

PROOF OF PUBLICATION

Ann Richmond, being the first duly sworn on oath, says that she is the Publisher of THE DAILY REPORTER, which is a public newspaper of general circulation, printed and published daily in the English language in the City of Milwaukee, in said county, and fully complying with the laws of Wisconsin, relating to the publication of legal notices; that the notice of which the printed one attached is a true copy, which was clipped from the said newspaper, was inserted and published in said newspaper on

Apr. 24, 2012

Ann S. Richmond  
Ann Richmond, Publisher

Sworn to me this 24th day of April 2012

[Signature]



David Ziemer  
Notary Public, Milwaukee County, Wisconsin  
My Commission Is Permanent

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Ord 12-9 / File 11796

FROM THE OFFICE OF  
JOSEPH J. CZAJA, CLERK  
MILWAUKEE COUNTY CLERK  
County Ordinance No. 12-9

File No. 12-246

AN ORDINANCE

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

SECTION 1. Section 32.21, 32.23, 32.24, 32.25, 32.26, 32.27, 32.286, 32.31, 32.36, 32.40, 32.42, 32.43, 32.44, 32.46, 32.47, 32.48, 32.49, 32.50, 32.51 of the General Ordinances of Milwaukee County is hereby amended as follows:

32.21. - General administration. The procurement division shall be directly supervised by the ~~procurement director~~ ~~procurement director~~ and its general policies shall be subject to the review of the director of the department of administrative services, except for those matters under the jurisdiction of the purchasing standardization committee.

32.23. - Purchasing standardization committee.

(1) There shall be a purchasing standardization committee composed of three (3) private citizens: a representative of the department of human resources, department of parks, recreation and culture, department of public works and the sheriff's department. Each of the departmental representatives shall be selected by the department head. The private citizen members are to be appointed by the county executive for a term of four (4) years, subject to the confirmation of the county board, and shall be residents of the county who are knowledgeable in procurement. A representative of the corporation council's office and the ~~procurement director~~ ~~procurement director~~ or his or her designee shall be technical advisers to the committee.

32.24. - Technical subcommittees. The ~~procurement director~~ ~~procurement director~~ shall coordinate the organization and work of technical subcommittees, and act as liaison between them and the purchasing standardization committee. Technical subcommittees shall be composed of the procurement division buyer responsible for those commodities, and other representatives having expertise therein.

32.25. - Purchasing and contracting procedure.

(1) Purchases of supplies, materials, equipment and contractual services shall be based on competitive bids. Bids may be rejected when it is determined by the ~~procurement director~~ ~~procurement director~~ or his or her designee that to award a contract would not be in the best interest of the county. The method of evaluating bids and awarding contracts shall be stated in each bid document. Contracts shall be awarded to the lowest qualified, responsive, responsible bidder. If equal low and responsive bids are received, the ~~procurement director~~ ~~procurement director~~ or his or her designee shall break the tie by a lot drawing in the presence of a buyer and another member of the procurement division at a specific time and date. The tied bidders shall receive written advance notice.

(2) *Discretionary purchases.* Any procurement having an estimated aggregate value of ten thousand dollars (\$10,000.00) or less shall be made at the discretion of the buyer.

(3) *Open market purchase.* Any procurement having an estimated aggregate value in excess of ten thousand dollars (\$10,000.00) and less than twenty-five thousand dol-

lars (\$25,000.00) shall be made by solicitation of three (3) quotations documented by the buyer.

(4) Informal purchases. Any procurement having an estimated aggregate value of twenty-five thousand dollars (\$25,000.00) and less than fifty thousand dollars (\$50,000.00) shall be solicited from all vendors of the item on the vendor's list maintained by the procurement division and the contract awarded by sealed bidding.

(5) Formal purchases. Any procurement having an estimated aggregate value of fifty thousand dollars (\$50,000.00) or more shall have sealed bids solicited by public notice inserted at least once on the official county web-site at least two (2) weeks before the bid opening date, and by posting official notice on the procurement board in the procurement division office for the same period. The procurement division shall solicit sealed bids by mail from all vendors of the item on the vendor list maintained by the procurement division.

(6) Sealed bids. (a) All sealed bids shall be received in the office of the county clerk and transferred to the procurement division at the time of bid opening, which shall be conducted in public at a specified date, time and place.

(b) A summary of each bid, with the name of all bidders, shall be posted for public inspection in the office of the procurement division during regular county business hours for a period of not less than ten (10) days after award.

(c) A noncollusive statement requiring the signature of an authorized officer of the bidder shall be included in each sealed bid. The procurement division shall report suspected collusive bids to the district attorney.

