

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: October 14, 2013

To: Supervisor Willie Johnson, Jr., Co-Chair, Committee on Finance, Personnel and Audit
Supervisor David Cullen, Co-Chair, Committee on Finance, Personnel and Audit

From: Jerome J. Heer, Director of Audits

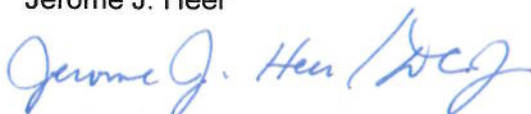
Subject: Status Report – Paratransit Emergency Contract Extensions (File No. 13-381)

At its meeting on April 18, 2013, the Committee on Finance, Personnel reviewed the audit report, "An Audit of Emergency Contract Extensions for Paratransit Services Negotiated by Milwaukee Transport Services," and passed a motion to adopt our resolution to receive the report and concur with our recommendations.

The attached status report summarizes the progress made toward implementation of the recommendations. As indicated in the report, Department of Transportation management has implemented six of the eight audit recommendations and is pursuing the remaining two recommendations.

This status report is informational and indicates progress towards implementing the audit recommendations is substantially complete. We do not plan to provide a subsequent status report unless we deem it appropriate.

Jerome J. Heer



JJH/PAG/cah

Attachment

cc: Scott Manske, Milwaukee County Comptroller
Finance, Personnel and Audit Committee Members
Chris Abele, County Executive
Brian Dranzik, Director, Department of Transportation
Kelly Bablitch, Chief of Staff, County Board Staff
Steve Cady, Research Analyst, County Board Staff
Janelle Jensen, Committee Clerk

STATUS OF IMPLEMENTING AUDIT REPORT RECOMMENDATIONS

Audit Title: An Audit of Emergency Contract Extensions for Paratransit Services Negotiated by Milwaukee Transport Services, Inc. **File Number:** 13-381
 for a 3-Year Period Effective November 1, 2012

Audit Date: April 2013

Status Report Date: October 2013

Department: Department of Transportation

Number & Recommendation	Deadlines Established		Deadlines Achieved		Implementation Status		Comments
	Yes	No	Yes	No	Completed	Further Action Required	
1. Work with MTS to obtain guidance from the Milwaukee County Corporation Counsel regarding all aspects of its appeals process, including appropriate criteria for allowing public input.		X				X	Auditee: The department and Corporation Counsel have not reviewed the appeal process due to the pending nature of the transit management service request for proposal issued by Milwaukee County and changes in the Corporation Counsel office. After resolution of the management contract, the department and corporation counsel will review all aspects of the appeal process and determine the appropriateness of public input on appeals outside the county's established process.
2. Work with MTS to include continuation of service provisions in paratransit service contracts that ensure no interruption in service before subsequent contracts are awarded.					X		Auditee: The Department has worked with MTS to establish a continuation clause that has been included in its procurement manual. This clause will be included in future paratransit contracts and any other contracts deemed appropriate. A copy of the clause is attached.
3. Work with MTS management to codify its scoring protocol in its procurement procedures.					X		Auditee: The Department has worked with MTS to codify scoring protocol and MTS has updated its procurement manual accordingly. A copy of the updated procurement manual is attached.

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Number & Recommendation	Deadlines Established		Deadlines Achieved		Implementation Status		Comments
	Yes	No	Yes	No	Completed	Further Action Required	
4. Establish a suitable timeframe for procurements that include hard internal deadlines, formal agreements for turnaround times on inter-agency interactions, and ample cushion for unforeseen delays.					X		Auditee: The Department has worked with MTS to establish suitable timeframes for turnaround times on inter-agency interactions. This has been updated in the MTS procurement manual and a copy is attached.
5. Establish formal protocols for notification of the MCDOT Contract Administrator when above deadlines are missed.					X		Auditee: The Department has worked with MTS to establish notification protocols for missed deadlines. This has been updated in the MTS procurement manual and a copy is attached.
6. Limit emergency contracts/extension to one year.					X		Auditee: The Department has worked with MTS to establish language related to limiting emergency extensions to one year. This has been updated in the MTS procurement manual and a copy is attached.
7. Require formal written notification of the County Executive and County Board Chair within 48 hours of any emergency contract/extensions with a detailed explanation of the nature and extent of the emergency, as well as the fiscal impact of the action taken.					X		Auditee: The Department has worked with MTS to establish language related to written notification to the County Executive and County Board Chair with 48 hours of any emergency contract or extension. This has been updated in the MTS procurement manual and a copy is attached.

