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(ITEM) From the Director, Community Business Development Partners, requesting authorization to amend Chapters 32, 42, and 56, of the Milwaukee County Code of General Ordinances, to expand the scope of Disadvantaged Business Enterprises to include Target Enterprises, by recommending adoption of the following:

A SUBSTITUTE RESOLUTION/ORDINANCE

WHEREAS, the current Milwaukee County Code of General Ordinances only recognizes Disadvantaged Business Enterprises (DBE) for contracting opportunities; and

WHEREAS, there are many enterprises that are socially and economically disadvantaged that may not qualify as a DBE; and

WHEREAS, these categories include Minority-Owned Enterprises (MBE), Woman-Owned Business Enterprises (WBE) and Small Business Enterprises (SBE) (together with DBE, “Targeted Enterprises”); and

WHEREAS, the Community Business Development Partners (CBDP) division of the Department of Administrative Services (CBDP) seeks to increase participation in Milwaukee County (the County) contracting opportunities for Targeted Enterprises; and

WHEREAS, for Federally funded projects the County is limited to utilizing DBE and Airport Concessions Disadvantaged Business Enterprises (ACDBE) and therefore no changes in ordinances are requested for Federally funded projects utilizing DBE or ACDBE; and

WHEREAS, the proposed ordinance change will set targets for aggregate use of Targeted Enterprises on non-Federally funded projects; and

WHEREAS, to effectively manage the DBE, ACDBE, and Targeted Enterprise goals, changes are needed to Chapters 32, 42, and 56 to clarify “good faith” language, provide uniform procedures, and use of modern software systems; and

WHEREAS, the Committee on Economic and Community Development, at its meeting of January 25, 2016, recommended adoption of the Director’s request (vote 5-2); and

WHEREAS, the Milwaukee County Board of Supervisors, at its meeting of February 14, 2016, REFERRED the resolution/ordinance to the Committee on Transportation, Public Works, and Transit (vote 14-2); and

45 WHEREAS, the Committee on Transportation, Public Works, and Transit, at its
46 meeting of July 13, 2016, recommended adoption of the substituted
47 resolution/ordinance (vote 5-0); now, therefore,
48

49 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends
50 Chapters 32, 42, and 56 of the Milwaukee County Code of General Ordinances by
51 adopting the following:
52

53 **AN ORDINANCE**
54

55 The Milwaukee County Board of Supervisors does ordain as follows:
56

57 **Section 1. Chapter 42 of the Milwaukee County Ordinances is amended as**
58 **follows:**
59

60 Chapter 42 – ~~DISADVANTAGED BUSINESS ENTERPRISE AND AIRPORT-~~
61 ~~CONCESSION DISADVANTAGED BUSINESS~~ TARGET BUSINESS ENTERPRISE
62 PARTICIPATION IN COUNTY CONTRACTING
63

64 42.01. - Policy.

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

71 Disadvantaged Business Enterprises Program and Airport Concession
72 Disadvantaged Business Enterprises Program participation opportunities provided for all
73 projects funded with federal money, including, but not limited to, the Federal Transit
74 Administration (FTA), Federal Aviation Administration (FAA) and Federal Highway
75 Administration (FHWA) shall comply with Title 49 of the Code of Federal Regulations,
76 Parts 23 and 26, as amended from time to time, and all other appropriate federal laws
77 and regulations, as applicable, now in effect or to take effect in the future and fully
78 comply with laws and regulations related to use of federal funds.
79

80 It is the county's policy to comply with state requirements relating to minority and
81 women business enterprises as applicable, and fully comply with laws and regulations
82 related to use of state funds.
83

84 It is the county's policy to require opportunities for participation of Disadvantaged
85 Business Enterprise (DBE), Minority-Owned Business Enterprises (MBE), Woman-
86 Owned Business Enterprises (WBE), Airport Concession Disadvantaged Business
87 Enterprise (ACDBE), and Small Business Enterprise (SBE), to be known as Milwaukee
88 County Target Enterprises (MCTE), in identified Milwaukee County contracting.
89

90 42.02. - Definitions.

91 (1) For all ~~projects~~ contracts subject to this chapter funded with federal and/or county
92 money ~~and those funded only by county money~~, the following definitions shall apply;

93 (a) Airport Concession means one (1) or more of the types of for-profit businesses
94 defined in 49 CFR Part 23, Section 23.3 under the definition listed in
95 paragraphs (1) or (2) of this definition:

96
97 (1) A business, located on an airport that is engaged in the sale of consumer
98 goods or services to the public under an agreement with Milwaukee County,
99 another concessionaire, or the owner or lessee of a terminal, if other than
100 Milwaukee County; or

101
102 (2) A business conducting one (1) or more of the following covered activities,
103 even if it does not maintain an office, store, or other business location on an
104 airport, as long as the activities take place on the airport: management
105 contracts and subcontracts, a web-based or other electronic business in a
106 terminal or which passengers can access at the terminal, an advertising
107 business that provides advertising displays or messages to the public on
108 the airport, or a business that provides goods and services to
109 concessionaires.

110
111 ~~(a)~~(b) Airport concession disadvantaged business enterprise (ACDBE) means a
112 concession that is a for-profit small business concern that is at least fifty-one
113 (51) percent owned by one (1) or more individuals who are both socially and
114 economically disadvantaged, or in the case of a corporation, in which fifty-one
115 (51) percent of the stock is owned by one (1) or more such individuals; and
116 whose management and daily operations are controlled by one (1) or more
117 socially and economically disadvantaged individuals who own it. Milwaukee
118 County shall use the definition of ACDBE, now in effect or to take effect in the
119 future, as defined by the United States Department of Transportation.

120
121 ~~(b)~~(c) Commercially useful function. A DBE MCTE performs a commercially useful
122 function when it is responsible for execution of the work of the contract and is
123 carrying out its responsibilities by actually performing, managing, and
124 supervising the work involved. To perform a commercially useful function, the
125 DBE MCTE must also be responsible, with respect to materials and supplies
126 used on the contract, for negotiating price, determining quality and quantity,
127 ordering the material, and installing (where applicable) and paying for the
128 material itself. To determine whether a DBE MCTE is performing a
129 commercially useful function, all facts and circumstances are considered
130 including, but not limited to, the amount of work subcontracted, industry
131 practices, whether the amount the firm is to be paid under the contract is
132 commensurate with the work it is actually performing and the DBE MCTE credit
133 claimed for its performance of the work, and other relevant factors.

134

- 135 ~~(c) *Concession* means one (1) or more of the types of for-profit businesses defined~~
136 ~~in 49 CFR Part 23, Section 23.3 under the definition listed in paragraphs (1) or~~
137 ~~(2) of this definition:~~
138
- 139 ~~(1) A business, located on an airport that is engaged in the sale of consumer~~
140 ~~goods or services to the public under an agreement with Milwaukee County,~~
141 ~~another concessionaire, or the owner or lessee of a terminal, if other than~~
142 ~~Milwaukee County~~
143
- 144 ~~(2) A business conducting one (1) or more of the following covered activities,~~
145 ~~even if it does not maintain an office, store, or other business location on~~
146 ~~an airport as long as the activities take place on the airport: management~~
147 ~~contracts and subcontracts, a web-based or other electronic business in a~~
148 ~~terminal or which the passengers can access at the terminal, an advertising~~
149 ~~business that provides advertising displays or messages to the public on~~
150 ~~the airport, or a business that provides goods and services to~~
151 ~~concessionaires.~~
152
- 153 (d) *Concessionaire* means a firm that owns and controls a concession or a portion
154 of a concession. Concession for purposes of the Chapter is a business located
155 on Milwaukee County lands or within its facilities engaged in the sale of
156 consumer goods and services directly to the public under an agreement with
157 Milwaukee County.
158
- 159 (e) *Contract* means a legally binding relationship obligating a seller to furnish
160 materials, supplies or services (including, but not limited to, construction and
161 professional services) and the buyer to pay for them. ~~For purposes of this part,~~
162 ~~a lease is considered to be a contract.~~
163
- 164 (f) *Disadvantaged business enterprise (DBE)* means a for-profit small business
165 concern which is at least fifty-one (51) percent owned by one (1) or more
166 individuals who are both socially and economically disadvantaged or, in the
167 case of a corporation in which fifty-one (51) percent of the stock is owned by
168 one or more such individuals; and whose management and daily operations are
169 controlled by one or more of the socially and economically disadvantaged
170 individuals who own it. Milwaukee County shall use the definition of DBE, now
171 in effect or to take effect in the future, as defined by the United States
172 Department of Transportation and associated certification requirements.
173
- 174 (g) *Good faith efforts* means efforts to achieve a ~~DBE or ACDBE~~ MCTE goal or
175 other requirement, which by their scope, intensity, and appropriateness to the
176 objective, can reasonably be expected to fulfill the program requirement.
177
- 178 (h) *Joint venture* means an association of a ~~DBE or ACDBE~~ MCTE firm and one (1)
179 or more other firms to carry out a single, for-profit business enterprise, for which
180 the parties combine their property, capital, efforts, skills and knowledge, and in

181 which the ~~DBE or ACDBE~~MCTE is responsible for a distinct, clearly defined
182 portion of the work of the contract and whose share in the capital contribution,
183 control, management, risks, and profits of the joint venture are commensurate
184 with its ownership interest.

