

1 FROM THE OFFICE OF JOSPEH J. CZARNEZKI

2
3 MILWAUKEE COUNTY CLERK

4
5 County Ordinance No. 11-2

6
7 File No. 10-449

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10 AN ORDINANCE

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12 To Amend Sections 56.30 (1), (2), (4) and (5) of the General Ordinances of
13 Milwaukee County regarding professional services.

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

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18 SECTION 1. Section 56.30 (1) of the General Ordinances of Milwaukee County is
19 hereby amended as follows:

20
21 56.30. Professional services.

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23 (1) *Definitions.* The meanings of certain terms used in this section are as
24 follows, unless the context otherwise provides:

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26 (a) “Professional services” ~~Professional service~~ means services, the
27 value of which is substantially measured by the professional
28 competence of the person performing them and which are not
29 susceptible to realistic competition by cost of services alone. The
30 services provided must be materially enhanced by the specific
31 expertise, abilities, qualifications and experience of the person that
32 will provide the service. Professional services shall typically include
33 services customarily rendered by architects; engineers; surveyors;
34 real estate appraisers; certified public accountants; attorneys;
35 financial personnel; medical services, except when such services are
36 delivered to ~~clients of the general assistance medical program or to~~
37 county employees as part of a workers compensation claim; ~~and~~
38 ~~social services~~; system planning; management and other consultants;
39 and services for promotional programs. Administrative Procedure
40 1.13 on professional services provides additional definition regarding
41 services that meet professional service contracting requirements
42 under this ordinance. If a department administrator or other
43 department personnel is uncertain if their contract should follow
44 professional service contracting provisions under this ordinance, the
45 department administrator must make a request of Corporation
46 Counsel for final clarification, before beginning the contracting
47 procedures.

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- (b) “Services” ~~Service~~ means the furnishing of labor, time or effect by a contractor, not involving the delivery of a specific end product other than usual reports and/or drawings which are incidental to the required performance.
- (c) “Request for proposal” ~~Request for proposal~~ means all documents, whether attached or incorporated by reference, used for soliciting proposals.
- (d) “Contractor” ~~Contractor~~ means a firm or individual who formally undertakes to do anything for another.
- (e) “Contract” ~~Contract~~ means an agreement between two (2) or more persons to do or not to do something.
- (f) “Medical services” ~~Medical service~~ means services provided by a licensed or recognized health care professional, professional group, ambulance or medical transportation services operated by governmental units, medical laboratories or companies of medical supplies or equipment ~~is provided to individuals who qualify for assistance under the general assistance-medical program or to~~ county employes whose injury is considered a workers compensation claim. Hospitals, community-based clinics, faculty physicians and surgeons or other physicians operating from Froedtert Memorial Lutheran Hospital, non-municipality operated ambulance and medical transportation providers are excluded from this definition.
- (g) “Service contract” as defined in section 32.20(17) means an agreement for services where an existing County position will be abolished or when an existing position will be unfunded or where a County employee will be subject to layoff or reduced work week hours which are primarily related to staff services including, but not limited to, housekeeping, security, landscaping, maintenance and other non-professional services.

SECTION 2. Section 56.30 (2) of the General Ordinances of Milwaukee County is hereby amended as follows:

(2) Policy.

- (a) *General policy statement.* All county departments and institution administrators are responsible for procuring professional services and for soliciting, negotiating and entering into service contracts as defined in s. 32.20(17) in accordance with the provisions of this section. However, the office of the county executive and the county

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board shall be exempt from the provisions contained herein as shall be the department of administration for the purpose of securing credit rating services related to debt issuance and administration.

(b) *Disadvantaged business enterprise requirement.* All county departments and institutions administrators are required to notify the disadvantaged business development (~~DBDC~~DBDP) division in writing prior to entering into professional services contracts and service contracts as defined in s. 32.20(17). Annual percentage goals for DBE participation on professional services contracts will be established as set forth by county ordinance. The procedures to be followed by departments regarding DBE participation shall conform to provisions as contained in chapter 42. No professional services contract or service contract as defined in s. 32.20(17) shall be issued without review and written approval by the ~~DBDC~~DBDP division that all provisions of chapter 42 regarding disadvantaged business participation have been met.

(c) *Fiscal constraint statement.* Notwithstanding any other provisions of section 56.30, during a period of fiscal constraint the county board may, by resolution, adopt a procedure which requires committee on finance and audit review and county board approval of all professional services expenditures prior to execution of said contracts.

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(d) Reference to ordinance and administrative manual. When a county department or institution is preparing to begin a contract for professional services the department should follow the ordinances of this chapter 56.30, chapter 42 on the requirements for using disadvantaged business enterprises in county contracting, including professional services, and administrative manual section 1.13, which provides further guidance on complying with professional service contracting requirements.

(e) Justification for using professional services. Contract administrators must document in the contract file the justification for utilizing a professional service contract as opposed to completing the work using county staff. This justification may or may not employ a formal cost benefit analysis, depending on the circumstances.