(7) Exceptions.

(a) Competitive bidding requirements of this chapter shall apply, except as follows:

(1) When, after soliciting sealed bids, it is determined by the procurement division that the procurement division director or his or her designee, and verified by the purchasing standardization committee, that no valid bids have been received, the purchasing standardization committee may authorize procurement without competition.

(2) Purchases from a single source which, by their nature, are not adapted to award by competitive bidding as determined by the purchasing standardization committee director or his or her designee and approved by the purchasing standardization committee.

(3) Purchases from any federal, state or local governmental unit or agency of surplus materials, supplies, commodities or equipment, as approved by the committee on financial and audit of the county board, and otherwise when expressed by the county board.

(4) Discretionary purchase of ten thousand dollars (\$10,000.00) or less as authorized in subsection 32.25(2) of this section.

(5) Any contract for a public works construction project where the director of public works or his/her designee has recommended, and the procurement division director or his or her designee has agreed in writing, that the procurement division director or his or her designee shall negotiate for the purpose of services, supplies, materials or equipment needed for such project.

(b) Purchase of name brand items for resale may be awarded to other than the low bidder.

(c) Purchases required for immediate budgeted repairs, exclusive of inventory items.

(d) Notwithstanding any other provisions of this chapter to the contrary, the procurement division director or his or her designee shall have the authority, in any situation where a contract is to be let through the bidding process, to reserve such contract exclusively for vendors listed on the minority business enterprise and women business enterprise list. In such event, the bid announcements shall indicate such reservation, citing this subsection as authority therefor. Reservations by the procurement division director or his or her designee may be on a commodity basis or on an individual contract basis.

(e) Annually the county board shall adopt by resolution a recommended minimum percentage goal for the participation of disadvantaged business enterprise vendors in contracts awarded pursuant to chapter 32. Such goals are not mandatory; however, the procurement division director or his or her designee shall maintain and make available for public inspection any

procurement director or his or her designee shall make diligent efforts to achieve or exceed such annual participation goals.

32.26. - Protest and appeal procedure.

Protests to any sealed bid, procurement or award recommended by the procurement division director or his or her designee may be made by any bidder and/or using department head as follows:

(1) Prior to bid opening:

(a) Protests to form and content of bid documents shall be received by the procurement division director or his or her designee not less than five (5) days prior to the time scheduled for bid opening. A protest shall be in writing and state the reason for it.

(b) The procurement division director or his or her designee shall review protests and, if modification is necessary, the bid opening date shall be extended and addenda containing the changes shall be sent to each bidder. If modification is rejected, the protestor shall be notified. The decision of the procurement division director or his or her designee is final.

(2) After bid opening:

(a) Protests concerning irregularities on sealed bid opening procedures, or complaints by bidders with bid documents, shall be received by the procurement division director or his or her designee within seventy-two (72) hours after time of bid opening.

(b) When a sealed bid is awarded to other than the low bidder, all bidders shall be notified in writing by certified mail, return receipt requested, or by fax machine transmission, of the proposed award. Protests to the award must be delivered to the procurement division director or his or her designee within seventy-two (72) hours after receipt of notice. The procurement division director or his or her designee shall review the protest and notify the protestor of a decision in writing by fax, within five (5) days. No contract shall be awarded while a protest is pending. A protest which is untimely, fails to state the reason for it or shall have been made prior to bid opening is invalid. The decision of the procurement division director or his or her designee is final and cannot be appealed.

(3) Appeals to purchasing standardization committee:

(a) Protests from decisions of the procurement division director or his or her designee shall be made to the purchasing standardization committee by delivering a written request for appeal hearing both to the procurement division and the committee within seventy-two (72) hours after receipt of the procurement division director or his or her designee's decision.

(b) The request shall state the grounds upon which the protest is based and shall request an appeal hearing. No contract shall be awarded until final disposition of the protest.

(c) The chairperson of the committee shall notify all interested persons of the time and place of the hearing.

(d) The committee shall affirm, reverse or modify the decision of the procurement division director or his or her designee and its decision shall be final.

32.27. - Delegation of purchasing authority.

Any department may be delegated by the procurement division director or his or her designee the authority to purchase supplies, materials or services. Such delegation shall remain in effect until rescinded, in writing, by the procurement division director or his or her designee and shall comply with the following regulations:

(1) No procurement shall exceed two thousand dollars (\$2,000.00), including any freight and any handling charges.

(2) Purchasers shall use county-wide blanket contracts.

(3) This authority shall not be used to circumvent bulk purchases of any item by repeated purchases in the amounts of two thousand dollars (\$2,000.00) or less.