185
186 (i) Milwaukee County Target Enterprise (MCTE) means a for-profit small business
187 that qualifies as an Airport Concession Disadvantaged Business Enterprise
188 (ACDBE), Disadvantaged Business Enterprise (DBE), Minority Business
189 Enterprise (MBE), Small Business Enterprise (SBE), Woman-Owned Business
190 Enterprise (WBE) and/or similarly designated business as defined and/or
191 qualified within this chapter.

192
193 (j) Minority-Owned Business Enterprise (MBE) means a for-profit small business
194 that is at least fifty-one (51) percent owned by one (1) or more individuals who
195 both belong to an ethnic minority group such as but not limited to: Native
196 American, Black American, Hispanic American, Asian Pacific American, or Sub-
197 continent Asian American or, in the case of a corporation in which fifty-one (51)
198 percent of the stock is owned by one or more such individuals; and whose
199 management and daily operations are controlled by one or more of the ethnic
200 minority individuals who own it.

201
202 (i) ~~Race-conscious measure or program is one that focuses specifically on assisting-~~
203 ~~only DBEs or ACDBEs, including women-owned DBEs and ACDBEs.-~~

204 (ii)
205 (j) ~~Race neutral measure or program is one that is, or can be, used to assist all-~~
206 ~~small businesses. For purposes of this part, race neutral includes gender-~~
207 ~~neutrality.-~~

208
209 (k) ~~Small business enterprise (SBE) means an organized, for-profit business that is~~
210 ~~independently owned and operated and not dominant in its field. Depending on~~
211 ~~the industry, size standard eligibility is based on the average number of~~
212 ~~employees for the preceding twelve months or on sales volume average over a~~
213 ~~three-year period. In no case will a firm be an eligible SBE in any federal fiscal-~~
214 ~~year if the firm (including its affiliates) has had average annual gross receipts,~~
215 ~~as defined by United States Small Business Administration (SBA) regulations~~
216 ~~(see 13 CFR 121.402), over the firm's previous three fiscal years in excess of~~
217 ~~\$4 million, or if the owner(s) of the firm exceed the personal net worth (PNW)~~
218 ~~described in 49 CFR Part 26. Milwaukee County shall use the definition of SBE,~~
219 now in effect or to take effect in the future, as defined by the United States
220 Small Business Administration (SBA) and associated identification
221 requirements.

222
223 (l) ~~Socially and economically disadvantaged individual means any individual who is~~
224 ~~a citizen (or lawfully admitted permanent resident) of the United States, and~~
225 ~~who is as defined by the United States Small Business Administration (SBA)~~
226 and associated identification requirements:

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~~(1) Any individual who the county finds to be a socially and economically disadvantaged individual on a case-by-case basis.~~

(1)(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

- (i) "Black Americans" which includes persons having origins in any of the black racial groups of Africa;
- (ii) "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;
- (iii) "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
- (iv) "Asian Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Burnei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marinas, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;
- (v) "Sub-continent Asian Americans" which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) Women;
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA at such time the SBA designation becomes effective.

(m) *Women-Owned Business Enterprise (WBE)* means a for-profit small business which is at least fifty-one (51) percent owned by one (1) or more women or, in the case of a corporation in which fifty-one (51) percent of the stock is owned by one or more women; and whose management and daily operations are controlled by one or more of the women who own it.

42.03. - Enforcing department.

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

- 270 42.04. - Function of the community business development partners department (CBDP).
271
- 272 (1) In accordance with 49 CFR Parts 23 and 26, the CBDP director of ~~CBDP~~ is
273 designated as the county's disadvantaged business enterprise liaison officer
274 ("DBELO") and the airport concession disadvantaged business enterprise liaison
275 officer ("ACDBELO") with duties and responsibilities as defined by United States
276 Department of Transportation.
- 277 (2)
- 278 (3) ~~Recommend to the county board appropriate annual percentage requirements for~~
279 ~~DBE and ACDBE participation in county contracting. The director shall ensure that~~
280 ~~the overall triennial DBE and ACDBE percentage goals, including race neutral and~~
281 ~~race conscious components, are set in accordance with the requirements of 49 CFR~~
282 ~~Parts 23 and 26 as currently enforced or as amended. The CDBP director shall~~
283 report annually to the county board appropriate annual percentage goals for
284 participation of Target Enterprises in Milwaukee County contracting and associated
285 activities and efforts to achieve said goals.
- 286
- 287 (4) The CDBP director shall ensure that the overall triennial DBE and ACDBE
288 percentage goals, including race neutral and race conscious components, are set in
289 accordance with the federal requirements as established by the United States
290 Department of Transportation.
- 291
- 292 ~~(3)~~(4) The CBDP director shall recommend to the county board other appropriate policies
293 which encourage ~~SBE, DBE and ACDBE~~ Target Enterprise participation in county
294 contracting.
- 295
- 296 ~~(4)~~(5) The CBDP director ~~in~~ consultation with the county's office of corporation counsel,
297 ~~the director~~ shall revise and/or update the ~~DBE~~ Target Enterprise participation
298 utilization specifications language to ensure such language is included in county
299 contracts.
- 300
- 301 ~~(5)~~(6) The CBDP director shall establish ~~SBE, DBE and ACDBE~~ Target Enterprise
302 contract compliance monitoring and reporting procedures.
- 303
- 304 (7) ~~The department shall report annually to the county board on SBE, DBE and ACDBE~~
305 ~~participation levels on all contracts subject to this chapter. The director shall provide~~
306 ~~outreach services to SBEs, DBEs and ACDBEs and community organizations to~~
307 ~~advise them of contracting opportunities with the county. The CDBP director shall~~
308 report annually to the county board on Target Enterprise participation levels subject
309 to this chapter.
- 310
- 311 (8) The CDBP director shall provide outreach services to Target Enterprises and
312 community organizations to advise them on contracting opportunities within the
313 county.
- 314

315 ~~(8)~~(9) The CBDP director shall ensure all that department/division heads and contract
316 administrators make available bid notices and requests for proposals to SBEs,
317 DBEs and ACDBEs Target Enterprises in a timely manner.

318

319 ~~(9)~~(10) ~~The director shall assist department/division heads and contract administrators to~~
320 ~~identify contracts where DBE and ACDBE race conscious and race neutral goals~~
321 ~~can be included in contract solicitations.~~ The CBDP director shall assist all
322 department/division heads and contract administrators to identify opportunities
323 where Target Enterprise participation goals can be included in competitive
324 solicitations, purchases and acquisitions performed within Milwaukee County.

325

326 ~~(10)~~(11) ~~County contracts may not be awarded without the written approval of the CBDP~~
327 ~~director or designee who will ensure that the required SBE, DBE or ACDBE~~
328 ~~participation is included on all contracts.~~ County contracts, subject to this chapter
329 shall be countersigned by the CBDP director or designee providing that
330 requirements of this Chapter have been satisfied. No contract is valid until so
331 countersigned.

332

333 (12) Milwaukee County Board of Supervisors shall not approve any contract covered by
334 this chapter that requires positive board action, without a CBDP counter signature.

335

336 ~~(11)~~(13) ~~All contract solicitations subject to this chapter will require the approval of the~~
337 ~~CBDP director or designee who will ensure that an appropriate DBE or ACDBE~~
338 ~~goal is assigned and/or consideration is given to participation by SBEs.~~ All
339 solicitations subject to this chapter shall be reviewed by CBDP director or designee
340 who shall ensure that an appropriate Target Enterprise goal is assigned or
341 consideration is given to participation prior to release of any solicitation. All
342 department/division heads and contract administrators shall comply with this
343 requirement. The CBDP director shall establish a format to ensure compliance.
344 The CBDP director shall carryout this responsibility without delay, but within three
345 business days.

346

347 ~~(12)~~(14) ~~CBDP is responsible for reviewing and approving good faith effort waiver requests~~
348 ~~when the contractually assigned DBE or ACDBE goal is not met by a contractor or~~
349 ~~consultant.~~ CBDP is solely responsible for reviewing and determining prior to any
350 award that the established participation goal has been properly achieved, the
351 partial achievement/good faith effort has been properly achieved and/or good faith
352 effort has been properly achieved. This determination shall be made as a matter of
353 responsiveness in all competitive solicitations. The CBDP director shall carryout
354 this responsibility without delay, within three business days.

355

356 42.05. - Certification of DBEs and ACDBEs, and verification of SBEs. Certification,
357 verification, and establishment of status as a Milwaukee County Target Enterprise
358 (MCTE).

359

360 (1) Certification of DBEs and ACDBEs

361 ~~(1)(a)~~ The certification of DBE and ACDBE, ~~and verification of SBE~~ firms shall be
362 the responsibility of CDBP.

363

364 ~~(2)(b)~~ Certification of DBE and ACDBE firms shall be governed by the standards
365 and guidelines of 49 CFR Parts 23 and 26 and the processes and procedures
366 established by the Wisconsin Unified Certification Program (WIUCP) or other
367 certifying bodies recognized by the United States Department of
368 Transportation. ~~Verification of SBE firms shall be governed by these same~~
369 ~~standards, minus any and all reference to race, gender and/or social~~
370 ~~disadvantage.~~

371

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

375

376 ~~(4)(d)~~ The CDBP director is authorized to establish new or amended procedures for
377 certification in accordance with the WIUCP agreement signed by the county
378 and the members of the WIUCP and in accordance with 49 CFR Parts 23 and
379 26.

