

MEMORANDUM

Agenda Item No. 11(A)(7)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 4, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution amending
Implementing Order 3-34,
formation and performance of
competitive selection
committees, to provide that only
reports and findings of the
Miami-Dade County Office of
the Inspector General and
Miami-Dade Commission on
Ethics and Public Trust that find
substantiated allegations or
adverse findings, conclusions, or
recommendations regarding any
vendors or proposed
subcontractors under
consideration by selection
committees within seven years of
the submittal date of the
proposals being evaluated be
provided to selection
committees; and authorizing the
County Mayor to exercise any
and all rights conferred therein

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor
Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 4, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(7)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(7)
4-4-23

RESOLUTION NO. _____

RESOLUTION AMENDING IMPLEMENTING ORDER 3-34, FORMATION AND PERFORMANCE OF COMPETITIVE SELECTION COMMITTEES, TO PROVIDE THAT ONLY REPORTS AND FINDINGS OF THE MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL AND MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST THAT FIND SUBSTANTIATED ALLEGATIONS OR ADVERSE FINDINGS, CONCLUSIONS, OR RECOMMENDATIONS REGARDING ANY VENDORS OR PROPOSED SUBCONTRACTORS UNDER CONSIDERATION BY SELECTION COMMITTEES WITHIN SEVEN YEARS OF THE SUBMITTAL DATE OF THE PROPOSALS BEING EVALUATED BE PROVIDED TO SELECTION COMMITTEES; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXERCISE ANY AND ALL RIGHTS CONFERRED THEREIN

WHEREAS, Miami-Dade County utilizes selection committees in its competitive procurement processes to evaluate and rank proposers and provide recommendations to the County Mayor or County Mayor’s designee and to this Board; and

WHEREAS, in furtherance of that policy, this Board had previously approved Implementing Order (IO) 3-34 establishing directions to the County Mayor or County Mayor’s designee for the formation and performance of selection committees; and

WHEREAS, on January 19, 2022, this Board adopted Resolution No. R-62-22 and amended IO 3-34 to provide that selection committees shall be given all reports and findings issued by the Miami-Dade Office of the Inspector General (“OIG”) or the Miami-Dade County Commission on Ethics and Public Trust (“COE”) regarding any vendor or proposed subcontractor under consideration by such selection committee; and

WHEREAS, the amended IO 3-34 requires that selection committees consider reports and findings issued by the OIG and COE in accordance with the evaluation of each applicable criteria identified in the solicitation; and

WHEREAS, to streamline the process of reviewing reports and findings issued by the OIG and COE and to provide only those documents relevant to the selection committee's evaluation, the Board desires to further amend IO 3-34 to limit the reports and findings provided to selection committees to only those OIG and COE findings and reports which find substantiated allegations or adverse findings, conclusions, or recommendations regarding any vendors or proposed subcontractors under consideration by the selection committee within seven years of the submittal date of the proposals being evaluated,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby amends Implementing Order 3-34, Formation and Performance of Competitive Selection Committees, in substantially the form attached hereto and incorporated herein and authorizes the County Mayor or County Mayor's designee to exercise any and all rights conferred therein.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado. The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of April, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

LUIS G. MONTALDO, CLERK AD INTERIM

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Oren Rosenthal
Eduardo W. Gonzalez

Implementing Order



Implementing Order No.: 3-34

Title: FORMATION AND PERFORMANCE OF COMPETITIVE SELECTION COMMITTEES

Ordered: ~~[[1/19/2022]]~~>> <<¹ **Effective:** ~~[[1/29/2022]]~~ >>
<<

AUTHORITY:

Section 1.01 of the Miami-Dade County Home Rule Amendment and Charter and Section 1.01 of the Code of Miami-Dade County.

SUPERSEDES:

This Implementing Order (I.O.) supersedes and replaces previous I.O. 3-34 ordered ~~[[May 4, 2021]]~~ >>January 19, 2022<< and effective ~~[[May 14, 2021]]~~ >>January 29, 2022<<.

SCOPE:

Notwithstanding any contrary provision of any other Administrative Order (A.O.) or Implementing Order, this Implementing Order establishes procedures for the formation and performance of competitive selection committees (Committees or Committee) in Miami-Dade County's competitive procurement process, including Committees utilized in the acquisition of architectural and engineering (A&E) professional services under Section 287.055 of the Florida Statutes.

POLICY:

The County shall utilize Committees that are comprised of fair, impartial, objective and qualified individuals capable of evaluating the subject matter area in a competitive procurement process for the evaluation of offers, proposals, and qualifications submitted by individuals and firms seeking contract award. The provisions of this Implementing Order address the County's internal administrative processes and are not intended to serve as a basis to challenge the ultimate selection or contract award recommendation in any particular procurement action. This Implementing Order governs all County procurement processes involving such Committees.