(4) All procurement forms and procedures shall be approved by the procurement division director or his or her designee prior to use. The purchasing card is an acceptable alternative to written forms if approved by the procurement division director or his or her designee.

32.285. - Procurement of items of apparel.

(1) Policy. The county chooses to allocate its purchasing dollars related to wearing apparel to enhance the economic and social well-being of people, while acquiring the best possible quality goods at the lowest cost.

(2) Definitions. As used in this section:

(a) "Apparel" means all items of clothing and cloth produced by weaving, knitting and felting, and shall include uniforms, coveralls, footwear, linens and entrance mats.

(b) "Manufacture" means to process, fabricate, assemble, treat or package.

(c) "Non-poverty wage" means the following for:

1. Domestic manufacturers. A base hourly wage adjusted annually to the amount required to produce, for two thousand eighty (2,080) hours worked, an annual income equal to or greater than the U.S. Department of Health and Human Services' most recent poverty guideline for a family of three (3) plus an additional twenty (20) percent of the wage level paid either as hourly wages or health benefits.

2. Outside the United States. A nationwide wage and benefit level which is comparable to the non-poverty wage for domestic manufacturers as defined in subdivision 1 after being adjusted to reflect the country's level of economic development by using a factor such as the relative national standard of living index in order to raise a family of three (3) out of poverty. In addition, workers shall not be subject to disciplinary wage deductions.

(d) "Responsible manufacturer" means an establishment engaged in manufacturing, distributing, laundering or dry cleaning that can demonstrate all of the following:

1. Compliance with all applicable local and international labor laws and workplace regulations regarding wages and benefits, workplace health and safety as well as the fundamental conventions of the international labor organization, including those regarding forced and child labor and freedom of association.

2. Payment to its employees of non-poverty wages as defined in subsection (c)1. for domestic manufacturers and subcontractors located outside of the United States.

3. Termination of its employees only with just cause.

4. Establishment of a mechanism for the resolution of workplace disputes.

(3) Requirements.

(a) Application. Contracting departments shall award contracts in excess of five thousand dollars (\$5,000.00) relating to the purchasing, renting, laundering and dry cleaning of items of apparel to responsible manufacturers.

(b) Affidavits.

1. No contracts for the purchasing, renting, laundering and dry cleaning of items of apparel shall be entered into by contracting departments unless the lowest responsible bidder first submit to the procurement division director or his or her designee sworn reports or affidavits which include the following information for the specified time periods of the contracts:

a. The names and addresses of the companies and facilities in which the items of apparel have been or will be manufactured, distributed, laundered or dry cleaned.

b. The names and addresses of all owners of the facilities in which the items of apparel have been or will be manufactured, distributed, laundered or dry cleaned.

c. The base hourly wage and the percent of wage level paid as health benefits for persons working at the facilities in which the items of apparel have been or will be manufactured or distributed, laundered or dry cleaned.

d. Sworn statements by the contractors that facilities identified pursuant to this paragraph are responsible manufacturers as defined in subsection (2)(d).

e. Any other information deemed necessary by the procurement division director or his or her designee for the enforcement of this section.

2. Contractors shall procure and submit sworn reports or affidavits from every subcontractor employed by the contractor during the specified time period of the contract for the fulfillment of contracts covered under this section.

3. In the event that any information provided by the contractor or subcontractor pursuant to this paragraph changes during the specified time period of the contract, the contractor shall submit or cause to be submitted to the procurement division director or his or her designee sworn reports or affidavits relating to the updated information.

4. The procurement division director or his or her designee shall maintain and make available for public inspection any

sworn report or affidavit submitted pursuant to this paragraph.

(4) Contract bid specifications. Contracting departments shall add a digest of the provisions of this section to all specifications for apparel purchasing, renting, laundering and dry cleaning upon which they issue invitations to bid.

(5) Specifications for apparel contracts. No contract for the purchasing, renting, laundering and dry cleaning of items of apparel entered into by the county unless the contract contains a stipulation stating that the contractor agrees to provide in fulfillment of the contract items of apparel which have been manufactured, laundered and dry cleaned by responsible manufacturers, and that the contractor agrees to include an equivalent stipulation in all subcontracts.

(6) Monitoring and enforcement. Operations division-procurement services section-department of administration shall be responsible for monitoring contracts for compliance with this section. The department shall review and monitoring contracts for compliance with this section.

(a) Responsibility. The business operations division-procurement services section-department of administration shall be responsible for monitoring contracts for compliance with this section. The department shall review and monitoring contracts for compliance with this section.