380

381 (2) Recognition, certification, verification and establishment of MBE, WBE and SBE
382 status.

383

384 (a) As an alternative, or in addition to, conducting its own certification or
385 establishment of status, as defined in this chapter, the CDBP director may
386 designate certain eligible public agencies to recognize businesses as meeting
387 eligibility standards and requirements necessary to participate as a MBE, WBE
388 or SBE in Milwaukee County contracting. Such designation may be by way of
389 (i) entering a memorandum of understanding with any agency and to accept
390 MBE, WBE and SBE designations issued by such agencies; or (ii) accepting
391 MBE, WBE and SBE status as accepted and recognized by other governmental
392 agencies. The CDBP director is empowered to enter into such contractual
393 agreements or memoranda of understanding on such terms and conditions as
394 he or she may deem necessary or appropriate. CDBP may also recognize any
395 combination of Target Enterprise classification statuses toward goal attainment
396 where one or more of Milwaukee County status designations are applicable.

397

398 (b) If in the CDBP director's judgment, or otherwise required by law, additional
399 requirements to the certification or recognition by any eligible certifying agency
400 or governmental body are warranted, the director is authorized to impose such
401 additional requirements before accepting such a firm's MCTE designation.

402

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

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

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

42.06. - Professional and non-professional service contracting.

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

- (1) Notification. For all contracts requiring passive or positive approval by the Milwaukee County Board ~~Regardless of the dollar amount of the contract,~~ all county department/division heads and contract administrators shall ~~are required to~~ notify CBDP in writing, in a format to be determined by CBDP. This notification shall occur prior to publication of an RFP or an RFQ any solicitation or entry into any unsolicited contract. Notification shall not be less than three business days prior to release or signature. The department/division head and contract administrator is required to submit a DBE participation recommendation form to CBDP for approval. Notification shall include a Target Enterprise participation goal recommendation for review by CBDP. The department/division head and/or contract administrator shall notify the office and the comptroller, in writing, of its selection regardless of whether or not a DBE or ACDBE is selected. No contract shall be issued without review and written approval by CBDP that provisions of this section have been met. CBDP may administratively require notification and processes for departments for contracts not subject to passive or positive approval by the Milwaukee County Board.
- (2) Notification Review and Goal Establishment. CBDP will review each notification provided and establish, where feasible, a percentage goal for up to the total contract value, of prime contract and subcontract awards to be set aside for participation by SBEs during DBE participation recommendation review. A "set aside" is the reserving of a contract or a portion of a contract exclusively for participation by SBEs, regardless of the owner's race or gender. a Milwaukee County Target Enterprise. Participation goals shall be set based upon the nature of the contract or acquisition and capacity within the Target Enterprise community and other factors as established by CBDP. Milwaukee County Departments shall be provided training by CBDP and shall make themselves knowledgeable of the factors related to

- 452 contract participation by MCTEs. The MCTE participation goal shall be established
453 without delay, but within three business days of notification.
454
- 455 (3) A "set aside" is the reserving of a contract or a portion of a contract exclusively for
456 participation by SBEs, regardless of the owner's race or gender. The CDBP director,
457 with agreement by the department may during the notification review and goal
458 establishment process set aside participation goals for Target Enterprises with an
459 SBE status.
460
- 461 ~~(3)(4) CDBP requires contractors/consultants to submit DBE documentation with their~~
462 ~~original bid/proposal as a matter of responsiveness Documents and language,~~
463 ~~upon goal establishment. CDBP shall provide department/division heads and~~
464 ~~contract administrators with the appropriate and complete DBE MCTE~~
465 ~~specification language, required contract provisions, instructions, forms,~~
466 ~~documents, and procedures to be included with the bid/proposal solicitations or~~
467 ~~contract. The department/division head or contract administrator shall forward all~~
468 ~~DBE submissions to CDBP. CDBP will review responses to assure submission of~~
469 ~~the required forms and documentation. CDBP shall make determinations as to~~
470 ~~bidder/proposer responsiveness to DBE requirements, and may reject and~~
471 ~~remove from further consideration all bids/proposals submitted without proper~~
472 ~~documentation. Department/division heads and contract administrators shall be~~
473 ~~encouraged to provide CDBP opportunities to explain MCTE utilization~~
474 ~~requirements at pre-bid meetings and shall be identified as a resource to~~
475 ~~bidders/proposers in solicitation documents.~~
476
- 477 (5) Responsiveness. Department/division heads and contract administrators shall
478 require contractors/consultants, to submit participation documentation as provided
479 by CDBP with their original bid/proposal as a matter of responsiveness.
480
- 481 (6) Review of responsiveness and achievement. The department/division head,
482 solicitation administrator, or contract administrator shall provide CDBP all
483 documents under section 42.06. CDBP shall review bid/proposal submissions for
484 the required forms and documentation. Solely, using original submissions, CDBP
485 shall make a determination as to each bidder/proposer having met the participation
486 goal, or having provided a good faith effort. The determination shall be rendered on
487 a pass/fail basis. CDBP and the contracting department shall reject and remove
488 from further consideration all bids/proposals determined to have failed participation
489 responsiveness in their submission. Determination results shall be submitted to the
490 contracting department without delay, but within three business days of CDBP
491 having been provided documentation. Any bidder or proposer having failed shall be
492 notified by CDBP, in writing, 24 hours after determination. Bidders/proposers may
493 appeal determination as provided within MCGO, Chapter 32 or 110, as applicable,
494 based upon original submission, and shall not be provided opportunity to add or
495 subtract from their original submission.
496

497 ~~(4)(7)~~ The ~~owner~~ contracting department shall require all prime contractors/consultants to
498 submit a DBE or ACDBE Target Enterprise participation utilization report with all
499 payment requests, in a format to be determined by CBDP. ~~Copies of utilization~~
500 ~~reports and payment requests shall be forwarded to CBDP for review.~~
501 Department/Division heads and contract administrators shall ensure that all final
502 payment requests are accompanied with a signed affidavit verifying that the DBE-
503 and/or ACDBE Target Enterprise participation requirement has been met, either at
504 the prime or sub-contracted level.

505
506 ~~(5)(8)~~ Department/division heads and contract administrators shall comply with the
507 provisions of this section to ensure opportunities for the utilization of DBE and
508 ACDBE firms Target Enterprises on county professional and non-professional
509 service contracts. All department/division heads shall submit annually to CBDP a
510 DBE/ACDBE Target Enterprise participation utilization plan form, as provided by
511 CBDP, no later than by December 15 of each year. The plan shall provide the
512 following information:

- 513
- 514 (a) Total number of projected professional and non-professional services contracts
515 to be awarded by department/division for the coming year.
 - 516
 - 517 (b) Total value of professional and non-professional services contracts to be
518 awarded and a dollar value by contract type.
 - 519
 - 520 (c) Designation of a department and/or division staff person as contact person(s) for
521 professional and non-professional services contracts.
 - 522
 - 523 (d) Value of contracts/subcontracts the department/division estimates will be
524 awarded to DBEs or ACDBEs Target Enterprises on professional and non-
525 professional services contracts.
 - 526
 - 527 (e) Percentage of total contract dollars that the department/division estimates will be
528 awarded to DBEs or ACDBEs Target Enterprises.

529
530 (9) CBDP shall establish processes for implementing the provisions in this section.

531 42.07. - Construction and Public Works Contracting.

532
533 ~~(1) The owner department shall consult with CBDP to determine an appropriate goal on~~
534 ~~all contracts.~~ Notification. The owner department of any construction project shall
535 submit written notification to CBDP prior to the publication of any solicitation or entry
536 into any unsolicited contract for Construction and Public Works. Contracts as
537 defined in Chapter 44 of this Code, with an anticipated total dollar value exceeding
538 \$10,000 are subject to the provision of the Chapter. Notification shall not occur less
539 than three business days prior to release or signature. The notification method shall
540 be determined by CBDP and include a Target Enterprise participation goal
541 recommendation.

542

- 543 (2) ~~The owner department shall submit an approved DBE participation~~
544 ~~recommendation form for each project. CBDP will establish, where feasible, a~~
545 ~~percentage, up to the total contract value, of prime contract and subcontract awards~~
546 ~~to be set aside for participation by SBEs during DBE participation recommendation~~
547 ~~review. A "set aside" is the reserving of a contract or a portion of a contract~~
548 ~~exclusively for participation by SBEs, regardless of the owner's race or gender.~~
549 Notification Review and Goal Establishment. CBDP will review each notification
550 provided and establish, where feasible, a percentage goal, for participation by
551 Milwaukee County Target Enterprises. Participation goals shall be set based upon
552 the nature of contract or acquisition and capacity within the Target Enterprise
553 community and other factors as established by CBDP. Milwaukee County
554 Departments shall be trained by CBDP and shall make themselves knowledgeable
555 of factors related to contract participation by MCTEs. The MCTE participation goal
556 shall be established without delay, but within three business days of notification.
557
- 558 ~~(3) CBDP shall provide the director of the owner department with appropriate DBE-~~
559 ~~specification language and required contract provisions to be included in bidding-~~
560 ~~and contract documents.~~
561
- 562 (3) A "set aside" is the reserving of a contract or a portion of a contract exclusively for
563 participation by SBEs, regardless of the owner's race or gender. The CBDP
564 Director, with agreement by the department may during the notification review and
565 goal establishment process set aside participation goals for Target Enterprises with
566 a SBE status.
567
- 568 (4) ~~CBDP requires contractors/consultants to submit DBE documentation with their~~
569 ~~original bid/proposal as a matter of responsiveness. Documents and language,~~
570 ~~upon goal establishment. CBDP shall provide department/division heads and~~
571 ~~contract administrators with the appropriate and complete DBE specification~~
572 ~~language, required contract provisions, instructions, forms, documents, and~~
573 ~~procedures to be included with the bid/proposal solicitations or contract. The~~
574 ~~department/division head or contract administrator shall forward all DBE-~~
575 ~~submissions to CBDP. CBDP will review responses to assure submission of the~~
576 ~~required forms and documentation. CBDP shall make determinations as to~~
577 ~~bidder/proposer responsiveness to DBE requirements, and may reject and remove~~
578 ~~from further consideration all bids/proposals submitted without proper~~
579 ~~documentation. Department/division heads and contract administrators shall be~~
580 ~~encouraged to provide CBDP opportunities to explain MCTE utilization~~
581 ~~requirements at pre-bid meetings and shall be identified as a resource to~~
582 ~~bidders/proposers in solicitation documents.~~
583
- 584 (5) Responsiveness. Department/division heads and contract administrators shall
585 require contractors/consultants to submit participation documentation as provided
586 by CBDP with their original bid/proposal as a matter of responsiveness.
587

