

RULES OF THE PURCHASING STANDARIZATION COMMITTEE

I. AUTHORITY

These Rules are enacted pursuant to Milwaukee County Code of General Ordinances (“MCGO”), Chapter 32.23.

II. PURPOSE

The purpose of these Rules is to provide for the expeditious resolution of controversies brought before the Committee.

III. SCOPE

These Rules shall apply to any appeal pursuant to MCGO Chapter 32.

IV. FILING NOTICE OF APPEAL

- A. A notice of appeal must be timely submitted in accordance with MCGO Chapter 32.26(3).
- B. The notice of appeal must immediately thereafter be provided in like manner to the Purchasing Agent (for example, RFP Administrator for an appeal related to a Request for Proposals). The Purchasing Agent shall then provide a copy of the notice of appeal to other interested parties (actual or known prospective bidders, proposers, or contractors) who were directly affected by the Purchasing Agent’s subject decision or who would be directly affected by a contrary decision by the Committee. The Purchasing Agent shall provide a list of the same to the Committee.
- C. The notice of appeal must include a copy of the notice of any decision made by the Purchasing Agent, and the date of receipt of such decision, in order to enable the Committee to determine if the appeal was timely filed pursuant to MCGO Chapter 32. If the Committee decides at a meeting of the same that an appeal was not timely filed, the Committee shall first advise the appellant of the same and provide the appellant with an opportunity to establish to the Committee that the appeal was timely filed.
- D. Upon receipt of any notice of appeal, a copy of these Rules of Procedure shall be mailed by the Chairperson of the Committee or its designee to the appealing party or parties or their legal counsel.

V. SUBMISSIONS AND OTHER COMMUNICATIONS

- A. All written communications or other materials conveyed between one or more of the parties to the appeal (inclusive of the Purchasing Agent) and the Committee shall be simultaneously copied to all other parties to the appeal (exclusive of copies of these Rules, which shall not be provided to the Purchasing Agent with every appeal). Notation that such copies were sent is to be made on the face of the document submitted to the Committee.
- B. Position statements must be submitted to the Committee no fewer than 7 calendar days prior to the hearing.
- C. The official record shall consist of the solicitation document and all addenda, and all proposals received in response to the solicitation document, including all clarifying documents and best and final offers. The official record shall be certified by the County's Procurement Director to the Committee no later than 21 calendar days prior to the date of the hearing.
- D. Parties to the appeal are expected to provide relevant non-privileged materials or information to one another upon a party's request. The Committee may request that relevant non-privileged materials or information be provided by any party to the appeal to another party and to the Committee.

VI. DISMISSAL

An appealing party may elect to dismiss its appeal, and may do so once without prejudice. Notice of Dismissal is effective only upon receipt by the Chairperson of the Committee. Notice must be so received prior to the day of the Scheduled hearing on the appeal. After such dismissal, the appellant may submit another Notice of Appeal within seven days, regarding solicitations or awards, or within thirty days, regarding suspension or debarment. After the first dismissal, any dismissal will be with prejudice against the appellant.

VII. NOTICE OF HEARING

The Notice of Hearing shall state the date, time, and location of the hearing. A Notice of Hearing shall be provided via email to all appealing parties or their legal counsel, the Purchasing Agent, the Office of Corporation Counsel, and any County Departments, Agencies, Committees, or Commissions with a direct interest in the appeal no fewer than 30 calendar days prior to the hearing date.

VIII. HEARING PROCEDURE

- A. All hearings and other meetings of the Committee shall be noticed to all parties to the appeal and to the public, and shall be open meetings as required by law.

- B. Hearings of appeals are to occur in the chronological order in which appeals were filed with the Committee, unless otherwise agreed to by the parties and permitted by the Committee.
- C. A court reporter or a tape recorder or other recording device shall be used to record the parties' presentations. Any party wishing to purchase a transcription from the court reporter or have a transcription produced from the recorded format may do so at its own cost.
- D. The procedure for all appeal hearings shall be as follows:
 - (1) Announcement by the Chairperson of the Committee or its designee of the appeals to be heard, and the order of the same.
 - (2) Presentation by the Purchasing Agent or designee, as to the decision.
 - (3) Presentation by the appealing party or parties, as to their appeal.
 - (4) Second presentation by the Purchasing Agent.
 - (5) Second presentation by the appealing party or parties.
 - (6) Discussion and deliberation by the Committee.
- E. Presentations given must be directly related to nature of the appeal based solely upon the official record maintained by county or state departments.
- F. Questions may be asked of any party to the appeal, or any of their proffered witnesses, by the members of the Committee at any time during the hearing. Only members of the Committee may ask questions during the hearing.
- G. At the beginning of the hearing, the Committee shall advise all parties to the appeal of any time limits on their presentations. In no event shall the Purchasing Agent be provided less time than the appealing parties, or vice versa. Appealing parties must decide among themselves how to allocate their collective time for presentations.
- H. The Committee may continue the hearing to a subsequent date.
- I. All appealing parties, or their representatives (including legal counsel), must be present at the hearing of their appeal. If neither an appealing party nor its representative is present at the noticed hearing of the appeal, which hearing is not continued by the Committee, the Committee shall notify that party that its appeal shall be dismissed unless that party submits good cause otherwise in writing within ten calendar days. The Chairperson of the Committee shall determine whether good cause has been shown.

IX. DECISION

- A. A majority of all confirmed members shall constitute a quorum to conduct the business of the Committee. Decisions of the Committee shall be adopted by a majority vote of those Committee members present and voting. A tie vote shall be deemed a vote to deny the appeal.

- B. The Committee shall review the decision at issue in the appeal. The Committee's decision shall be based solely upon the official record maintained by county or state departments and shall be reviewed and determinations made based upon the following test:
1. Did the department keep within its jurisdiction?
 2. Did the department act according to law?
 3. Was the action of the department arbitrary, oppressive, or unreasonable, representing its will and not its judgment? And
 4. Was the evidence such that the department might reasonably make the determination in question?
- C. A written decision to either deny or uphold the appeal shall be issued by the Committee that shall state on its face whether the solicitation or award was in accordance with the Constitution, statutes, MCGO, regulations, and the terms and conditions of the solicitation.
- D. A copy of the Committee's decision on an appeal shall be mailed to all parties to the appeal within thirty calendar days following the date of the final hearing.

X. SECRETARY TO THE COMMITTEE

- A. The Committee shall appoint a Secretary to assist the Committee.
- B. The Secretary shall be responsible for recording the minutes of the Committee's meetings. The Secretary shall also be responsible for noting the date and time any appeal or submission is submitted to the Committee. Such notation shall be made on the front of the document and shall be consistent in form.

XI. SUSPENSION OF THE RULES

In the interests of fairness and efficiency, the Committee may from time to time suspend the operation of some or all of these Rules by concurrence of at least three members of the Committee.

XII. AMENDING THESE RULES

These Rules may be amended by an affirmative vote of a majority of the Committee. New Rules may be adopted likewise.

XIII. ROBERT'S RULES OF ORDER

In the event these Rules do not address a matter of procedure, the Committee will be governed by Robert's Rules of Order, as revised.

XIV. EFFECTIVE DATE

These Rules shall be filed with the Clerk upon adoption, and shall take effect, prospectively and not retrospectively, immediately upon their adoption.