SECTION 3. Section 56.30 (4) (b) (4) of the General Ordinances of Milwaukee County is hereby amended as follows:

(4) County board approval is not required for reimbursement for medical services as defined under subsection 56.30(1)(f) when those services are provided to ~~general assistance-medical~~

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~~program clients in accordance with section 32.90 or to county employees as a workers compensation claim provided that sufficient funds are available at the time the invoice for service is submitted in the appropriate expenditure amount.~~

~~(a) The general assistance medical program is specifically excluded from issuing payments to any hospital, community based clinic, faculty physicians and surgeons or other physicians operating from Froedtert Memorial Lutheran Hospital, non-municipality operated ambulance or medical transportation provider unless a specific contract for such service has been reviewed and approved by the county board. The general assistance medical program is exempt from the requirement to issue a request for proposal as defined in subsection 56.30(5) for services provided by hospitals, ambulance or medical transportation providers. The general assistance medical program must issue a request for proposal whenever soliciting services which could be provided by a community based clinic, a primary care clinic, or any service which could be construed as a primary medical service.~~

~~(a)-(b)~~ The risk management division is allowed to issue payments to hospitals whenever services have been rendered to county employees as part of a workers compensation claim.

SECTION 4. Section 56.30 (5) of the General Ordinances of Milwaukee County is hereby amended as follows:

(5) *Request for proposal.*

(a) *When required.* When it is estimated that a contract for professional services has a value of ~~twenty~~ fifty thousand dollars ~~(\$20,000.00)~~ (\$50,000) and over, it is required that a request for proposal (RFP) be used to attempt to solicit a minimum of three (3) proposals. Department administrators shall give appropriate notice to prospective vendors of services to be retained. At a minimum, such notice shall include publication of an ad in a newspaper serving the Milwaukee area. The use of an RFP is discretionary for any professional services contract with a value of less than ~~twenty~~ fifty thousand dollars ~~(\$20,000.00)~~ (\$50,000.00). If an RFP is used or not, it still is required to document the process and the reasons shall be documented in writing by the administrator and retained in departmental files for a period of seven (7) years after contract completion. Documentation shall include the RFP, memos, proposals, score sheets, analyses,

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contracts and any other document used in determining the award of a contract.

- (1) For a contract with an estimated value between ~~twenty~~ fifty thousand dollars (~~\$20,000.00~~) (\$50,000.00) and one hundred thousand dollars (\$100,000.00), the request for proposal procedure need not be used if it is determined by an administrator to be cost effective to the county not to seek proposals. Such action shall be reported, in writing, with an explanation as to the benefits derived from not seeking proposals, to the county board when the contract is submitted for approval.
 - (2) The request for proposal procedure need not be used for a contract with an estimated value of ~~twenty~~ fifty thousand dollars (~~\$20,000.00~~) (\$50,000.00) or more, if immediate action is required to preserve property or protect life, health or welfare of persons. Such action shall be reported in writing within forty-eight (48) hours after the initial emergency action to the county board, county executive and department of administration. Payments shall not be restricted by normal budget limitations. Appropriation transfers, if required, shall be initiated in accordance with fiscal procedures.
 - (3) The request for proposal procedure must be used for all contracts with an estimated value of one hundred thousand dollars (\$100,000.00) or more unless action is required to protect property or protect life, health or welfare of persons, or in circumstances where contractual services are approved by specific county board action.
- (b) *Content.* The request for proposal shall contain the evaluation criteria which will be used to select the successful contractor. The relative importance of each of these items will depend to some degree on specific services being sought. It is essential that the RFP enumerate the evaluation criteria which will be used to select the successful contractor. The RFP shall also include the foundation and mechanism for billing for any professional service.
- (c) *Evaluation procedure.* More than one (1) person shall evaluate all proposals. Oral presentations should be used to supplement the written proposal if it will assist in the evaluation procedure. The firms to be invited to make an oral presentation can be determined after the initial review and ranking of the proposals based on the criteria outlined in the RFP.

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(d) *Disclosure.* Contract administrators and evaluation panel members, or potential members, are required to fully disclose any experience, contact or relationship with bidders that would create a potential conflict, or the appearance of a conflict, in awarding or managing a contract. A conflict of interest includes a financial or business relationship or close personal or family relationship with a potential vendor. Such disclosure shall be presented to the person selecting the evaluation panel, and the administrator of the department letting the contract, or the administrator's appointing authority. The department administrator, or the administrator's appointing authority, shall review the disclosure to determine whether to disqualify the disclosing person from the process. If, in the administrator's opinion, or the opinion of the appointing authority, the disclosure does not justify disqualification, the rationale for making that determination must be documented and included in the department's files for the contract and shall be retained as required under subsection (a) of this section. The provisions of this section are to be included in the Milwaukee County Administrative Procedures Manual. All the provisions set forth in the Milwaukee County Code of Ethics are in full force and effect and are not abrogated in any way by these requirements.

SECTION 5. The provisions of this ordinance shall be effective upon passage and publication.

Adopted by the Milwaukee County Board of Supervisors

February 3, 2011