588 (6) Review of responsiveness and achievement. The department/division head,
589 solicitation administrator or contract administrator shall provide to CBDP all
590 documents provided under section 42.07(5) 'Responsiveness'. Submission shall
591 occur immediately following submission deadline. CBDP shall review bid/proposal
592 submissions for the required forms and documentation. Solely using original
593 submissions, CBDP shall make a determination as to each bidder/proposers having
594 met participation goal, or having provided a good faith effort. The determination
595 shall be rendered on a pass/fail basis. CBDP and the department/division head,
596 solicitation administrator or contract administrator shall reject and remove from
597 further consideration all bids/proposal's having been determined to have failed
598 participation responsiveness within their submission. Determinations results shall
599 submitted to the owner department without delay, but within three business days of
600 CBDP having been provided documentation. Any bidder of proposer having failed
601 shall be notified by CBDP writing 24 hours of determination. Any bidder of proposer
602 having failed shall be notified by CBDP, in writing, 24 hours after determination.
603 Bidders/proposers may appeal determination as provided within MCGO, Chapter 32
604 or 110, as applicable, based upon original submission, and shall not be provided
605 opportunity to add or subtract from their original submission.

606
607 ~~(7)(5)~~ The owner department shall require all prime contractors/consultants to submit a
608 Target Enterprise DBE or ACDBE utilization report with all payment requests
609 prepared in a method determined by CBDP. Copies of utilization reports and
610 payment requests shall be forwarded to CBDP for review. ~~(6)~~ Department/Division
611 heads and contract administrators shall ensure that all final payment requests are
612 accompanied with a signed affidavit verifying that the Target Enterprise participation
613 DBE and/or ACDBE requirement has been met, either at the prime or
614 subcontracted level.

615
616 ~~(8)(7)~~ The owner department with responsibility for project budget and schedule shall
617 submit an annual list of approved projects as defined in chapter 44, section 44.001,
618 whether funded with federal funds or solely with county funds. The director of the
619 owner department with responsibility for project budget and schedule must submit
620 the Target Enterprise participation DBE/ACDBE utilization plan by December 15 of
621 each year to CBDP based on the county board adopted budget. The list shall
622 provide the following information:

- 623
624 (a) A listing by division within the department of types of contracts to be awarded
625 and a dollar value by contract type based on the county board adopted budget.
626
627 (b) Designation of a department staff person as contact person(s) for each
628 construction contract.

629
630 42.08. - Enforcement and monitoring.

631
632 (1) All contracts shall include provisions for Milwaukee County's right to perform
633 compliance reviews and audits. The county and CBDP reserves the right to

634 conduct compliance reviews and request, both from the prime contractor/consultant
635 and subcontractors/subconsultants or suppliers, concessionaires, documentation
636 necessary to verify each party's level of compliance. If the contractor/vendor is not
637 in compliance with ~~DBE and/or ACDBE~~ Target Enterprise participation contract
638 requirements, CBDP will notify the contractor/vendor in writing of required corrective
639 ~~action to be taken~~ and the associated time frame to bring into full compliance.

641 (2) All contracts shall include provisions, as provided by CBDP, stating should if the
642 contractor/consultant fail or refuse to take corrective action within the time specified
643 in the notice, the county at CBDP's request, may terminate or cancel the contract, in
644 whole or in part; withhold payments on the contract ~~until DBE and/or ACDBE~~
645 ~~contract compliance issues are resolved to the county's satisfaction;~~ or impose
646 other appropriate sanctions, including the one identified in section 42.08(3) below.
647 The director of the owner department shall be notified by the director of CBDP when
648 sanctions are made against a contractor/consultant and shall comply with
649 determination.

651 (3) All contracts shall include provisions, as provided by CBDP, for ~~t~~The CBDP director
652 or designee ~~shall~~ to have the authority to withhold contractor/consultant payments
653 until ~~DBE and/or ACDBE~~ Target Enterprise participation requirements have been
654 met per contract. If the contractor/consultant has completed its contract, and the
655 goal was not met ~~due to an~~ and in absence of good faith on the part of the
656 contractor/consultant, the proper measure of damages for such noncompliance
657 shall be the dollar amount of the unmet portion of the ~~DBE and/or ACDBE~~
658 contracted Target Enterprise participation goal. The county may in such case retain
659 any unpaid contract amounts and retainage otherwise due the
660 contractor/consultant, up to the amount of the unmet goal. Milwaukee County may
661 bring suit to recover damages up to the amount of unmet goal, including interest at
662 the rate of twelve (12) percent annually, plus the county's costs, expenses and
663 actual attorney's fees incurred in the collection action.

665 (4) All contracts shall include provisions, as provided by CBDP, Ppursuant to 49 CFR
666 Part 26 it is county policy to ensure that all direct subcontractors or subconsultants
667 are promptly paid within seven (7) days of the prime contractor/consultant receiving
668 payment from the county, for all work satisfactorily completed. Subcontractors
669 receiving payments shall pay lower-tier subcontractors according to this same
670 prompt payment requirement. In the event a prime contractor/consultant fails to pay
671 subcontractors/ subconsultants within the stated timeframe, the CBDP director or
672 designee ~~may direct the owner department or~~ shall notify accounts payable head to
673 withhold payment to the prime contractor/consultant or impose other appropriate
674 sanctions in accordance with county ordinance. ~~The CBDP director or designee~~
675 ~~may authorize a waiver of the requirements of this chapter, as determined by CBDP~~
676 ~~pursuant to section 42.04(1), on a contract-by-contract basis, upon good cause~~
677 ~~shown.~~

678

679 (5) The CBDP Director may authorize a waiver of the requirements of this chapter on a
680 contract-by-contract basis, upon good cause shown and as permitted by statutes,
681 laws, state and federal regulations.

682

683 42.09. - Appeals.

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

687

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

690

691 32.20. - Words and phrases defined.

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

695

696 (1) "Blanket contract" means a contract for purchases to be made as required over
697 a specific period of time for a fixed price, but no guaranteed quantity.

698

699 (2) "Contractual service" means all services except utilities, professional services,
700 chapter 44 public works contracts, and repairs or alterations to buildings or
701 structures.

702

703 (3) "Day" means the normal working day which excludes Saturdays, Sundays or
704 major holidays.

705

706 (4) "Department head" means the chief executive officer of a principal
707 administrative unit of county government who administratively reports directly to
708 a board, commission, the county executive or is an elected official.

709

710 (5) "Lowest bidder" means a person or firm which has submitted the most
711 advantageous price.

712

713 (6) "Procurement" means buying, purchasing renting, leasing, or otherwise
714 acquiring any supplies, materials, equipment and contractual services. It also
715 encompasses all functions that pertain to obtaining the above including
716 description of requirements, selection and solicitation of sources, preparation
717 and award of contract and all phases of administration; including ~~disadvantaged~~
718 ~~business-enterprise~~ administration as defined in chapter 42 of these
719 ordinances, where applicable.

720

721 (7) "Professional service" carries the definition found in section 56.30(1)(a) of the
722 Code. Departments contracting for professional services will follow the
723 procedures set forth therein.