(b) Notice. The department shall provide in a timely manner notice and related documentation regarding the following:

1. The issuance of invitations to bid and the awarding of contracts relating to the purchasing, renting, laundering and dry cleaning of items of apparel covered by this section.

2. The receipt of sworn reports or affidavits submitted pursuant to section 3(b).

(c) Sanctions. Any contractor or subcontractor engaged in an apparel contract who has been found by the business operations division-procurement services section-department of administration to have submitted any false, misleading or fraudulent information, or to have failed to comply with the provisions of this section, may be subject to any of the following sanctions imposed by the business operations division:

1. Withholding of payments.

2. Termination, suspension or cancellation of the contract in whole or in part.

3. After a due process hearing, denial of the right of the contractor or subcontractor to bid on future county contracts, by himself or herself, partner or agent, or by any corporation of which he or she is a member, for a period of one (1) year after the first violation is found and for a period of three (3) years after a second violation is found.

(7) Waiver. The requirements of this section may be waived in writing by the procurement division director or his or her designee if any of the following are true:

(a) All bidders to a contract are deemed ineligible under this section.

(b) The contract is necessary in order to respond to an emergency endangers the public health and safety, and no contractor who complies with the requirements of this section is immediately capable of responding to the emergency.

32.31. - Cooperative purchasing. The procurement division is authorized to join with other units of government, and with quasigovernmental agencies funded in whole or in part by the county, in cooperative purchasing plans when in the best interests of the county as determined by the procurement division director or his or her designee. Each of the participating units or agencies shall issue its own purchase order and be separately invoiced by the vendors for purchases made under such plans. The county shall not be obligated for purchases other than those required for its own use.

32.38. - Converting from sealed bidding to negotiation procedures. When the procurement division director or his or her designee has determined that a sealed bid is to be canceled and that use of negotiations is appropriate to complete the acquisition, the procurement division director or his or her designee may negotiate and make award without issuing a new solicitation subject to the following conditions:

(1) Prior notice of intention to negotiate and a reasonable opportunity to negotiate have been given by the procurement division director or his or her designee to each responsive, responsible bidder that submitted a bid in response to the invitation for bids;

(2) The negotiated price is the lowest negotiated price offered by any successful bidder; and

(3) The negotiated price is lower than the lowest sealed bid price of a responsive, responsible bidder that submitted a bid. However, this paragraph (3) does not apply if the invitation was canceled and all bids were rejected.

32.40. - General.

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

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

(3) The procurement division director or his or her designee shall identify all evaluation factors and their relative importance. Numerical weights, which may be employed in the evaluation of proposals, need not be disclosed in solicitation. Proposals shall be evaluated solely on the factors specified in the solicitation. The factors that will be considered in evaluating proposals shall be tailored to each procurement and include only those factors that will have an impact on the source selection decision. The evaluation factors that apply to an acquisition and the relative importance of those factors are within the broad discretion of the procurement division director or his or her designee. However, price or cost to the county shall be included as an evaluation factor in every source selection. Quality also shall be addressed in every source selection. In evaluation factors, quality may be expressed in terms of technical excellence, management capability, personnel, qualifications, prior experience, past performance and schedule compliance. Other relevant factors may also be included.

32.43. - Right to award without negotiations.

If so stated in the RFP, the procurement division director or his or her designee may make an award on the basis of the original proposals, without negotiation with any offeror. If the procurement division director or his or her designee shall be included as an evaluation factor in every source selection. Quality also shall be addressed in every source selection. In evaluation factors, quality may be expressed in terms of technical excellence, management capability, personnel, qualifications, prior experience, past performance and schedule compliance. Other relevant factors may also be included.

32.44. - Pre-proposal conferences. (1) A pre-proposal conference may be held to brief prospective offerors after a solicitation has been issued but before offers are submitted. Generally these conferences should be used in complex negotiated procurements to explain or clarify complicated specifications and requirements.

(2) The procurement division director or his or her designee shall decide if a pre-proposal conference is required and make the necessary arrangements, including the following:

(a) If notice was not in the solicitation, give all prospective offerors who received the solicitation adequate notice of the time, place, nature, and scope of the conference.

(b) If time allows, request prospective offerors to submit written questions in advance. Prepared answers can then be delivered during the conference.

(c) Arrange for technical and legal personnel to attend the conference, if appropriate.

(3) The procurement division director or his or her designee or a designated representative shall conduct the pre-proposal conference, furnish all prospective offerors identical information concerning the proposed acquisition, make a complete record of the conference, and promptly furnish a copy of that record to all prospective offerors. Conferees shall be advised that:

(a) Remarks and explanations at the conference shall not qualify the terms of the solicitation; and

(b) Terms of the solicitation and specifications remain unchanged unless the solicitation is amended in writing.

