

INTERNAL MEMO

FROM: Annalisa Miranda, Chief Purchasing Officer
TO: Office of the County Attorney
DATE: February 7, 2017
SUBJECT: Written Determination of the Purchasing Agent – Purchase from Milsoft Utility Solutions

This is the written determination of the Purchasing Agent pursuant to §31-233, regarding the purchase from Milsoft Utility Solutions of Software Licensing, GIS Database Conversion, Server Setup, Training, Configuration, and Ongoing Annual Software Maintenance and Support.

Part of my preparation of this written determination included consultation with the office of the County Attorney, and discussions with Rafael De LaTorre, Deputy Utility Manager for Electric Distribution. I have also reviewed the Purchase Order and Invoice documentation available in the County's financial system, and in the office of Records and Information Management.

It is my determination that neither the purchaser nor the person awarded the contract have acted fraudulently or in bad faith.

Information which I considered as part of making my determination follows:

Prior to requesting the 2011 purchase, Utilities Department staff recalls performing their own assessment of available sources of the software (and related services) which met their operational needs. This assessment included a review of costs and specifications available from Milsoft and two other potential suppliers. While the expenditure of \$57,000 exceeded the small purchase threshold of \$35,000, and a formal Invitation for Bid (IFB) or Request for Proposals (RFP) should have been issued at that time, it is my opinion this was due to an administrative error or oversight. Documentation attached to the Purchase Order number DA 4423 includes an email from DPU which states, in part, "We budgeted work to be performed by Milsoft for software....which is licensed by one vendor." While it is not clear, this email may have been sent as an explanation of/request for a sole source determination. However, no such determination appears to have been officially made as part of the procurement. A copy of the Purchase Order number DA 4423 and related documentation, including the email, are attached to this memo.

Subsequent expenditures of \$5775 for software support in December of 2011, and again in November of 2012 fall under the small purchase threshold, so Procurement staff did not request evidence of further competition before issuing Purchase Orders for those two purchases.

Regarding the pending expenditure of \$33,861.06 which includes payment for configuration for configuration of DPU hardware, installation of two new WindMil Map network licenses, onsite training to DPU staff, and installed desktop software, the County has a financial obligation to Milsoft.

Before Milsoft was authorized to provide the goods and/or services, DPU should have requisitioned the desired purchase and Procurement should have issued a Purchase Order. Additionally, since the purchase exceeded the \$10,000 small purchase threshold, DPU should have submitted a justification for use of a sole source procurement for my review and determination. It is my opinion that this also was due to an administrative error or oversight, not a deliberate intent to violate the Procurement Code or the supporting standard operating procedures contained in the Procurement Manual.