724

- 725 (8) "Qualified bidder" means a person or firm which has not been disqualified from
726 selling to the county because of unsatisfactory performance.
727
- 728 (9) "Responsible bidder" means a person or firm which has the capacity in all
729 respects to perform fully the contract requirements, and the integrity and
730 reliability which will assume good faith performance.
731
- 732 (10) "Responsive bidder" means a person or firm which has submitted a bid which
733 conforms in all material respects to the invitation to bid.
- 734 (11) "Specification" means any description of the physical or functional
735 characteristics, or of the nature of a supply service or other item. It may include
736 a description of any requirement for inspecting, testing or preparing a supply,
737 service or other item for delivery.
- 738 (12) "Standard" means that which is set and established by authority, custom or
739 general consent as the quality, quantity or method that is proper and adequate
740 for a given purpose.
- 741 (13) "Supplies, materials and equipment" means all commodities and other tangible
742 articles or things purchased from a county appropriation.
- 743 (14) Computation of time limits expressed in hours or days shall exclude Saturdays,
744 Sundays and legal holidays.
- 745 (15) "Negotiations" means contracting through the use of either competitive or other-
746 than-competitive proposals and/or discussions. Any contract having an
747 estimated aggregate value in excess of twenty thousand dollars (\$20,000.00)
748 awarded without using sealed bidding procedures is a negotiated contract.
- 749 (16) "Competitive range" means all offerors that are determined to have a
750 reasonable chance of being selected for award based on cost or price and other
751 factors stated in the solicitation. This definition applies only to negotiated
752 procurements as set forth in sections 32.36 through 32.52.
- 753 (17) "Service contract" means an agreement primarily related to staff services
754 including, but not limited to, housekeeping, security, landscaping, maintenance,
755 clerical services, food services, and other non-professional services.
- 756 32.22. - Department of administrative services.
- 757 (1) The department of administrative services through its procurement division shall
758 have the following powers and perform the following duties:
- 759 (a) Adopt, promulgate, and from time to time amend rules, regulations and
760 procedures and enforce the provisions of this chapter.
- 761 (b) Purchase or contract for all supplies, materials, equipment and contractual
762 services.
- 763 (c) Prepare and maintain purchasing manuals setting forth the purchasing
764 procedures, rules and regulations.
- 765 (d) The director of the department of administrative services, or designee, shall
766 sign contracts or issue purchase orders for supplies, materials, equipment or
767 services when authorized under the provisions of this chapter.
- 768 (e) Develop and recommend standards for purchasing standardization committee
769 approval. Enforce the use of standards and specifications established under the
770 provisions of this chapter.

- 771 (f) Have charge of storage facilities established centrally for the use of all
772 departments.
- 773 (g) Conduct public auctions and accept competitive bids for the sale of county
774 property which has been declared surplus by the departments or the facilities
775 management division of the department of ~~public works~~ administrative services.
- 776 (h) Prescribe the manner of inspecting supplies, materials and equipment and of
777 determining compliance with specifications.
- 778 (i) Determine if bid deposits or performance bonds are necessary and prescribe
779 the amount.
- 780 (j) Make use of the laboratory, engineering, facilities and technical staffs of the
781 county and others as required.
- 782

783 32.23. - Purchasing standardization committee.

- 784 (1) There shall be a purchasing standardization committee composed of ~~three (3)~~ five
785 (5) private citizens: a representative of: the department of human resources, the
786 department of parks, recreation and culture, the department of ~~public works~~
787 transportation, the department of administrative services and the sheriff's
788 department. Each of the departmental representatives shall be selected by the
789 department head. The private citizen members are to be appointed by the county
790 executive for a term of four (4) years, subject to the confirmation of the county
791 board, and shall be residents of the county who are knowledgeable in procurement.
792 A representative of the corporation counsel's office and the procurement director or
793 his or her designee shall be technical advisers to the committee.
- 794 (2) The committee is empowered to do the following:
- 795 (a) Adopt operating rules and procedures, and shall elect a vice-chairperson, for a
796 one-year term, and such other officers as may be required.
- 797 (b) Review supplies, materials and equipment commonly used for adoption of
798 appropriate standards by all departments.
- 799 (c) Adopt, revise and promulgate written standards which satisfy the requirements
800 of the county. After adoption, they shall apply to every future purchase and
801 contract for the commodity described, unless exempted by the committee.
- 802 (3) Establish technical subcommittees.
- 803 (4) Hear appeals as defined in sections 32.26 and 32.51.
- 804

805 32.25. - Purchasing and contracting procedure.

- 806 (1) Acquisition of goods and services as provided for under Chapter 32 shall strive to
807 implement the principles of active and aggressive efforts to assist Milwaukee
808 County in meeting or exceeding its overall annual goal of participation of Target
809 Enterprise firms. An annual percentage goal for Target Enterprises participation in
810 supplies, materials and equipment purchases shall be established. And an annual
811 percentage goal for Target Enterprises participation in service contracts and
812 contractual services contracts shall be established as set forth by county ordinance.
813 The above procedures shall conform to the provisions as contained in chapter 42 of
814 these ordinances.
- 815 (4 2) Purchases of supplies, materials, equipment and contractual services shall be
816 based on competitive bids. Bids may be rejected when it is determined by the

817 procurement director or his or her designee that to award a contract would not be in
818 the best interest of the county. The method of evaluating bids and awarding
819 contracts shall be stated in each bid document. Contracts shall be awarded to the
820 lowest, qualified, responsive, responsible bidder. If equal low and responsive bids
821 are received, the procurement director or his or her designee shall break the tie by a
822 lot drawing in the presence of a buyer and another member of the procurement
823 division at a specific time and date. The tied bidders shall receive written advance
824 notice.

825 ~~(2)~~ (3) *Discretionary purchases.* Any procurement having an estimated aggregate value
826 of ten thousand dollars (\$10,000.00) or less shall be made at the discretion of the
827 buyer.

828 ~~(3)~~ (4) *Open market purchase.* Any procurement having an estimated aggregate value in
829 excess of ten thousand dollars (\$10,000.00) and less than twenty-five thousand
830 dollars (\$25,000.00) shall be made by solicitation of three (3) quotations
831 documented by the buyer.

832 ~~(4)~~ (5) *Informal purchases.* Any procurement having an estimated aggregate value of
833 twenty-five thousand dollars (\$25,000.00) and less than fifty thousand dollars
834 (\$50,000.00) shall be solicited from all vendors of the item on the vendor's list
835 maintained by the procurement division and the contract awarded by sealed
836 bidding.

837 ~~(5)~~ (6) *Formal purchases.* Any procurement having an estimated aggregate value of fifty
838 thousand dollars (\$50,000.00) or more shall have sealed bids solicited by public
839 notice inserted at least once on the official county web-site at least two (2) weeks
840 before the bid opening date, and by posting official notice on the procurement board
841 in the procurement division office for the same period. The procurement division
842 shall solicit sealed bids by mail from all vendors of the item on the vendor list
843 maintained by the procurement division.

844 ~~(6)~~ (7) *Sealed bids.*

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

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

851 (c) A ~~noncollusive~~ statement of non-collusion requiring the signature of an
852 authorized officer of the bidder shall be included in each sealed bid. The
853 procurement director or his or her designee shall report suspected collusive
854 bids to the district attorney.

855 ~~(7)~~ (8) *Exceptions.*

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

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

- 862 (2) Purchases from a single source which, by their nature, are not adapted to
863 award by competitive bidding as determined by the procurement director or
864 his or her designee and approved by the purchasing standardization
865 committee.
- 866 (3) Purchases from any federal, state or local governmental unit or agency of
867 surplus materials, supplies, commodities or equipment, as approved by the
868 committee on finance, personnel and audit of the county board, and
869 otherwise when expressly authorized by the county board.
- 870 (4) Discretionary purchase of ten thousand dollars (\$10,000.00) or less as
871 authorized in subsection 32.25(2) of this section.
- 872 (5) Any contract for a public works construction project where the director of
873 ~~public works~~ the appropriate department or the department of administrative
874 services or his/her designee has recommended, and the procurement
875 director or his or her designee has agreed in writing, that the procurement
876 director or his or her designee shall negotiate for the purpose of services,
877 supplies, materials or equipment needed for such project.
- 878 (b) Purchase of name brand items for resale may be awarded to other than the low
879 bidder.
- 880 (c) Purchases required for immediate budgeted repairs, exclusive of inventory
881 items.
- 882 (d) Notwithstanding any other provisions of this chapter to the contrary, where
883 adequate competition exists, the ~~purchasing administrator~~ procurement director
884 or his or her designee shall have the authority, in any situation where a contract
885 is to be let through the bidding process, to reserve such contract exclusively for
886 vendors ~~listed~~ identified as small business enterprises (SBE) as defined in
887 ~~section 42.02(k)~~ chapter 42 of these ordinances. In such event, the bid
888 announcements shall indicate such reservation, citing this subsection as
889 authority therefor. Reservations by the procurement director or his or her
890 designee may be on a commodity basis or on an individual contract basis.
- 891 (e) Annually the county board shall adopt, as defined in chapter 42 of these
892 ordinances, by resolution a recommended minimum percentage goal for the
893 participation of ~~disadvantaged business enterprise vendors~~ Target Enterprises
894 in contracts awarded pursuant to chapter 32. Such goals are not mandatory;
895 however, the procurement director or his or her designee shall make diligent
896 efforts to achieve or exceed such annual participation goals. All written
897 solicitations and notices for bids promulgated or published pursuant to this
898 chapter shall contain language advising potential bidders of the provisions of
899 this subsection.
- 900 (~~8~~ 9) All contracts issued by the procurement division shall be reviewed for approval by
901 the corporation counsel prior to use.
- 902 (~~9~~ 10) Comptroller responsibility.
- 903 (a) All contracts issued by the division shall be reported to and countersigned by
904 the comptroller, under policies established by the comptroller, if he or she
905 determines that the county has, or will have, the necessary funds to pay the
906 liability that the county may incur under the contract. No contract is valid until so
907 countersigned.

