
831 appropriate by opinion of corporation counsel.

832 (c) A request for information (RFI) process which is intended to be a less formal
833 process that is generally reviewed in an open hearing unless corporation
834 counsel provides an opinion that proprietary information must be protected.
835 Such RFI process may be followed by a more specific procedure as
836 recommended by the ECD committee.

837 (d) Any other policy for disposition that the ECD committee establishes as
838 appropriate which may be determined by the totality of the circumstances
839 regarding the real estate involved.

840 (e) A development agreement negotiated by DAS - Economic Development
841 Division that the ECD committee established with regard to a specific developer
842 to develop an identified real estate parcel.

843 (5) The ECD committee may, at their discretion, recommend to the county board any
844 community benefit requirements for either the surplus disposition plan or
845 development agreement.

- 846 (6) All negotiations and review of RFP, RFI, or any other negotiated procedures shall
847 be conducted by the DAS - Economic Development Division which shall make final
848 recommendations to the ECD committee for review and recommendation to the
849 county board.
- 850 (7) No officer or employee, either part-time or full-time, whether elected or appointed, in
851 either the classified or unclassified service, shall purchase real estate acquired by
852 the county, pursuant to this chapter, through an agent. However, the
853 aforementioned individuals, if not involved directly in the sale, may purchase real
854 estate themselves or with their spouses, if their county employment is disclosed in
855 the offer.
- 856 (8) The county executive and county clerk shall sign all conveyances on behalf of the
857 county for the sale of lands acquired by the county under the procedure authorized by
858 this chapter when approved as ready for execution by the corporation counsel.

859 **Section 3. Chapter 56 of the Milwaukee County Ordinances is amended as**
860 **follows:**

861 56.12. - Architectural and engineering planning revolving funds.

- 862 (1) *Funds established.* There is hereby established a revolving fund of one hundred
863 thousand dollars (\$100,000.00) to be used for architectural and engineering
864 planning for public works projects under the jurisdiction of the department of ~~public-~~
865 ~~works~~ administrative services and a revolving fund of fifty thousand dollars
866 (\$50,000.00) to be used for architectural and engineering planning for projects
867 under the jurisdiction of the county department of parks, recreation and culture.
- 868 (2) *Restrictions.* No expenditures shall be made from these funds unless the director of
869 ~~public works~~ administrative services has certified that he/she is unable to ---provide
870 the engineering or architectural services required, and that the employment of an
871 outside architect or consultant is approved.
- 872 (3) *Responsibilities of director of ~~public works~~ administrative services.* It shall be the
873 responsibility of the director of ~~public works~~ administrative services to supervise the
874 use of these funds and to coordinate and to give general inspection to all public
875 works projects undertaken by any department or agency of the county government.
- 876 (4) *Restoration of funds.* The revolving funds created by this section shall be restored
877 by credits transferring costs to the public works projects for which the services were
878 specifically provided. If subsequent to the preliminary planning and engineering, a
879 project is abandoned or the county board does not appropriate funds for the project,
880 the county board's committee on finance, personnel and audit may recommend an
881 appropriation sufficient to restore the fund to its original amount.

882 56.17. - Nondiscriminatory contracts.

- 883 (1a) All contracts except those exclusions listed in paragraph (e) let by or on behalf of
884 the county, shall include the following provisions:
885 In the performance of work or execution of this contract, the contractor shall not
886 discriminate against any employee or applicant for employment because of race,
887 color, national origin or ancestry, age, sex, sexual orientation, gender identity and

888 gender expression, disability, marital status, family status, lawful source of income,
889 or status as a victim of domestic abuse, sexual assault or stalking, which shall
890 include but not be limited to the following: employment, upgrading, demotion or
891 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or
892 other forms of compensation; and selection for training including apprenticeships.
893 The contractor will post in conspicuous places, available for employment, notices to
894 be provided by the county setting forth the provisions of the nondiscriminatory
895 clause. A violation of this provision shall be sufficient cause for the county to
896 terminate the contract without liability for the uncompleted portion or for any
897 materials or services purchased or paid for by the contractor for use in completing
898 the contract.

899 (1b) Where federal regulations in regard to bidding and contracting procedures and
900 equal employment practices apply, all contracts let by or on behalf of the county
901 shall be consistent with said requirements, regulations, procedures and practices.
902 However, all contractors having fifty (50) or more total employes, including noncraft
903 employes, shall be required to have affirmative action plans on file with the county
904 or other appropriate government agency.

