

**61749**

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 exempt from the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof, 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.

---

Authority is hereby requested from your Honorable Board to exempt from the Westchester County Procurement Policy and Procedures an agreement between the County of Westchester (the "County"), acting on behalf of the Westchester-Putnam Local Workforce Development Board (the "WPLWDB") and ASC Services, LLC ("ASC"), pursuant to which ASC will provide certain information technology services for the WPLWDB website, for the period from March 3, 2018 through March 2, 2019.

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.

Therefore, it is proposed that the best interests of the County would be served by exempting the proposed Agreement from the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof, and the County solely comply with the applicable Federal procurement rules. Therefore, a resolution to exempt this procurement is hereby submitted for your consideration.

I respectfully recommend the adoption of the attached resolution.

MB/SF/bdm/nn

## **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 pursuant to Section 3(a)(xxi) of the Westchester County Procurement Policy and Procedures, it is hereby determined that application of the procedural requirements contained therein, including the necessity of soliciting proposals, is neither cost effective nor expedient, and accordingly, not in the best interests of the County of Westchester (the "County") in connection with the procurement, on behalf of the Westchester-Putnam Local Workforce Development Board (the "WPLWDB"), of an agreement with ASC Services, LLC ("ASC"), pursuant to which ASC will provide certain information technology services for the WPLWDB website.

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/21/2016  
USMARIJAJ, SECRETARY