- 908 (b) The comptroller shall, on a monthly basis, summarize the reports received from
909 the division concerning blanket contracts and provide one (1) copy to the
910 committee on finance, personnel and audit and one (1) copy to the county
911 executive.
- 912 (c) The comptroller shall deny payment for any payment request submitted by a
913 vendor to an administrator if all conditions of this chapter have not been met.
914 The comptroller shall report such denials and the reason for denial to the
915 committee on finance, personnel and audit along with the monthly report. In
916 such cases, the administrator may appeal the decision to the committee on
917 finance, personnel and audit.
918

919 32.40. - General.

- 920 (1) Requests for proposals (RFPs) are used in negotiated acquisitions to communicate
921 county requirements to prospective vendors and to solicit proposals from them.
922 Solicitations shall contain the information necessary to enable prospective vendors
923 to prepare proposals properly. Solicitation provisions and contract clauses may be
924 incorporated into the solicitations and contracts by reference.
- 925 (2) The procurement director or his or her designee shall furnish identical information
926 concerning a proposed acquisition to all prospective vendors.
- 927 (3) The procurement director or his or her designee shall solicit proposals only when
928 there is a definite intention to award a contract.
- 929 (4) A proposal received in response to an RFP is an offer that can be accepted by the
930 county to create a binding contract.
- 931 (5) Letter RFPs should be as clear and concise as possible, exclude any unnecessary
932 verbiage or notices; and, as a minimum, contain the following:
933 (a) RFP number and date.
934 (b) Name and address of contracting office.
935 (c) Type of contract contemplated.
936 (d) Quantity, description, and required delivery for the item.
937 (e) Applicable certifications and representations.
938 (f) Contract terms and conditions.
939 (g) Offer due date.
940 (h) Other relevant information; e.g., incentives, variations in delivery schedule, any
941 peculiar or different requirements, cost proposal support and different data
942 requirements.
- 943 (6) Solicitation for services as defined in section 32.20(2) and (17) with an aggregate
944 value in excess of fifty thousand dollars (\$50,000.00) shall be approved by the
945 county board prior to award. Approval shall not be requested until after completion
946 of the protest and appeal process outlined in sections 32.50 and 32.51 of this
947 subchapter.
- 948 (7) Notwithstanding any other provisions of this chapter to the contrary, where
949 adequate competition exists, the ~~purchasing administrator~~ [procurement director or
950 his or her designee] shall have the authority, in any situation where a contract is to
951 be let through the negotiated acquisition process, to reserve such contract
952 exclusively for vendors listed identified as small business enterprises (SBE) as
953 defined in ~~section 42.02(k)~~ chapter 42 of these ordinances. In such event, the

954 solicitation announcements shall indicate such reservation, citing this subsection as
955 authority therefore. Reservations by the ~~purchasing administrator~~ [procurement
956 director or his or her designee] may be on a commodity basis or on an individual
957 contract basis.

958

959 32.96. - Real estate.

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

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

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

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

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

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

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

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

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

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

991 (6) All negotiations and review of RFP, RFI, or any other negotiated procedures shall
992 be conducted by the DAS - Economic Development Division which shall make final
993 recommendations to the ECD committee for review and recommendation to the
994 county board.

995 (7) No officer or employee, either part-time or full-time, whether elected or appointed, in
996 either the classified or unclassified service, shall purchase real estate acquired by
997 the county, pursuant to this chapter, through an agent. However, the
998 aforementioned individuals, if not involved directly in the sale, may purchase real

999 estate themselves or with their spouses, if their county employment is disclosed in
1000 the offer.

1001 (8) The county executive and county clerk shall sign all conveyances on behalf of the
1002 county for the sale of lands acquired by the county under the procedure authorized by
1003 this chapter when approved as ready for execution by the corporation counsel.

1004

1005 **Section 3. Chapter 56 of the Milwaukee County Ordinances is amended as**
1006 **follows:**

1007 56.12. - Architectural and engineering planning revolving funds.

1008 (1) *Funds established.* There is hereby established a revolving fund of one hundred
1009 thousand dollars (\$100,000.00) to be used for architectural and engineering
1010 planning for public works projects under the jurisdiction of the department of ~~public-~~
1011 ~~works~~ administrative services and a revolving fund of fifty thousand dollars
1012 (\$50,000.00) to be used for architectural and engineering planning for projects
1013 under the jurisdiction of the county department of parks, recreation and culture.

1014 (2) *Restrictions.* No expenditures shall be made from these funds unless the director of
1015 ~~public works~~ administrative services has certified that he/she is unable to ---provide
1016 the engineering or architectural services required, and that the employment of an
1017 outside architect or consultant is approved.

1018 (3) *Responsibilities of director of ~~public works~~ administrative services.* It shall be the
1019 responsibility of the director of ~~public works~~ administrative services to supervise the
1020 use of these funds and to coordinate and to give general inspection to all public
1021 works projects undertaken by any department or agency of the county government.

1022 (4) *Restoration of funds.* The revolving funds created by this section shall be restored
1023 by credits transferring costs to the public works projects for which the services were
1024 specifically provided. If subsequent to the preliminary planning and engineering, a
1025 project is abandoned or the county board does not appropriate funds for the project,
1026 the county board's committee on finance, personnel and audit may recommend an
1027 appropriation sufficient to restore the fund to its original amount.

1028 56.17. - Nondiscriminatory contracts.

1029 (1a) All contracts except those exclusions listed in paragraph (e) let by or on behalf of
1030 the county, shall include the following provisions:

1031 In the performance of work or execution of this contract, the contractor shall not
1032 discriminate against any employee or applicant for employment because of race,
1033 color, national origin or ancestry, age, sex, sexual orientation, gender identity and
1034 gender expression, disability, marital status, family status, lawful source of income,
1035 or status as a victim of domestic abuse, sexual assault or stalking, which shall
1036 include but not be limited to the following: employment, upgrading, demotion or
1037 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or
1038 other forms of compensation; and selection for training including apprenticeships.
1039 The contractor will post in conspicuous places, available for employment, notices to
1040 be provided by the county setting forth the provisions of the nondiscriminatory
1041 clause. A violation of this provision shall be sufficient cause for the county to
1042 terminate the contract without liability for the uncompleted portion or for any
1043 materials or services purchased or paid for by the contractor for use in completing
1044 the contract.

- 1045 (1b) Where federal regulations in regard to bidding and contracting procedures and
1046 equal employment practices apply, all contracts let by or on behalf of the county
1047 shall be consistent with said requirements, regulations, procedures and practices.
1048 However, all contractors having fifty (50) or more total employes, including noncraft
1049 employes, shall be required to have affirmative action plans on file with the county
1050 or other appropriate government agency.
- 1051 (1c) All contracts except those exclusions listed in paragraph (1e) let by or on behalf of
1052 the county involving nonfederal funds shall contain language based on and
1053 reflecting federal and county equal employment opportunity and ~~minority business~~
1054 ~~enterprise~~ Target Enterprise requirements:.
- 1055 ~~a. The minority and women's business enterprise program authority and~~
1056 ~~procedures shall apply as set forth in chapter 32 of the Code.~~
- 1057 ~~b. Any act required to be performed or prohibited by chapter 32 of the Code is~~
1058 ~~hereby incorporated herein by reference.~~
- 1059 (1d) All contracts except those exclusions listed in paragraph (1e) let by or on behalf of
1060 the county, shall include the following provisions:
1061 The contractor agrees that it will strive to implement the principles of equal
1062 employment opportunities through an effective affirmative action program, and will
1063 so certify prior to the award of the contract, which program shall have as its
1064 objective to increase the utilization of women, minorities and handicapped persons,
1065 and other protected groups, at all levels of employment in all divisions of the
1066 contractor's workforce, where these groups may have been previously under-
1067 utilized and under-represented. The contractor also agrees that in the event of any
1068 dispute as to compliance with the aforestated requirements, it shall be his/her
1069 responsibility to show that he/she has met all such requirements.
1070 The contract agrees that it will strive to implement the principles of active and
1071 aggressive efforts to assist Milwaukee County in meeting or exceeding its overall
1072 annual goal of participation of Target Enterprise firms.
- 1073 (1e) The exclusions applicable to paragraphs (1a), (1c), (1d) and (2) are as follows:
1074 1. Departmental purchase orders.
1075 2. Emergency purchases when immediate action is required to preserve property
1076 or protect life, health or welfare of persons.
1077 3. Sole source procurements, as determined by the purchasing standardization
1078 committee.
1079 4. Purchases from foreign countries.
1080 5. Purchases from governmental agencies.
1081 6. Purchases from petty cash (limit of fifty thousand dollars (\$50,000.00)).
- 1082 (2) Except for exclusions in paragraph (1e) all directors, administrators and managers
1083 shall be responsible for obtaining compliance with the nondiscrimination provisions
1084 of this section and shall, in cooperation with the contract compliance auditor, verify
1085 compliance prior to the award of all contracts with an aggregate value of twenty
1086 thousand dollars (\$20,000.00) or more.
- 1087 (3) When a violation of this section has been determined by the party responsible for
1088 the enforcement of the nondiscrimination provision, the violating party shall
1089 immediately be informed of the violation and directed to take all action necessary to
1090 halt the violation, as well as such action as may be necessary to correct, if possible,

- 1091 any injustice to any person adversely affected by the violation and immediate steps
1092 to prevent further violations.
- 1093 (4) If, after notice of a violation to the violating party, further violations of this section are
1094 committed during the term of the contract, the county may terminate the contract
1095 without liability for the uncompleted portion or any materials or services purchased
1096 or paid for by the contracting party for use in completing the contract, or it may
1097 permit the violating party to complete the contract, but in either event, the violating
1098 party shall be ineligible to bid on any future contracts to be let by the county.
- 1099 (5) No contract by or on behalf of the county shall be let to any party whose name
1100 appears on the list of ineligible contractors maintained by the state department of
1101 administration because of failure to comply with the provisions of s. 16.765, Wis.
1102 Stats., unless, in the opinion of the director, the violation party has offered clear
1103 proof that the violation has been corrected and will not be repeated.
- 1104 (6) A violation by a prime contractor shall not impute to a subcontractor, nor shall a
1105 violation by a subcontractor impute to a contractor.