905 (1c) All contracts except those exclusions listed in paragraph (1e) let by or on behalf of
906 the county involving nonfederal funds shall contain language based on and
907 reflecting federal and county equal employment opportunity and ~~minority business-~~
908 ~~enterprise~~ Target Enterprise requirements:.

909 ~~a. The minority and women's business enterprise program authority and~~
910 ~~procedures shall apply as set forth in chapter 32 of the Code.~~

911 ~~b. Any act required to be performed or prohibited by chapter 32 of the Code is~~
912 ~~hereby incorporated herein by reference.~~

913 (1d) All contracts except those exclusions listed in paragraph (1e) let by or on behalf of
914 the county, shall include the following provisions:

915 The contractor agrees that it will strive to implement the principles of equal
916 employment opportunities through an effective affirmative action program, and will
917 so certify prior to the award of the contract, which program shall have as its
918 objective to increase the utilization of women, minorities and handicapped persons,
919 and other protected groups, at all levels of employment in all divisions of the
920 contractor's workforce, where these groups may have been previously under-
921 utilized and under-represented. The contractor also agrees that in the event of any
922 dispute as to compliance with the aforesaid requirements, it shall be his/her
923 responsibility to show that he/she has met all such requirements.

924 The contract agrees that it will strive to implement the principles of active and
925 aggressive efforts to assist Milwaukee County in meeting or exceeding its overall
926 annual goal of participation of Target Enterprise firms.

927 (1e) The exclusions applicable to paragraphs (1a), (1c), (1d) and (2) are as follows:

- 928 1. Departmental purchase orders.
- 929 2. Emergency purchases when immediate action is required to preserve property
930 or protect life, health or welfare of persons.

- 931 3. Sole source procurements, as determined by the purchasing standardization
932 committee.
- 933 4. Purchases from foreign countries.
- 934 5. Purchases from governmental agencies.
- 935 6. Purchases from petty cash (limit of fifty thousand dollars (\$50,000.00)).
- 936 (2) Except for exclusions in paragraph (1e) all directors, administrators and managers
937 shall be responsible for obtaining compliance with the nondiscrimination provisions
938 of this section and shall, in cooperation with the contract compliance auditor, verify
939 compliance prior to the award of all contracts with an aggregate value of twenty
940 thousand dollars (\$20,000.00) or more.
- 941 (3) When a violation of this section has been determined by the party responsible for
942 the enforcement of the nondiscrimination provision, the violating party shall
943 immediately be informed of the violation and directed to take all action necessary to
944 halt the violation, as well as such action as may be necessary to correct, if possible,
945 any injustice to any person adversely affected by the violation and immediate steps
946 to prevent further violations.
- 947 (4) If, after notice of a violation to the violating party, further violations of this section are
948 committed during the term of the contract, the county may terminate the contract
949 without liability for the uncompleted portion or any materials or services purchased
950 or paid for by the contracting party for use in completing the contract, or it may
951 permit the violating party to complete the contract, but in either event, the violating
952 party shall be ineligible to bid on any future contracts to be let by the county.
- 953 (5) No contract by or on behalf of the county shall be let to any party whose name
954 appears on the list of ineligible contractors maintained by the state department of
955 administration because of failure to comply with the provisions of s. 16.765, Wis.
956 Stats., unless, in the opinion of the director, the violation party has offered clear
957 proof that the violation has been corrected and will not be repeated.
- 958 (6) A violation by a prime contractor shall not impute to a subcontractor, nor shall a
959 violation by a subcontractor impute to a contractor.
- 960 56.30. - Professional services.
- 961 (1) Definitions. The meanings of certain terms used in this section are as follows,
962 unless the context otherwise provides:
- 963 (a) "Professional services" means services, the value of which is substantially
964 measured by the professional competence of the person performing them and
965 which are not susceptible to realistic competition by cost of services alone. The
966 services provided must be materially enhanced by the specific expertise,
967 abilities, qualifications and experience of the person that will provide the
968 service. Professional services shall typically include services customarily
969 rendered by architects; engineers; surveyors; real estate appraisers; certified
970 public accountants; attorneys; financial personnel; medical services, except
971 when such services are delivered to county employees as part of a workers
972 compensation claim; system planning; management and other consultants; and

973 services for promotional programs. ~~Administrative Manual Procedure on DBE-~~
974 ~~Contracting Requirements provides additional definition regarding services that~~
975 ~~meet professional service contracting requirements under this ordinance. If a~~
976 ~~department administrator or other department personnel is uncertain if their~~
977 ~~contract should follow professional service contracting provisions under this~~
978 ~~ordinance, the department administrator must make a request of Corporation~~
979 ~~Counsel for final clarification, before beginning the contracting procedures.~~

980 (b) "Services" means the furnishing of labor, time or effort by a
981 contractor/consultant, not involving the delivery of a specific end product other
982 than usual reports and/or drawings which are incidental to the required
983 performance.