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	Yes	No	Yes	No	Completed	Further Action Required	
	8. Work with Corporation Counsel and representatives of the Federal Transit Administration to review all options for terminating the emergency contract extensions for paratransit van service without disrupting the service for Milwaukee County's Transit Plus clients.		X				

AUDIT REC'S 2,6 & 7

Emergency Purchases - Continuation Provision

P-114

Date Issued: 07/11/2013

Date Revised:

I. PURPOSE

To establish guidelines for emergency purchases/

II. SCOPE

This policy applies to all purchases with an aggregate value in excess of fifty thousand dollars (\$50,000.00).

III. GENERAL

#6

In the event of an emergency (when immediate action is required to preserve property, protect life, health or welfare, and/or to make time-sensitive purchase decisions) MTS may enter into contracts or extend purchase orders requiring expenditures exceeding \$50,000.00 for up to one year.

#7

Within forty-eight (48) hours of the execution of such an emergency contract or purchase order, a written report shall be provided to the County Executive, County Board Chair and the Director of Transportation providing written detail of the extent of the emergency, why the necessary purchase was required and the fiscal impact of the action taken.

IV. CONTINUATION PROVISION - ALL PARATRANSIT CONTRACTS

#2

The following continuation clause shall be inserted in all Paratransit Contracts and other contracts deemed appropriate.

Contract Continuation Clause: Contractor recognizes that the services under this contract are vital to MTS and to the public and must be continued without interruption. Contractor agrees that MTS, in its sole discretion, and by written notice to Contractor at least 30 days prior to contract expiration, may extend this Agreement for up to an additional 120 days. If so extended by MTS, Contractor shall continue to provide services under this Agreement, on the same terms as set forth in this Agreement. MTS may terminate any such extension by providing Contractor with 30 days notice. Contractor further agrees to exercise its best efforts and cooperation to effect an orderly and efficient transition to any successor Contractor.

AUDIT REC #3 (Page 4)

Competitive Contract Negotiations - Evaluation Process

PP-073

Date Issued: 12/27/11

Date Revised: 07/09/13

I. PURPOSE

This section of the Policy and Procedures Manual defines the review, evaluation and scoring procedures to be applied to proposals received in response to solicitations issued by the Milwaukee County Transit System MCTS.

II. SCOPE

Proposals received must conform to the RFP document and specifications (solicitation) issued by MCTS. The primary objective is to award a contract that is the best value to MCTS.

Award: In awarding a contract, price is but one factor to be considered, and award is not required to be made to the lowest responsive responsible respondent. Award shall be made to the responsive, responsible firm whose proposal overall is the most advantageous/ best value to MCTS with price and other factors considered.

Binding Contract: A proposal received in response to a Request for Proposal (RFP) is an offer that can be accepted by MCTS, to create a binding contract without negotiation with any offerer.

Negotiations: Negotiations is a procedure that includes the receipt of proposals from offerors, permits bargaining, and usually affords an opportunity to revise offers before award of a contract. Bargaining in the sense of discussion, persuasion, alteration of initial assumption and position and give-and-take may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.

Right to Award Without Negotiations

If so stated in the RFP document the Purchasing Agent may reserve the right to make an award on the basis of the original proposal, without negotiations with an offeror.