All Committee proceedings shall be audiotaped by the County Mayor's designee.

FORMATION OF COMPETITIVE SELECTION COMMITTEES:

Competitive Selection Committee Pool

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

A pool consisting of potential County Committee members shall be established and administered by the Small Business Development (SBD) division of the Internal Services Department or such other County Mayor designee. The pool shall consist of the County's executives, professionals, and subject matter experts within the County or from the private or non-profit sectors, other governmental/quasi-governmental organizations, and retired executives.

Pool members, including members who are not County employees, as well as the non-voting technical advisor shall be required to attend a workshop prior to serving on any Committee facilitated by the Internal Services Department or a County Mayor designee. The workshop shall train pool members on the Committee's role and responsibilities, the pertinent legislation (including Florida's Government in the Sunshine laws, the County's Conflict of Interest and Code of Ethics Ordinance, and County procurement rules and regulations), and provide a forum for discussion regarding membership on a Committee.

A simple majority of the voting members of a Committee shall constitute a quorum necessary to hold meetings and take any action. Unless an exception is made in writing by the County Mayor or County Mayor's designee, all voting members of a Committee shall attend all meetings at which vendor presentations are made and proposals are evaluated. Attendance at Committee meetings through the use of remote media technology, where otherwise permitted by State and County law, shall be permitted provided a physical quorum of voting members of a Committee are present.

Competitive Selection Committee Formation and Appointment

Committees shall be formed as follows:

- A. The County Mayor or County Mayor's designee may determine the composition of each Committee based on the appropriate expertise required for each acquisition. Committee members may be subject matter experts from within the County or from the private or non-profit sectors, other governmental organizations, or retired executives. In forming a Committee to replace an established contract, the County should, when practicable and in the best interest of the County, appoint the County employee charged with managing the existing contract, as a non-voting technical advisor to the Committee. In forming the Committee consideration should be given to appointing County and non-County members with appropriate experience and knowledge and that the Committee membership is balanced in its representation of the Miami-Dade County community with regard to ethnicity and gender. Where possible, County employee Committee members should not be appointed who are in the same department and are direct reports to other members of the Committee.
- B. The Selection Committee Coordinator shall be a non-voting procurement professional employee of the department or agency issuing the solicitation. The Selection Committee Coordinator shall administer the process and shall not be a member of the Committee.
- C. The County Mayor or County Mayor's designee may appoint non-voting technical advisors to supplement the technical expertise of selection committees.

Technical advisors are official members of the Committee but may not cast a vote and are not counted for purposes of quorum.

- D. The County Mayor or County Mayor's designee shall appoint two alternate voting members at the time the Committee is appointed, and will become voting members in the event that substitution of a voting member is required. If the alternate voting member has not attended all prior meetings of the Committee, the substitution will only be allowed before any scoring meeting has occurred.

SBD or such other administrator designated by the County Mayor shall recommend Committee appointments to the County Mayor or County Mayor's designee after consulting with the issuing department or agency.

PERFORMANCE OF COMPETITIVE SELECTION COMMITTEES:

Each individual, including any non-voting technical advisors, appointed to a Committee shall sign an affidavit attesting to his/her neutrality in performing the duties of a Committee member and acknowledge that his/her service on such committee shall be in compliance with the Conflict of Interest and Code of Ethics Ordinance (Sec. 2-11.1). An individual who provides false information may be subject to investigation and prosecution under Florida law. County employees providing false information shall also be subject to disciplinary action up to and including dismissal from County employment. All Committee members shall affirm and acknowledge that service on the Committee is subject to the requirements and prohibitions of the County's Cone of Silence Ordinance and the State of Florida's Government in the Sunshine Law.

Moreover, and in accordance with the Resolution No. R-449-14, individuals appointed to the Committee must submit their updated resume, through the Selection Committee Coordinator, to the Commission Auditor. The Commission Auditor shall conduct background checks for all Committee members verifying no family control, financial interest, and/or employment (past or present), with any vendor or proposed subcontractor under consideration by the Committee.

The Committee Auditor shall submit the results of the background check to the issuing department overseeing the competitive process. The Commission Auditor will also submit the results of the background checks to the Commission on Ethics and Public Trust for further review of the findings.

Any request by County staff to be excused from Committee service must be in writing, delineating serious and legitimate reasons, and must be signed by the Department/Agency Director and sent to the County Mayor or County Mayor's designee through Small Business Development or other administrator. In the event that a Committee member is excused from service, an identified alternate shall assume the responsibilities of a voting Committee member.