984 (c) "Request for proposal" means all documents, whether attached or incorporated
985 by reference, used for soliciting proposals.

986 (d) "Contractor" means a firm or individual who formally undertakes to do anything
987 for another. Independent contractors must maintain a separate business and
988 hold themselves out to and render service to the general public and must have
989 a right to control the details of the work performed. Questions regarding
990 independent contractor status must be directed to Corporation Counsel.
991 Appendix F lists federal criteria to be considered in determining independent
992 contractor status.

993 (e) "Contract" means a legally binding relationship obligating a seller to furnish
994 supplies or services (including, but not limited to, construction and professional
995 services) and the buyer to pay for them. For purposes of this part, a lease is
996 considered to be a contract.

997 (2) *Policy.*

998 (a) *General policy statement.* All county departments and institution administrators
999 are responsible for procuring professional services and for soliciting, negotiating
1000 and entering into contracts as defined in accordance with the provisions of this
1001 section. However, the office of the county executive and the county board shall
1002 be exempt from the provisions contained herein with the exception of
1003 subsections (6)(a) and (6)(i) as shall be the department of administration with
1004 the exception of subsections (6)(a) and (6)(i) for the purpose of securing credit
1005 rating services related to debt issuance and administration.

1006 (b) ~~Disadvantaged business enterprise requirement.~~ All county departments and
1007 institutions administrators are ~~required to notify the Community Business-~~
1008 ~~Development Partners department (CBDP) division in writing prior to soliciting-~~
1009 ~~for professional service contract opportunities~~ responsible for procuring
1010 professional services and for soliciting, negotiating and entering into contracts
1011 as defined in accordance with the provisions of chapter 42 of these ordinances.
1012 Annual percentage goals for DBE Target Enterprise participation on
1013 professional services contracts will be established as set forth by county
1014 ordinance chapter 42 of these ordinances. ~~The procedures to be followed by-~~
1015 ~~departments regarding DBE participation shall conform to provisions as-~~
1016 ~~contained in chapter 42. No professional services contract shall be issued-~~

- 1017 ~~without review and written approval by CBDP that all provisions of chapter 42~~
1018 ~~regarding disadvantaged business participation have been met.~~
- 1019 (c) *Fiscal constraint statement.* Notwithstanding any other provisions of section
1020 56.30, during a period of fiscal constraint the county board may, by resolution,
1021 adopt a procedure which requires the committee on finance, personnel and
1022 audit review and county board approval of all professional services
1023 expenditures prior to execution of said contracts.
- 1024 (d) ~~*Reference to ordinance.* When a county department/division head or contract~~
1025 ~~administrator is preparing to begin a contract for professional services the~~
1026 ~~department/division head or contract administrator shall follow the requirements~~
1027 ~~of this section and chapter 42 on the requirements for using disadvantaged~~
1028 ~~business enterprises in county contracting, including professional services, and~~
1029 ~~administrative manual section 1.13, which provides further guidance on~~
1030 ~~complying with professional service contracting requirements.~~
- 1031 (e) *Justification for using professional services.* Contract administrators must
1032 document in the contract file the justification for utilizing a professional service
1033 contract as opposed to completing the work using county staff. This justification
1034 may or may not employ a formal cost benefit analysis, depending on the
1035 circumstances.
- 1036 (3) *Availability of appropriations.* It is the responsibility of the administrator who will sign
1037 a professional services contract to insure that monies are available in the
1038 appropriate budget account for the expenditures required by the contract.
- 1039 (4) *Professional services procedures.* It shall be the responsibility of the administrator
1040 to conform with the following provisions when entering into a professional services
1041 contract and expending budgeted funds:
- 1042 (a) *Professional services—Capital improvements.* The following conditions shall
1043 apply to all capital projects.
- 1044 (1) During its annual budget process, departments shall provide a list to the
1045 county board of which capital projects contained in the recommended
1046 budget are intended to require the assistance of a professional services
1047 consultant. Departments are authorized to enter into contractual services or
1048 professional services agreements as may be required for specific capital
1049 improvement projects which have been approved by the county board
1050 through the budget process. Expenditures shall only be for those projects
1051 and professional services specifically identified in the budget write-up
1052 reviewed by the committee on finance, personnel and audit during the
1053 budget review process and approved by the county board, or for those
1054 projects approved by action of the county board. The budget write-up shall
1055 contain specific information as to the scope of the project, professional
1056 services required and estimated cost of the professional services work to be
1057 performed. The appropriate department of transportation or the department
1058 of administrative services shall provide in February of each year to the
1059 committee on finance, personnel and audit and the committee on