1106

1107 56.30. - Professional services.

- 1108 (1) Definitions. The meanings of certain terms used in this section are as follows,
1109 unless the context otherwise provides:
- 1110 (a) "Professional services" means services, the value of which is substantially
1111 measured by the professional competence of the person performing them and
1112 which are not susceptible to realistic competition by cost of services alone. The
1113 services provided must be materially enhanced by the specific expertise,
1114 abilities, qualifications and experience of the person that will provide the
1115 service. Professional services shall typically include services customarily
1116 rendered by architects; engineers; surveyors; real estate appraisers; certified
1117 public accountants; attorneys; financial personnel; medical services, except
1118 when such services are delivered to county employees as part of a workers
1119 compensation claim; system planning; management and other consultants; and
1120 services for promotional programs. ~~Administrative Manual Procedure on DBE-~~
1121 ~~Contracting Requirements provides additional definition regarding services that~~
1122 ~~meet professional service contracting requirements under this ordinance.~~ If a
1123 department administrator or other department personnel is uncertain if their
1124 contract should follow professional service contracting provisions under this
1125 ordinance, the department administrator must make a request of Corporation
1126 Counsel for final clarification, before beginning the contracting procedures.
- 1127 (b) "Services" means the furnishing of labor, time or effort by a
1128 contractor/consultant, not involving the delivery of a specific end product other
1129 than usual reports and/or drawings which are incidental to the required
1130 performance.
- 1131 (c) "Request for proposal" means all documents, whether attached or incorporated
1132 by reference, used for soliciting proposals.
- 1133 (d) "Contractor" means a firm or individual who formally undertakes to do anything
1134 for another. Independent contractors must maintain a separate business and
1135 hold themselves out to and render service to the general public and must have
1136 a right to control the details of the work performed. Questions regarding

1137 independent contractor status must be directed to Corporation Counsel.
1138 Appendix F lists federal criteria to be considered in determining independent
1139 contractor status.

1140 (e) "Contract" means a legally binding relationship obligating a seller to furnish
1141 supplies or services (including, but not limited to, construction and professional
1142 services) and the buyer to pay for them. For purposes of this part, a lease is
1143 considered to be a contract.

1144 (2) *Policy.*

1145 (a) *General policy statement.* All county departments and institution administrators
1146 are responsible for procuring professional services and for soliciting, negotiating
1147 and entering into contracts as defined in accordance with the provisions of this
1148 section. However, the office of the county executive and the county board shall
1149 be exempt from the provisions contained herein with the exception of
1150 subsections (6)(a) and (6)(i) as shall be the department of administration with
1151 the exception of subsections (6)(a) and (6)(i) for the purpose of securing credit
1152 rating services related to debt issuance and administration.

1153 (b) ~~Disadvantaged business enterprise requirement.~~ All county departments and
1154 institutions administrators are ~~required to notify the Community Business~~
1155 ~~Development Partners department (CDBP) division in writing prior to soliciting~~
1156 ~~for professional service contract opportunities~~ responsible for procuring
1157 professional services and for soliciting, negotiating and entering into contracts
1158 as defined in accordance with the provisions of chapter 42 of these ordinances.
1159 Annual percentage goals for DBE Target Enterprise participation on
1160 professional services contracts will be established as set forth by ~~county~~
1161 ~~ordinance~~ chapter 42 of these ordinances. ~~The procedures to be followed by~~
1162 ~~departments regarding DBE participation shall conform to provisions as~~
1163 ~~contained in chapter 42. No professional services contract shall be issued~~
1164 ~~without review and written approval by CDBP that all provisions of chapter 42~~
1165 ~~regarding disadvantaged business participation have been met.~~

1166 (c) *Fiscal constraint statement.* Notwithstanding any other provisions of section
1167 56.30, during a period of fiscal constraint the county board may, by resolution,
1168 adopt a procedure which requires the committee on finance, personnel and
1169 audit review and county board approval of all professional services
1170 expenditures prior to execution of said contracts.

1171 (d) ~~Reference to ordinance.~~ ~~When a county department/division head or contract~~
1172 ~~administrator is preparing to begin a contract for professional services the~~
1173 ~~department/division head or contract administrator shall follow the requirements~~
1174 ~~of this section and chapter 42 on the requirements for using disadvantaged~~
1175 ~~business enterprises in county contracting, including professional services, and~~
1176 ~~administrative manual section 1.13, which provides further guidance on~~
1177 ~~complying with professional service contracting requirements.~~

1178 (e) *Justification for using professional services.* Contract administrators must
1179 document in the contract file the justification for utilizing a professional service
1180 contract as opposed to completing the work using county staff. This justification
1181 may or may not employ a formal cost benefit analysis, depending on the
1182 circumstances.

- 1183 (3) *Availability of appropriations.* It is the responsibility of the administrator who will sign
1184 a professional services contract to insure that monies are available in the
1185 appropriate budget account for the expenditures required by the contract.
- 1186 (4) *Professional services procedures.* It shall be the responsibility of the administrator
1187 to conform with the following provisions when entering into a professional services
1188 contract and expending budgeted funds:
- 1189 (a) *Professional services—Capital improvements.* The following conditions shall
1190 apply to all capital projects.
- 1191 (1) During its annual budget process, departments shall provide a list to the
1192 county board of which capital projects contained in the recommended
1193 budget are intended to require the assistance of a professional services
1194 consultant. Departments are authorized to enter into contractual services or
1195 professional services agreements as may be required for specific capital
1196 improvement projects which have been approved by the county board
1197 through the budget process. Expenditures shall only be for those projects
1198 and professional services specifically identified in the budget write-up
1199 reviewed by the committee on finance, personnel and audit during the
1200 budget review process and approved by the county board, or for those
1201 projects approved by action of the county board. The budget write-up shall
1202 contain specific information as to the scope of the project, professional
1203 services required and estimated cost of the professional services work to be
1204 performed. The appropriate department of transportation or the department
1205 of administrative services shall provide in February of each year to the
1206 committee on finance, personnel and audit and the committee on
1207 transportation, public works and transit an updated report on public works
1208 capital projects requiring the use of a professional services contract. Any
1209 professional services work costing more than twenty thousand dollars
1210 (\$20,000.00) which is not identified in the February report shall require
1211 county board approval.
- 1212 (2) All contracts in excess of twenty thousand dollars (\$20,000.00) shall be
1213 solicited following a request for proposal process as outlined further in this
1214 ordinance.
- 1215 (b) *Professional services—Non-Capital.*
- 1216 (1) For professional services resulting in an expenditure of two thousand
1217 dollars (\$2,000.00) or less, a departmental purchase order or purchase card
1218 may be used for the purchase of professional services. County board
1219 approval is not required provided monies are available in the appropriate
1220 budget account.
- 1221 (2) For a professional services contract with a value greater than two thousand
1222 dollars (\$2,000.00) and less than fifty thousand dollars (\$50,000.00), county
1223 board approval is not required provided monies are available in the
1224 appropriate budget account for the expenditures required by the contract.
- 1225 (3) County board approval.
- 1226 (a) If a professional services contract with a value greater than two
1227 thousand dollars (\$2,000.00) and less than fifty thousand dollars
1228 (\$50,000.00), entered into by a department administrator is to be

- 1229 extended or amended to provide additional reimbursement which
1230 extends the total reimbursement beyond fifty thousand dollars
1231 (\$50,000.00) to the same vendor, county board approval shall be
1232 required for each extension.
- 1233 (b) For a professional services contract with a value of fifty thousand
1234 dollars (\$50,000.00) or more, approval by the county board is required.
1235 Such approval may take place as part of the county board's adoption of
1236 the annual county budget. If approval does not take place as part of the
1237 adopted budget, then review by the appropriate county board standing
1238 committee and approval by the county board is required. If immediate
1239 action is required to preserve property or protect life, health and welfare
1240 of persons, county board approval may be waived, provided such action
1241 shall be reported, in writing, within forty-eight (48) hours after initial
1242 emergency action, to the county board, the county executive and the
1243 department of administration.
- 1244 (4) County board approval is not required for reimbursement for medical
1245 services as defined under subsection 56.30(1)(f) when those services are
1246 provided to county employees as a workers compensation claim provided
1247 that sufficient funds are available at the time the invoice for service is
1248 submitted in the appropriate expenditure amount.
- 1249 (a) The risk management division is allowed to issue payments to hospitals
1250 whenever services have been rendered to county employees as part of a
1251 workers compensation claim.
- 1252 (5) *Request for proposal.*
- 1253 (a) *When required.* When it is estimated that a contract for professional services
1254 has a value of fifty thousand dollars (\$50,000.00) and over, it is required that a
1255 request for proposal (RFP) be used to attempt to solicit a minimum of three (3)
1256 proposals. Department administrators shall give appropriate notice to
1257 prospective vendors of services to be retained. At a minimum, such notice shall
1258 include publication of an ad in a newspaper serving the Milwaukee area. The
1259 use of an RFP is discretionary for any professional services contract with a
1260 value of less than fifty thousand dollars (\$50,000.00). If an RFP is used or not, it
1261 still is required to document the process and the reasons shall be documented
1262 in writing by the administrator and retained in departmental files for a period of
1263 seven (7) years after contract completion. Documentation shall include the
1264 RFP, memos, proposals, score sheets, analyses, contracts and any other
1265 document used in determining the award of a contract.
- 1266 (1) For a contract with an estimated value between fifty thousand dollars
1267 (\$50,000.00) and one hundred thousand dollars (\$100,000.00), the request
1268 for proposal procedure need not be used if it is determined by an
1269 administrator to be cost effective to the county not to seek proposals. Such
1270 action shall be reported, in writing, with an explanation as to the benefits
1271 derived from not seeking proposals, to the county board when the contract
1272 is submitted for approval.
- 1273 (2) The request for proposal procedure need not be used for a contract with an
1274 estimated value of fifty thousand dollars (\$50,000.00) or more, if immediate