Evaluation Committee: The Evaluation Committee will make a best value determination and recommendation for award to the Purchasing Agent based on the factors and only the factors outlined in the solicitation.

Accordingly, the Evaluation Committee may not necessarily make a recommendation to award to the proposer with the highest technical ranking nor make a recommendation to award to the proposer with the lowest price proposal if doing so would not be the overall best value to MCTS.

III REVIEW AND EVALUATION PROCESS

1. Screening for Mandatory Requirements/Responsiveness

- 1.1 The Purchasing Agent shall verify that responses were received by the due date and time.
- 1.2 The Purchasing Agent shall review all responses for compliance with mandatory requirements to ascertain the responsiveness. If there is a DBE contract goal on the project, the CBDP Office shall review DBE submissions and issue a written determination of responsiveness. Only responses that meet the mandatory requirements will be forwarded to the Evaluation Committee Members. Responses not meeting mandatory requirements shall be excluded. Mandatory requirements shall include but are not limited to: Pricing, Signatures, Technical Response, Buy America, DBE Submittals, Addendum Acknowledgment and other requirements outlined in the RFP documents.
- 1.3 The Purchasing Agent after review with and approval of the Director of Materials Management shall notify all respondents that were removed from consideration in 1.1 and 1.2 above. This notification shall be in writing and shall state the reason.

2. Evaluation Committee

- 2.1 An evaluation committee will be formed of three (3) to five (5) persons with relevant experience in evaluating the technical responses to the solicitation.
- 2.2 All evaluation committee members shall comply with the Milwaukee County Code of Ethics which states in part, "No person may offer to give to any Public official or employee or his immediate family, and no Public official or employee or his immediate family may solicit or receive anything of value pursuant to an understanding that such officers or employees' vote, official actions or judgment would be influenced thereby."

"No person(s) with a personal financial interest in the approval or denial of a contract being considered by a County department or with an agency funded and regulated by a County department, may make a campaign contribution to any County official who has approval authority over that contract during its consideration. Contract consideration shall begin when a contract is submitted directly to a County department or to an agency until the contract has reached final disposition, including adoption, county executive action, proceedings on veto (if necessary) or departmental approval. This provision does not apply to those items covered by Section 9.15 unless acceptance by an elected official would conflict with this section.
- 2.3 Evaluation committee members shall not disclose the number of respondents or contents of the proposals outside the evaluation committee. All outside contacts regarding the solicitation should be directed to the Purchasing Agent.

2.4 The determination of whether a respondent's technical proposal conforms to the conditions and specifications of the solicitation is the sole responsibility of the evaluation committee.

3. Evaluation Factors and Score Weighting

3.1 Evaluation factors and score weighting should be structured to achieve the "best value" approach to the procurement selection. All evaluation factors and their relative importance are to be specified in the solicitation.

3.2 When developing the evaluation factors it must be determined and so stated in the solicitation that all evaluation factors other than cost or price, when combined are:

- (1) Significantly more important than cost or price; or
- (2) Approximately equal to cost or price; or
- (3) Significantly less important than cost or price.

3.3 The following evaluation factors and score weighting is an example and is a good starting point for all MCTS solicitations. Changes to or additions to the factors or percentages must be done prior to issuing the solicitation.

Evaluation Factor	Weight Percentage
Technical/Design and Approach	45%
Interviews and/or Resumes of Key Management Staff and Management Plan	30%
Past Performance and/or Reference Checks	25%

The raw score as recorded by each evaluation committee member for each evaluation factor shall be multiplied by the weighted percentage to arrive at the final weighted score for each proposer.

4. Evaluation Overview

4.1 The evaluation committee will conduct a comprehensive, fair and impartial evaluation of proposals received in response to the solicitation.