- 1060 transportation, public works and transit an updated report on public works
1061 capital projects requiring the use of a professional services contract. Any
1062 professional services work costing more than twenty thousand dollars
1063 (\$20,000.00) which is not identified in the February report shall require
1064 county board approval.
- 1065 (2) All contracts in excess of twenty thousand dollars (\$20,000.00) shall be
1066 solicited following a request for proposal process as outlined further in this
1067 ordinance.
- 1068 (b) *Professional services—Non-Capital.*
- 1069 (1) For professional services resulting in an expenditure of two thousand
1070 dollars (\$2,000.00) or less, a departmental purchase order or purchase card
1071 may be used for the purchase of professional services. County board
1072 approval is not required provided monies are available in the appropriate
1073 budget account.
- 1074 (2) For a professional services contract with a value greater than two thousand
1075 dollars (\$2,000.00) and less than fifty thousand dollars (\$50,000.00), county
1076 board approval is not required provided monies are available in the
1077 appropriate budget account for the expenditures required by the contract.
- 1078 (3) County board approval.
- 1079 (a) If a professional services contract with a value greater than two
1080 thousand dollars (\$2,000.00) and less than fifty thousand dollars
1081 (\$50,000.00), entered into by a department administrator is to be
1082 extended or amended to provide additional reimbursement which
1083 extends the total reimbursement beyond fifty thousand dollars
1084 (\$50,000.00) to the same vendor, county board approval shall be
1085 required for each extension.
- 1086 (b) For a professional services contract with a value of fifty thousand
1087 dollars (\$50,000.00) or more, approval by the county board is required.
1088 Such approval may take place as part of the county board's adoption of
1089 the annual county budget. If approval does not take place as part of the
1090 adopted budget, then review by the appropriate county board standing
1091 committee and approval by the county board is required. If immediate
1092 action is required to preserve property or protect life, health and welfare
1093 of persons, county board approval may be waived, provided such action
1094 shall be reported, in writing, within forty-eight (48) hours after initial
1095 emergency action, to the county board, the county executive and the
1096 department of administration.
- 1097 (4) County board approval is not required for reimbursement for medical
1098 services as defined under subsection 56.30(1)(f) when those services are
1099 provided to county employees as a workers compensation claim provided
1100 that sufficient funds are available at the time the invoice for service is
1101 submitted in the appropriate expenditure amount.

1102 (a) The risk management division is allowed to issue payments to hospitals
1103 whenever services have been rendered to county employes as part of a
1104 workers compensation claim.

1105 (5) *Request for proposal.*

1106 (a) *When required.* When it is estimated that a contract for professional services
1107 has a value of fifty thousand dollars (\$50,000.00) and over, it is required that a
1108 request for proposal (RFP) be used to attempt to solicit a minimum of three (3)
1109 proposals. Department administrators shall give appropriate notice to
1110 prospective vendors of services to be retained. At a minimum, such notice shall
1111 include publication of an ad in a newspaper serving the Milwaukee area. The
1112 use of an RFP is discretionary for any professional services contract with a
1113 value of less than fifty thousand dollars (\$50,000.00). If an RFP is used or not, it
1114 still is required to document the process and the reasons shall be documented
1115 in writing by the administrator and retained in departmental files for a period of
1116 seven (7) years after contract completion. Documentation shall include the
1117 RFP, memos, proposals, score sheets, analyses, contracts and any other
1118 document used in determining the award of a contract.