32.46. - Late proposals and modifications.

(1) When a proposal or modification is received and it is clear from available information that it cannot be considered for award, the procurement division director or his or her designee shall promptly notify the offeror that it was received late and will not be considered.

(2) Late proposals and modifications that are not considered shall be held unopened, unless opened for identification, until after award and then retained with other unsuccessful proposals.

(1) Except as provided in sections 32.46(3), 32.49 and 32.50(3), protests from decisions of the purchasing administrator procurement director or his or her designee shall be made to the purchasing standardization committee by delivering a written request for appeal hearing both to the procurement division and the purchasing standardization committee within seventy-two (72) hours after receipt of the purchasing administrator procurement director's or his or her designee's decision.

(2) The request shall state the grounds upon which the protest is based and shall request an appeal hearing. No contract shall be awarded until final disposition of the protest.

(3) The chairman of the purchasing standardization committee shall notify all interested persons of the time and place of the hearing.

(4) The purchasing standardization committee shall affirm, reverse or modify the decision of the purchasing administrator procurement director or his or her designee and its decision shall be final.

SECTION 2. This ordinance shall become effective upon publication.

Adopted by the Milwaukee County Board of Supervisors

March 16, 2012

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(3) The purchasing administrator procurement director or his or her designee shall retain complete and sole discretion to waive the requirements of subparagraphs (1) and (2), above, if such waiver is deemed to be in the best interests of the county. Such decision of the purchasing administrator procurement director or his or her designee is not subject to appeal to the purchasing standardization committee.

32.47. - Disclosure and use of information before award.

(1) After receipt of proposals, none of the information contained in them or concerning the number or identity of offerors shall be made available to the public or to anyone in county government.

(2) During the pre-award or pre-acceptance period of a negotiated procurement, only the purchasing administrator procurement director or his or her designee of designee, and other specifically authorized shall transmit technical or other information and conduct discussions with prospective vendors. Information shall not be furnished to a prospective vendor if, alone or together with other information, it may afford the prospective vendor an advantage over others. However, general information that is not prejudicial to others may be furnished upon request.

(3) Prospective vendors may place restrictions on the disclosure and use of data in proposals. The purchasing administrator procurement director or his or her designee shall not exclude proposals from consideration merely because they restrict disclosure and use of data, nor shall they be prejudiced by that restriction. The portions of the proposal that are so restricted (except for information that is also obtained from another source without restriction, or information required to be disclosed to county auditors) shall be used only for evaluation and shall not be disclosed outside the county without the permission of the prospective vendor.

32.48. - Best and final offer.

After negotiations are concluded each offeror in the competitive range shall be required to submit a best and final offer at a uniform cutoff date and time. Best and final offers received after the uniform cutoff date and time may be rejected without right of appeal. The purchasing administrator procurement director or his or her designee may, in his or her sole discretion, waive this provision if waiver is deemed to be in the best interests of the county, and such decision is not subject to appeal to the purchasing standardization committee.

32.49. - Awards.

In awarding a contract, price is but one (1) factor to be considered, and the award is not required to be made to the lowest responsive, responsible bidder. Awards shall be made to the responsive, responsible firm whose proposal overall is the most advantageous to the county, as determined in the sole opinion of the purchasing administrator procurement director or his or her designee. The county reserves the right to reject all proposals if the purchasing administrator procurement director or his or her designee, in his or her sole discretion, determines such rejection to be in the public interest. Such rejection is not subject to appeal to the purchasing standardization committee.

32.50. - Protests to awards.

(1) All unsuccessful offerors shall be notified by fax machine transmission of the pending contract award. Protest to the award must be delivered to the purchasing administrator procurement director or his or her designee within seventy-two (72) hours after receipt of notice. The purchasing administrator procurement director or his or her designee's copy of the fax transmission cover sheet, or the department's fax log, shall be conclusive proof of the time and date of receipt by the offeror.

(2) A protest must be in writing and clearly state the reason for it. The purchasing administrator procurement director or his or her designee shall review the protest and notify the protestor of a decision by fax machine transmission within five (5) days. No contract shall be awarded while a protest is pending. A protest that is untimely or fails to clearly state the reason for the protest is invalid. The purchasing administrator procurement director's or his or her designee's copy of the fax transmission cover sheet, or the department's fax log, shall be conclusive proof of the time and date of receipt by the offeror.

(3) The decision of the purchasing administrator procurement director or his or her designee disqualifying the protest for these reasons is final and cannot be appealed.

32.51. - Appeals to purchasing standardization committee.