1275 action is required to preserve property or protect life, health or welfare of
1276 persons. Such action shall be reported in writing within forty-eight (48)
1277 hours after the initial emergency action to the county board, county
1278 executive and department of administration. Payments shall not be
1279 restricted by normal budget limitations. Appropriation transfers, if required,
1280 shall be initiated in accordance with fiscal procedures.

1281 (3) The request for proposal procedure must be used for all contracts with an
1282 estimated value of one hundred thousand dollars (\$100,000.00) or more
1283 unless action is required to protect property or protect life, health or welfare
1284 of persons, or in circumstances where contractual services are approved by
1285 specific county board action.

1286 (b) *Content.* The request for proposal shall contain the evaluation criteria which will
1287 be used to select the successful contractor. The relative importance of each of
1288 these items will depend to some degree on specific services being sought. It is
1289 essential that the RFP enumerate the evaluation criteria which will be used to
1290 select the successful contractor. The RFP shall also include the foundation and
1291 mechanism for billing for any professional service.

1292 (c) *Evaluation procedure.* More than one (1) person shall evaluate all proposals.
1293 Oral presentations should be used to supplement the written proposal if it will
1294 assist in the evaluation procedure. The firms to be invited to make an oral
1295 presentation can be determined after the initial review and ranking of the
1296 proposals based on the criteria outlined in the RFP.

1297 (d) *Disclosure.* Contract administrators, evaluation panel members, or potential
1298 members, department administrators and persons selecting evaluation panel
1299 members are required to fully disclose on forms approved by the Ethics Board
1300 any experience, contact or relationship with bidders that would create a
1301 potential conflict of interest, or the appearance of a conflict of interest, as
1302 defined in chapter 9 of these ordinances, in awarding or managing a contract.
1303 Such disclosure shall be presented to the administrator of the department
1304 letting the contract who shall forward the disclosure to the Ethics Board with a
1305 written request for a determination as to whether the disclosing party should be
1306 disqualified from evaluating, selecting or administering the proposed contract.
1307 The determination of the Ethics Board must be documented and included in the
1308 department's files for the contract and shall be retained as required under
1309 subsection (a) of this section. The provisions of this section are to be included
1310 in the Milwaukee County Administrative Procedures Manual. All the provisions
1311 set forth in the Milwaukee County Code of Ethics are in full force and effect and
1312 are not abrogated in any way by these requirements.

1313 (6) *Contract.*

1314 (a) All contracts, excluding departmental purchase orders, shall be reviewed by the
1315 corporation counsel to determine if they meet the definition of professional
1316 services and to verify that the contracts comply with all statutes, rules,
1317 ordinances, and the county's ethics policy.

1318 (b) Approval. The contract must be approved by the office of the corporation
1319 counsel prior to execution. No contract is valid until so countersigned.

- 1320 (c) All provisions of the Code governing administration of contracts must be
 1321 followed.
- 1322 (d) All contracts which have been approved by action of the county board shall
 1323 contain language referencing the county board file number and date of county
 1324 board approval.
- 1325 (e) All professional services contracts shall contain a provision which provides that
 1326 the contractor shall permit the authorized representatives of the office of the
 1327 comptroller, after reasonable notice, the right to inspect and audit all data and
 1328 records of contractor related to carrying out the contract for a period of up to
 1329 three (3) years after completion of the contract.
- 1330 (f) All contracts will be reviewed and approved, in writing, by the county's risk
 1331 manager for financial responsibility and liability management, including
 1332 appropriate insurance provisions and modifications in indemnity agreements.
- 1333 (g) ~~All county department/division heads and contract administrators are required
 1334 to notify the Community Business Development Partners department (CBDP) in
 1335 writing prior to soliciting for professional services contracts. Annual percentage
 1336 goals for DBE participation on professional services contracts will be
 1337 established as set forth by county ordinance. The procedures to be followed by
 1338 departments regarding DBE participation shall conform to provisions as
 1339 contained in chapter 42. No professional services contract shall be issued
 1340 without review and written approval by CBDP that all provisions of chapter 42
 1341 regarding disadvantaged business participation have been met. All contracts
 1342 will be reviewed and countersigned by CBDP director for compliance with
 1343 chapter 42 of these ordinances. No contract is valid until so countersigned.~~
- 1344 (h) All contracts shall include the foundation and mechanism for billing for any
 1345 professional service provided under the agreement.
- 1346 (i) No contract shall be valid until the office of the comptroller has determined that
 1347 the county has, or will have, the necessary funds to pay the liability that the
 1348 county may incur under the contract and has countersigned the contract. No
 1349 contract is valid until so countersigned.
- 1350 (7) *Department administrator reporting requirement.* All department administrators are
 1351 responsible for informing the ~~controller~~ comptroller in writing whenever a
 1352 professional services contract is initiated. Department administrators are to inform
 1353 the ~~controller~~ comptroller of such contracts in a standardized format on a form to be
 1354 developed by the department of ~~administration~~ administrative services.
- 1355 (a) *Content.* Such reports shall be prepared in four (4) parts and include the
 1356 following information:
 1357 (1) Department name and number.
 1358 (2) Date approved by county board and file number.
 1359 (3) Dollar amount of contract.
 1360 (4) Account description and account number charged.
 1361 (5) Name of professional services vendor under contract.
 1362 (6) Length of time of contract.
 1363 (7) Purpose of contract.
 1364 (8) Selection of qualified ~~DBE firm~~ Target Enterprise.
- 1365 (b) *Distribution:*

- 1366 Original copy to ~~controller~~ comptroller.
1367 One (1) copy retained by department administrator.
- 1368 (8) *Comptroller responsibility.*
1369 (a) The comptroller shall, on a monthly basis, summarize the reports received from
1370 department administrators concerning professional services contracts and send
1371 one (1) copy to the committee on finance, personnel and audit and one (1) copy
1372 to the county executive and one (1) copy to CBDP.
1373 (b) The comptroller shall deny payment for any payment request for professional
1374 services submitted by a contractor to an administrator if all conditions of this
1375 chapter have not been met. The comptroller shall report such denials and the
1376 reason for denial to the committee on finance, personnel and audit along with
1377 the monthly report. In such cases, the administrator may appeal the decision to
1378 the committee on finance, personnel and audit.
- 1379 (9) *Administrator responsibility.* It is the responsibility of the administrator, prior to
1380 permitting a professional services contractor to perform any work for the county, to
1381 comply with all sections of this chapter. Furthermore, no work shall be performed by
1382 any professional services contractor unless or until a written contract has been
1383 executed and signed by all appropriate officials.
- 1384 (10) *Corporation counsel authority.*
1385 (a) Any contrary provision of these ordinances notwithstanding, the corporation
1386 counsel may enter into a professional services contract to obtain the
1387 professional services without regard to the requirements of this section with
1388 respect to requests for proposals and prior county board approval, without
1389 regard to the goals and procedures established under chapter 42 of these
1390 ordinances and without regard to any other ordinance or resolution which would
1391 operate to constrain the corporation counsel's ability to enter into a professional
1392 services contract if the corporation counsel determines, in the exercise of the
1393 corporation counsel's professional judgment, (i) that such professional services
1394 are necessary to assist Milwaukee County to prepare for or prosecute litigation
1395 arising out of the enhanced pension benefits which became effective January 1,
1396 2001 in order to assist the likelihood of success of the litigation, and (ii) that the
1397 interests of Milwaukee County require timely action and flexibility which
1398 preclude the delay inherent in the procedures prescribed in this section and in
1399 chapter 42 of these ordinances.
1400 (b) The corporation counsel shall make every reasonable effort to comply with all
1401 the requirements of this section, chapter 42, and any other ordinance or
1402 resolution affecting professional service contracts to the extent that the
1403 circumstances of the litigation and protection of the interests of Milwaukee
1404 County permit.
1405 (c) The corporation counsel shall provide a confidential report in a timely manner to
1406 the committee on judiciary, safety and general services with respect to any
1407 contract entered into under the authority of this subsection.

1408
1409 **SECTION 4.**

1410 The provisions of this Ordinance shall become effective upon passage and publication.
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