1119 (1) For a contract with an estimated value between fifty thousand dollars
1120 (\$50,000.00) and one hundred thousand dollars (\$100,000.00), the request
1121 for proposal procedure need not be used if it is determined by an
1122 administrator to be cost effective to the county not to seek proposals. Such
1123 action shall be reported, in writing, with an explanation as to the benefits
1124 derived from not seeking proposals, to the county board when the contract
1125 is submitted for approval.

1126 (2) The request for proposal procedure need not be used for a contract with an
1127 estimated value of fifty thousand dollars (\$50,000.00) or more, if immediate
1128 action is required to preserve property or protect life, health or welfare of
1129 persons. Such action shall be reported in writing within forty-eight (48)
1130 hours after the initial emergency action to the county board, county
1131 executive and department of administration. Payments shall not be
1132 restricted by normal budget limitations. Appropriation transfers, if required,
1133 shall be initiated in accordance with fiscal procedures.

1134 (3) The request for proposal procedure must be used for all contracts with an
1135 estimated value of one hundred thousand dollars (\$100,000.00) or more
1136 unless action is required to protect property or protect life, health or welfare
1137 of persons, or in circumstances where contractual services are approved by
1138 specific county board action.

1139 (b) *Content.* The request for proposal shall contain the evaluation criteria which will
1140 be used to select the successful contractor. The relative importance of each of
1141 these items will depend to some degree on specific services being sought. It is
1142 essential that the RFP enumerate the evaluation criteria which will be used to
1143 select the successful contractor. The RFP shall also include the foundation and
1144 mechanism for billing for any professional service.

- 1145 (c) *Evaluation procedure.* More than one (1) person shall evaluate all proposals.
1146 Oral presentations should be used to supplement the written proposal if it will
1147 assist in the evaluation procedure. The firms to be invited to make an oral
1148 presentation can be determined after the initial review and ranking of the
1149 proposals based on the criteria outlined in the RFP.
- 1150 (d) *Disclosure.* Contract administrators, evaluation panel members, or potential
1151 members, department administrators and persons selecting evaluation panel
1152 members are required to fully disclose on forms approved by the Ethics Board
1153 any experience, contact or relationship with bidders that would create a
1154 potential conflict of interest, or the appearance of a conflict of interest, as
1155 defined in chapter 9 of these ordinances, in awarding or managing a contract.
1156 Such disclosure shall be presented to the administrator of the department
1157 letting the contract who shall forward the disclosure to the Ethics Board with a
1158 written request for a determination as to whether the disclosing party should be
1159 disqualified from evaluating, selecting or administering the proposed contract.
1160 The determination of the Ethics Board must be documented and included in the
1161 department's files for the contract and shall be retained as required under
1162 subsection (a) of this section. The provisions of this section are to be included
1163 in the Milwaukee County Administrative Procedures Manual. All the provisions
1164 set forth in the Milwaukee County Code of Ethics are in full force and effect and
1165 are not abrogated in any way by these requirements.
- 1166 (6) *Contract.*
- 1167 (a) All contracts, excluding departmental purchase orders, shall be reviewed by the
1168 corporation counsel to determine if they meet the definition of professional
1169 services and to verify that the contracts comply with all statutes, rules,
1170 ordinances, and the county's ethics policy.
- 1171 (b) Approval. The contract must be approved by the office of the corporation
1172 counsel prior to execution. No contract is valid until so countersigned.
- 1173 (c) All provisions of the Code governing administration of contracts must be
1174 followed.
- 1175 (d) All contracts which have been approved by action of the county board shall
1176 contain language referencing the county board file number and date of county
1177 board approval.
- 1178 (e) All professional services contracts shall contain a provision which provides that
1179 the contractor shall permit the authorized representatives of the office of the
1180 comptroller, after reasonable notice, the right to inspect and audit all data and
1181 records of contractor related to carrying out the contract for a period of up to
1182 three (3) years after completion of the contract.
- 1183 (f) All contracts will be reviewed and approved, in writing, by the county's risk
1184 manager for financial responsibility and liability management, including
1185 appropriate insurance provisions and modifications in indemnity agreements.
- 1186 (g) ~~All county department/division heads and contract administrators are required~~
1187 ~~to notify the Community Business Development Partners department (CBDP) in~~

1188 writing prior to soliciting for professional services contracts. Annual percentage
1189 goals for DBE participation on professional services contracts will be
1190 established as set forth by county ordinance. The procedures to be followed by
1191 departments regarding DBE participation shall conform to provisions as
1192 contained in chapter 42. No professional services contract shall be issued
1193 without review and written approval by CBDP that all provisions of chapter 42
1194 regarding disadvantaged business participation have been met. All contracts
1195 will be reviewed and countersigned by CBDP director for compliance with
1196 chapter 42 of these ordinances. No contract is valid until so countersigned.