SCORING GUIDELINES:

Except for Committees procuring "Professional Services" as defined by Section 2-10.4 of the Code of Miami-Dade County, Committee members shall be provided written guidelines and shall use the guidelines in preparing their scores for the evaluation of each criteria identified in the solicitation.

The guidelines shall be in substantially the form provided below:

Rating	Score as a Percentage of Total Available Points for Criteria	Guidelines
Excellent	90-100%	The proposal's response to the criteria is complete and well defined, providing relevant supporting details and examples. The response to this criteria indicates a high prospect for outstanding performance on the resulting contract. All or a majority of the expectations for this criteria are clearly met or exceeded.
Good	70-89%	The proposal's response to the criteria is generally complete and well defined, providing reasonably well developed responses with a good amount of relevant supporting details and examples. The response to this criteria indicates a moderate to high prospect for good performance on the resulting contract. Most of the expectations are met for this criteria.
Fair	50-69%	The proposal's response to the criteria is fairly complete, but lacking some definition or clarity. The response is not well developed to address the criteria and provides limited supporting details and examples. The response to this criteria indicates a prospect of achieving satisfactory performance on the resulting contract, but there may also be some risk. Few of the expectations are demonstrated to be met for this criteria.
Poor	49% or below	The proposal's response to the criteria is not complete or provides minimal information, lacking sufficient details and examples. The response to this criteria indicates a moderate to high risk of not achieving satisfactory performance on the resulting contract. Does not demonstrate ability to meet expectations for this criteria.

During the scoring meeting, the Selection Committee Coordinator shall monitor the points awarded to each vendor by each Committee members. In the event that a Committee members score for a criteria varies in excess of thirty-three percent (33%) of the average score award by all Committee members by criteria, the Selection Committee Coordinator shall request that such Committee member provide a verbal justification in the meeting for the score. The Selection Committee Coordinator should encourage Committee members to discuss this criteria including the justification provided. The Committee members may change their scores based on the specific discussion. Should the variation remain, the Selection Committee Coordinator shall confirm and state on the record the justification provided by the Committee member. This justification shall be included in the Selection Committee Coordinator's report to the County Mayor or County Mayor's designee. Upon review of the such score and the justification, the County

Mayor or County Mayor's designee may accept or reject that selection Committee member's score and a report of such decision shall be provided to the Board of County Commissioners for solicitations requiring approval of the Board.

SCORING OF SELECTION COMMITTEES FOR PURCHASE OF PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, AND LAND SURVEYING AND MAPPING SERVICES:

For selection committees procuring "Professional Services" as defined in Section 2-10.4 of the Code of Miami-Dade County, the highest and lowest final score for each firm in the first evaluation tier shall be discarded and not used to compute the final total score of such firm.

SELECTION COMMITTEE CONSIDERATION OF REPORTS AND FINDINGS OF THE MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL OR MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST:

The County Mayor or County Mayor's Designee shall provide to the Committee all reports and findings of the Miami-Dade Office of the Inspector General ("OIG") or the Miami-Dade County Commission on Ethics and Public Trust ("COE") >>which find substantiated allegations or adverse findings, conclusions, or recommendations<< regarding any vendor or proposed subcontractor under consideration by the Committee >>within seven years of the submittal date of the proposals being evaluated<< (collectively, "Reports") for consideration in accordance with the evaluation of each applicable criteria identified in the solicitation. In the event the OIG or COE issues a Report after the Committee has scored and ranked the vendors the County Mayor or County Mayor's designee may re-empanel the Committee to consider if such Report would change the previous rankings of the vendors. If the Committee determines that the Report would change the previous rankings of the vendor identified in the Report, then the Committee shall re-score the vendor identified in the Report solely based on the impact the information identified in the Report would have on the scoring of the vendor in accordance with the applicable criteria identified in the solicitation, re-rank the vendors, and submit a written justification for the revised rankings to the County Mayor or County Mayor's designee. Upon review of the such re-ranking and the justification, the County Mayor or County Mayor's designee may accept or reject the new rankings and a report of such decision shall be provided to the Board of County Commissioners for solicitations requiring approval of the Board. The County Mayor shall, in any recommendation to the Board of County Commissioners, either attach all reports and findings issued by the OIG or the COE and considered by the selection committee or provide a description of such reports and findings and a link to where such reports and findings may be viewed.

EFFECTIVE DATE:

This Implementing Order shall become effective after approval by the Board of County Commissioners[~~], and shall apply prospectively to selection committees appointed after the effective date]].~~