

RESOLUTION NO.: 21—2023-24

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

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2 Rule 9 of the Outagamie County Board Rules, Sec. 2-52 Administrative Rule Review of
3 the Outagamie County Code of Ordinances, establishes a procedure for the review of
4 Administrative Rules. The County Board may approve of the rule or refer it back to
5 administration for revision and resubmission. Such a set of rules regarding Outagamie
6 County’s Public Works Project Administration for Projects under \$1,500,000, has been
7 submitted for review.

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9 This resolution approves Administrative Rule 2023-03.

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11 NOW THEREFORE, the undersigned members of the Property, Airport, Recreation and
12 Economic Development Committee and Legislative/Audit and Human Resources Committee recommend
13 adoption of the following resolution.

14 BE IT RESOLVED, that the Outagamie County Board of Supervisors does approve the attached
15 Administrative Rule 2023-03 which amends the Outagamie County Public Works Project Administration
16 for Projects under \$1,500,000, which by reference is made a part hereof, and

17 BE IT STILL FURTHER RESOLVED, that this rule shall be numbered 2023-03 and will be on
18 file in a manual entitled “Outagamie County Administrative Rules” in the Outagamie County Clerk’s
19 Office, and

20 BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy of
21 this resolution to the Outagamie County Executive, who, in accordance with Sec. 59.03 Wis. Stats., shall
22 be charged with the duty of distributing said rule to affected departments for compliance.

23 Dated this ____ day of May 2023.
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Respectfully submitted,

PROPERTY, AIRPORT, RECREATION &
ECONOMIC DEVELOPMENT COMMITTEE
AND
LEGISLATIVE/AUDIT AND HUMAN RESOURCES
COMMITTEE

Dean Culbertson

Lee W. Hammen

Ronald Klemp

Yvonne Monfils

Jayson Winterfeldt

Cathy Spears

Curt Konetzke

Sara MacDonald

Ryan Ferguson

Joe Santonato

Duly and officially adopted by the County Board on: _____

Signed: _____
Board Chairperson

County Clerk

Approved: _____

Vetoed: _____

Signed: _____
County Executive

PUBLIC WORKS PROJECT ADMINISTRATION

FOR PROJECTS OF \$1,500,000 OR LESS

Subject: Public Works Project Administration For Projects of \$1,500,000 or Less
Number: AR ~~2123-0302~~
Effective Date: ~~11/01/2021-TBD~~
Replaces: AR ~~15-0321-02~~
References: Wisconsin Statutes 59.52(29) and 66.0901
Outagamie County Code of Ordinances Chapter 50
Adopted: TBD

PROCEDURES

All public work projects with an estimated value in excess of \$5,000 but not exceeding \$50,000 shall include a provision which allows the County to pay the Prime/General Contractors with payments made payable to the Prime Contractor and to one or more subcontractors.

~~Public Works bidding will be done in accordance with Sections 59.52(29) and 66.0901, Wisconsin Statutes.~~

~~Public work projects with an estimated value in excess of \$5,000 but less than \$50,000 shall be advertised with a Class I notice under Chapter 985, Wisconsin Statutes, or shall contract with an entity qualified under Section 66.0901 Wisconsin Statutes.~~

Public work projects with an actual contract value of less than \$50,000 may be commenced by a purchase order. Said purchase order shall have standard contract language protecting the County (see next section, Purchase Order Standard Contract Language).

~~Public work projects with an estimated value greater than \$50,000 must be let by contract to the lowest responsible bidder under the requirements of Sections 59.52(29)(a) and 66.0901, Wisconsin Statutes.~~

Public work projects with an estimated value greater than \$50,000 will be commenced by AIA A101 Owner & Contractor Agreement and associated AIA A201 General Conditions of Contract (both as revised by Owner).

The bidding requirements of Section 66.0901 and 59.52(29)(b), Wisconsin Statutes, for public work projects in excess of \$25,000 are not mandatory for the repair or reconstruction of public facilities when damage or threatened damage thereto creates an emergency as declared in writing by the County Executive in which the public health or welfare of the County is endangered (see Section 850.41(c), Outagamie County Code of Ordinances).

The bidding requirements of Section 66.0901, Wisconsin Statutes, for public work projects in excess of \$25,000 are not mandatory if the County Board of Supervisors, by 3/4s vote of all members entitled to a seat, provide that the public work or any part thereof may be done directly by the County, pursuant to Section 50.41(a), Outagamie County Municipal Code.

PURCHASE ORDER STANDARD CONTRACT LANGUAGE

Public work projects with an anticipated value of less than \$50,000 may be commenced by a purchase order. Said purchase order shall incorporate the following standard contract language protecting the county (usually through incorporation of the County's RFB documents):

Contractor/Vendor agrees to the specifications set forth on the Purchase Order, or on the attached specification sheet (if applicable). Any deviation from said specifications must be approved in writing by a representative of Outagamie County.

County agrees to pay Contractor/Vendor the amount set forth in the Purchase Order as consideration for services provided by Contractor/Vendor.

OWNER'S RIGHT TO STOP WORK

If the contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

OWNER'S RIGHT TO CARRY OUT WORK

If the Contractor defaults or fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after 10 days' written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof. Including Owner's expenses and compensation for the Architect's services made necessary thereby, from the payment then or thereafter due the Contractor.

LABOR AND MATERIALS

Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

The Contractor shall deliver, handle, store and install materials in accordance with manufacturer's instructions.

WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage of defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

PERMITS, FEES AND NOTICES

Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

INDEMNIFICATION AND INSURANCE

The County's standard indemnification form and insurance with requirements project specific will be attached to the Purchase Order by reference.

ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the contract without written consent of the other.

GOVERNING LAW

The Contract shall be governed by the laws of the State of Wisconsin. Any lawsuits arising out of disputes under this Contract shall be considered and tried in Outagamie County, Wisconsin.

TERMINATION BY THE OWNER

The Owner may terminate the Contract if the Contractor:

1. Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
2. Fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the contractor and the Subcontractors;
3. Persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
4. Otherwise is guilty of substantial breach of a provision of this agreement.