4.2 The evaluation shall be conducted in up to three (3) phases:

(1) Phase 1 - Pass/Fail Requirements: If there are any pass/fail requirements, they must be scored. All proposals that pass shall move on to Phase 2. Any response(s) that fail should be returned to the Purchasing Agent with a written notice of the failure(s). If it is determined by the Purchasing Agent and approved by the Director of Materials Management, that failure necessitates the removal from further consideration, the respondent shall be notified in writing. If it is determined that the failure does not rise to the level of disqualification, the response shall be returned to the Evaluation Committee to be scored with said defect.

If the solicitation does not include a pass/fail section, then the evaluation committee will move directly to Phase 2.

(2) Phase 2 - Scoring of Technical Proposal and Determination of Responsible Offers: The purpose of this phase is to measure the merits of the respondent's technical components of the proposal against pre-established criteria outlined in the solicitation. This phase shall also be used to determine that the offer is responsible (ie; the contractor can actually perform the work and/or supply the product requested).

The Purchasing Agent shall coordinate any contact between the respondents and evaluation committee to insure fair and impartial reviews. This may include presentation, demonstrations, clarifications, negotiations and the request for modified and/or best and final offers.

#3

At the conclusion of phase 2 each evaluator will provide an independent score and a written rationale, for each of the pre-established criteria. The scores will be accumulated from all the evaluators and averaged to produce a final technical ranking of the offers. In instances where there are five (5) or more evaluators, MCTS reserves the right to remove the high and low score for each category and average the remaining scores.

In instances where the item or service being procured is highly technical and requires a wide variety of expertise from evaluators, the Director of Materials Management may allow group scoring. In this instance evaluators are allowed to share and discuss within the group their insights regarding the technical review. After discussions, the group will reach a consensus scoring and ranking of the technical responses.

(3) Phase 3 - Determination of Best Value: In addition to the technical score, the price will also be considered in determining the best offer. After technical scores are complete, price will be evaluated alongside technical merit in a trade off fashion to choose the proposal that represents the best value to MCTS. The evaluation committee must use good business judgement to reach a consensus in choosing the proposal that represents the best value.

After considering the technical merits of the competitors and the price differentials in a subjective decision making, tradeoff process, a detailed written rational must be prepared. It is important to note that the perceived benefits of a higher priced proposal must merit the additional cost, and the rational for the tradeoffs must be documented. It is not sufficient to

say that company X was rated higher than company Y, and therefore deserves the award. If there are more than two respondent, it is not adequate to just determine best value. All responses must be ranked.

Once the evaluation process is complete all evaluators must sign-off on the award recommendation. If the committee was unable to reach a consensus, then a majority recommendation should be made. The minority evaluator(s) shall provide a separate written award recommendation in the same detail outlined above.

IV AWARD

The Purchasing Agent shall review the best value determination received from the evaluation committee with the Director of Materials Management. Any issues or concerns will be addressed in a meeting with all evaluation committee members. Any out standing DBE issues must also be addressed. If no issues exist or when all issues are satisfactorily addressed, a letter of intent to award will be sent to all respondents to the solicitation. Respondents have 72 working hours to file a protest. In the absence of a protest the award will proceed.

Audit REV'S 425

Project Schedules - Major Procurements

P-205

Date Issued: 07/11/2013

Date Revised:

I. PURPOSE

To establish guidelines for forming project schedules for contracts in excess of \$250,000.00

II. SCOPE

This policy applies to all purchases with an aggregate value in excess of two-hundred and fifty thousand dollars (\$250,000.00).

III. GENERAL

#4 The project schedule for purchases in excess of \$250,000 shall be as follows:

Solicitations shall be issued a minimum of 180 calendar days prior to expiration of the existing contract or the projected start date for a new contract. The following interagency turnaround times shall be adhered to.

MCDOT Reviews - 5 calendar days

CBDP Reviews - 5 calendar days

FTA Reviews - 15 calendar days

#5 IV. NOTIFICATION OF MCDOT CONTRACT ADMINISTRATOR

Any delay that may have a fiscal or programmatic impact shall be reported to the MCDOT Contract Administrator. The report shall detail the effects of the delay and a recommended action plan.