- 1197 (h) All contracts shall include the foundation and mechanism for billing for any
1198 professional service provided under the agreement.
- 1199 (i) No contract shall be valid until the office of the comptroller has determined that
1200 the county has, or will have, the necessary funds to pay the liability that the
1201 county may incur under the contract and has countersigned the contract. No
1202 contract is valid until so countersigned.

1203 (7) *Department administrator reporting requirement.* All department administrators are
1204 responsible for informing the ~~controller~~ comptroller in writing whenever a
1205 professional services contract is initiated. Department administrators are to inform
1206 the ~~controller~~ comptroller of such contracts in a standardized format on a form to be
1207 developed by the department of ~~administration~~ administrative services.

1208 (a) *Content.* Such reports shall be prepared in four (4) parts and include the
1209 following information:

- 1210 (1) Department name and number.
- 1211 (2) Date approved by county board and file number.
- 1212 (3) Dollar amount of contract.
- 1213 (4) Account description and account number charged.
- 1214 (5) Name of professional services vendor under contract.
- 1215 (6) Length of time of contract.
- 1216 (7) Purpose of contract.
- 1217 (8) Selection of qualified DBE firm Target Enterprise.

1218 (b) *Distribution:*

- 1219 Original copy to ~~controller~~ comptroller.
- 1220 One (1) copy retained by department administrator.

1221 (8) *Comptroller responsibility.*

- 1222 (a) The comptroller shall, on a monthly basis, summarize the reports received from
1223 department administrators concerning professional services contracts and send
1224 one (1) copy to the committee on finance, personnel and audit and one (1) copy
1225 to the county executive and one (1) copy to CBDP.
- 1226 (b) The comptroller shall deny payment for any payment request for professional
1227 services submitted by a contractor to an administrator if all conditions of this

1228 chapter have not been met. The comptroller shall report such denials and the
1229 reason for denial to the committee on finance, personnel and audit along with
1230 the monthly report. In such cases, the administrator may appeal the decision to
1231 the committee on finance, personnel and audit.

1232 (9) *Administrator responsibility.* It is the responsibility of the administrator, prior to
1233 permitting a professional services contractor to perform any work for the county, to
1234 comply with all sections of this chapter. Furthermore, no work shall be performed by
1235 any professional services contractor unless or until a written contract has been
1236 executed and signed by all appropriate officials.

1237 (10) *Corporation counsel authority.*

1238 (a) Any contrary provision of these ordinances notwithstanding, the corporation
1239 counsel may enter into a professional services contract to obtain the
1240 professional services without regard to the requirements of this section with
1241 respect to requests for proposals and prior county board approval, without
1242 regard to the goals and procedures established under chapter 42 of these
1243 ordinances and without regard to any other ordinance or resolution which would
1244 operate to constrain the corporation counsel's ability to enter into a professional
1245 services contract if the corporation counsel determines, in the exercise of the
1246 corporation counsel's professional judgment, (i) that such professional services
1247 are necessary to assist Milwaukee County to prepare for or prosecute litigation
1248 arising out of the enhanced pension benefits which became effective January 1,
1249 2001 in order to assist the likelihood of success of the litigation, and (ii) that the
1250 interests of Milwaukee County require timely action and flexibility which
1251 preclude the delay inherent in the procedures prescribed in this section and in
1252 chapter 42 of these ordinances.

1253 (b) The corporation counsel shall make every reasonable effort to comply with all
1254 the requirements of this section, chapter 42, and any other ordinance or
1255 resolution affecting professional service contracts to the extent that the
1256 circumstances of the litigation and protection of the interests of Milwaukee
1257 County permit.

1258 (c) The corporation counsel shall provide a confidential report in a timely manner to
1259 the committee on judiciary, safety and general services with respect to any
1260 contract entered into under the authority of this subsection.

1261

1262 **SECTION 4.**

1263 The provisions of this Ordinance shall become effective upon passage and publication.
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**Adopted by the Milwaukee County Board of Supervisors
July 28, 2016**

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