

61750

DATE: February 26, 2018

TO: Board of Acquisition and Contract

FROM: Marguerite Beirne
Interim Chief Information Officer
Department of Information Technology

Kevin M. McGuire
Commissioner
Department of Social Services

SUBJECT: Authority to enter into an agreement with ASC Services, LLC (IT-1552), pursuant to which it will provide certain information technology services for the Westchester-Putnam Local Workforce Development Board website, for the period from March 3, 2018 through March 2, 2019, for an amount not-to-exceed \$96,000.00, payable at specified not-to-exceed hourly rates.

Authority is requested for the County of Westchester (the "County"), acting on behalf of the Westchester-Putnam Local Workforce Development Board (the "WPLWDB"), to enter into an agreement (the "Agreement") with ASC Services, LLC ("ASC"), pursuant to which ASC will provide certain information technology services for the WPLWDB website (the "Services") for the period from March 3, 2018 through March 2, 2019, for an amount not-to-exceed \$96,000.00, payable at various hourly based on the level of experience of the person performing services.

In 2015, the County conducted competitive procurement for the Services, for certain projects then-ongoing and work then-needed, by soliciting hourly rates from entities via a request for proposals. By a resolution approved on February 26, 2015, your Honorable Board authorized the County to enter into the contract that resulted from the request for proposals ("IT-1359"), which was for a term that commenced on March 3, 2015 and continued through March 2, 2016, with the County having the sole option to extend the term of the IT-1359 for up to two (2) additional one (1) year periods thereafter. IT-1359 was subsequently executed. By resolutions approved on February 25, 2016 and January 19, 2017, your Honorable Board authorized the County to, respectively, among other things, exercise each of the County's two (2) additional one (1) year options under IT-1359, and thereby collectively extend the term of IT-1359 through March 2, 2018 (collectively, the "Option-Exercise Amendments"). Both of the Option-Exercise Amendments were subsequently executed.

The County continues to require the Services. However, the County cannot further extend the term of IT-1359, as amended. Therefore, the County determined that it must conduct

a new procurement for a new contract for the Services. Since the proposed new contract would be funded with Federal funds, the procurement must comply with the applicable Federal procurement rules.

Under Section 13(b) of the County's Procurement Policy, a Federally-funded procurement shall be made in accordance with any and all federal laws, regulations, rules, guidance, instructions, or grant terms applicable to such procurement. However, it must be noted that, under Section 13(d) of the County's Procurement Policy, each Federally-funded procurement shall be made in accordance with the County's ordinary procurement requirements to the extent that those requirements do not conflict with the applicable Federal rules.

The above-described provisions of Section 13 of the County's Procurement Policy conform to 2 C.F.R. 200.318(a), which specifies that a "non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part."

Based on all of the foregoing, the County must, in short, comply with both the applicable Federal procurement rules and the applicable County procurement rules.

Under the applicable Federal rules, a procurement that doesn't exceed the 'simplified acquisition threshold' of \$150,000 could be procured, under 2 CFR 200.320(b), via "small purchase procedures", which are "relatively simple and informal procurement methods" where "price or rate quotations must be obtained from an adequate number of qualified sources". However, the County's procurement rules are more restrictive, and require, under Section 6 of the County's Procurement Policy, that a request for proposals be used when "[a] procurement of goods or services [is] reasonably expected to cost \$75,000 or more". Therefore, given the expected cost of roughly \$96,000 for all of the necessary hourly services, the County would normally have to use a request for proposals to procure a new contract for the Services.

The Department of Information Technology and the Department of Social Services have determined that it would not be in the County's best interests to expend the time that would be necessary to conduct the procurement of the Services via a request for proposals. Under Section 3(a)(xxi) of the County's Procurement Policy, your Honorable Board can, by a separate resolution, exempt a procurement from the requirements of the policy when your Honorable Board determines that such compliance "would not be in the best interests of the County." Therefore, by a separate resolution of even date herewith, the County is requesting that your Honorable Board exempt this procurement from the requirements of the County's Procurement Policy pursuant to Section 3(a)(xxi) thereof.

With that exemption, the County would solely have to comply with the applicable Federal procurement rules. (Though the Federal procurement rules are essentially incorporated into the County's Procurement Policy in Section 13 thereof, the underlying Federal rules cannot be waived, as they are imposed by the Federal government.)

In accordance with the applicable Federal procurement rules, in the interests of time, the County solicited rate quotations for the Services from an adequate number of qualified sources.

Specifically, the County solicited rate quotations from three (3) vendors that customarily provide such services and, in response, received a quotation from all three (3) of the vendors.

The County determined that the quote from ASC is most advantageous to the County, and that the County will require services, at the hourly rates proposed by ASC, that will total an amount not-to-exceed \$96,000.00. Accordingly, the County is requesting authority from your Honorable Board to enter into the Agreement, on the terms described above.

The proposed Agreement will serve a public purpose by continuing to provide the County with the information technology services it needs to continue to upgrade the WPLWDB website in order to ensure that the website can best perform its role in facilitating the work of the WPLWDB.

The goal and objective of the proposed Agreement is to continue to provide the County with the information technology services it needs to continue to upgrade the WPLWDB website in order to ensure that the website can best perform its role in facilitating the work of the WPLWDB.

The goal and objective of the proposed Agreement is in the best interests of the County in terms of fiscal responsibility, as the Services are aimed at improving the employment opportunities for local residents, which will, in turn, help make them economically independent and less likely to require public assistance.

The goals and objectives of the proposed Agreement will be tracked and monitored by the staffs of the Department of Information Technology and Department of Social Services.

I respectfully recommend the adoption of the attached resolution.

MB/SF/bdm/nm

RESOLUTION

Upon a communication from the Interim Chief Information Officer, Department of Information Technology, and the Commissioner of the Department of Social Services, be it hereby:

RESOLVED, that the County of Westchester (the "County"), acting on behalf of the Westchester-Putnam Local Workforce Development Board (the "WPLWDB"), is hereby authorized to enter into an agreement (the "Agreement") with ASC Services, LLC ("ASC"), pursuant to which ASC will provide certain information technology services for the WPLWDB website (the "Services") for the period from March 3, 2018 through March 2, 2019, for an amount not-to-exceed \$96,000.00, payable at various hourly based on the level of experience of the person performing services; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to execute any documents and take any actions reasonably necessary and appropriate to effectuate the purposes of this Resolution.

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
275	22	796R	4531	T796	\$38,400.00
275	22	559P	7338	T559	\$14,400.00
275	22	797R	4531	T797	\$14,400.00
275	22	403S	4531	T403	\$14,400.00
275	22	402S	4531	T402	\$14,400.00

Budget Funding Year(s): 2018
(must match resolution)

Start Date: 03/03/18

End Date: 03/02/19

Funding Source
\$96,000.00
(must match resolution)

Tax Dollars: _____
State Aid: _____
Federal Aid: \$96,000.00
Other: _____

APPROVED BOARD OF ACQUISITION & CONTRACT 03/22/2018 - LISA PRUJAN, SECRETARY