

MEMORANDUM

Substitute
Agenda Item No. 5(E)

TO:	Honorable Chairman Anthony Rodriguez and Members, Board of County Commissioners	DATE:	September 1, 2026
FROM:	Geri Bonzon-Keenan County Attorney	SUBJECT:	Ordinance relating to county procurement; implementing, in whole or in part, multiple recommendations from the final report of the Special Task Force to reduce inefficiencies in procurement relating to bid protests; amending section 2-8.4 of the Code relating to protest procedures; amending Implementing Order 3-21; directing the County Mayor to create, maintain, and update a centralized, automated online portal for use in the protest process in coordination with the Clerk of the Board; requiring a report

This substitute differs from the original item in that it (i) removes the implementation of STRIP Recommendations 51 and 53, which directed to the County Mayor or Mayor's designee to create, maintain, and update a centralized, automated online portal for filing bid protests in coordination with the Clerk of the Board and implement strict electronic filing deadlines, (ii) raises the threshold for informal bid protests from \$25,000 to \$250,000 to implement STRIP Recommendation 52 and (iii) includes non-substantive clarifications and corrections. The attached implementing order is also revised to be consistent with the changes in this substitute.

Rule 5.06(i) of the Board's Rules of Procedure provides that where double underlining and double strike-through would not clearly show the differences between an original item and the substitute, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and the substitute is provided in lieu of double underlining and double strike-through for this item.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Anthony Rodriguez.


Geri Bonzon-Keenan
County Attorney

GBK/gh

MDC001

Date: September 1, 2026

To: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact and Social Equity Statement for Ordinance Relating to Recommendations from the Final Report of the Special Task Force to Reduce Inefficiencies in Procurement – Legistar No. 261345 (Substitute)

The proposed ordinance amends Section 2-8.4 of the Code of Miami-Dade County and updates Implementing Order 3-21, based on recommendations by the Special Task Force to Reduce Inefficiencies in Procurement in its Final Report to the Board issued on May 19, 2026. Of the fifty-nine (59) recommendations, this item specifically implements or supports Recommendations 31, 49, 50, and 52, including but not limited to establishing a five-day objection period after the first step in a two-step qualification-based competitive solicitation; permitting motions to dismiss in protest proceedings; and raising the upper limit for a protest to be considered informal to \$5 million.

Fiscal Impact Statement

The exact fiscal impact of this ordinance cannot be quantified at this time. The possible fiscal impacts are as follows:

- Recommendations 49, 50, and 52 may have a positive fiscal impact because they would generally streamline the protest process, such as simplifying the protest process for awards under the Mayor's delegated authority (52).¹
- Recommendation 31 adds an additional step to the procurement process for certain solicitations.²

Social Equity Statement

The possible social equity benefits or burdens of the ordinance are as follows:

- The implementation of Recommendation 52 could provide a social equity benefit by simplifying the protest process for awards under the Mayor's delegated authority.
- Recommendations 49 and 50 could result in a social burden to businesses who may be discouraged from filing protests due to possibly being liable for County and the other party's attorney fees (49) or the possibility that a hearing may be dismissed without being heard (50).
- Recommendation 31 could provide a social equity benefit as it will provide notice to vendors regarding the Step 1 process results.

The Administration looks forward to our continued collaboration with the Chairman of the Board in making the procurement process more efficient while maintaining equity and transparency.

A handwritten signature in blue ink that reads "Carladenise Edwards".

Carladenise Edwards
Chief Administrative Officer

¹ Recommendation 49 (relating to the recovery of attorney's fees in frivolous bid protest proceedings) is implemented in Section 1 of the ordinance (Page MDC006). Recommendation 50 (recommending the use of motions to dismiss in bid protest

Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners
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proceedings) is implemented in Section 1 and 2 of the ordinance (Page MDC006, MDC008). Recommendation 52 (recommending the raising of the threshold for an informal protest up to \$5,000,000) is in Section 2 (Page MDC008).

² Recommendation 31 (relating to the addition of a 5-day objection period after the first step in a two-step qualification-based competitive procurement) is implemented in Section 1 and 2 of the ordinance (Page MDC006, MDC008).



MEMORANDUM

(Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: September 1, 2026

FROM: 
Glen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(E)

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
- ☐ Requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, majority plus one ____, CDMP 7 votes (majority of membership) ____, CDMP 2/3 members present but not less than 7 votes (majority of membership) ____, CDMP 9 votes (2/3 membership) ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 5(E)
9-1-26

ORDINANCE NO. _____

ORDINANCE RELATING TO COUNTY PROCUREMENT; IMPLEMENTING, IN WHOLE OR IN PART, MULTIPLE RECOMMENDATIONS FROM THE FINAL REPORT OF THE SPECIAL TASK FORCE TO REDUCE INEFFICIENCIES IN PROCUREMENT RELATING TO BID PROTESTS; AMENDING SECTION 2-8.4 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA RELATING TO PROTEST PROCEDURES; AMENDING IMPLEMENTING ORDER 3-21; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO CREATE, MAINTAIN, AND UPDATE A CENTRALIZED, AUTOMATED ONLINE PORTAL FOR USE IN THE PROTEST PROCESS IN COORDINATION WITH THE CLERK OF THE BOARD; REQUIRING A REPORT; PROVIDING SEVERABILITY, INCLUSION IN AND EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, pursuant to Resolution No. R-441-25, the Board of County Commissioners (the "Board") established the Special Task Force to Reduce Inefficiencies in Procurement ("Task Force") to review existing laws, codes, procedures, and administrative practices governing Miami-Dade County's procurement process and to recommend changes that would improve efficiency, transparency, accountability, and fairness; and

WHEREAS, in carrying out its mandate, the Task Force examined each phase of the County's procurement lifecycle, from pre-procurement planning through contract performance, to identify opportunities to streamline procurement processes while ensuring that each discussion addressed the subject matters identified in Resolution No. R-441-25, including procurements for goods and services, architectural and engineering professional services, construction contracting, public-private partnerships, leases and development agreements, and concession agreements; and

WHEREAS, throughout its review, the Task Force worked closely with the Strategic Procurement Department, procurement professionals, and subject matter experts, and also conducted a workshop to obtain feedback from members of the County's small business community regarding opportunities to improve the procurement process; and

WHEREAS, on September 5, 2025, the Task Force adopted an Interim Report containing preliminary recommendations, and on April 23, 2026, approved 59 final recommendations designed to reduce procurement timelines, increase transparency, enhance fairness, support small business participation, and streamline procurement procedures across County government; and

WHEREAS, the Task Force has transmitted its Final Report to this Board, thereby fulfilling the mandate established by Resolution No. R-441-25; and

WHEREAS, among the recommendations contained in the Task Force's Final Report are recommendation 31, relating to the addition of a five-day objection period after the first step in a two-step qualification-based competitive procurement; recommendation 49, relating to the recovery of attorney's fees in frivolous bid protest proceedings; recommendation 50, recommending the use of motions to dismiss in bid protest proceedings; recommendation 51, recommending the creation of a centralized, automated online portal for use in the protest process; recommendation 52, recommending the raising of the threshold for an informal protest up to \$5,000,000.00; and recommendation 53, relating to the implementation of strict electronic filing deadlines in the bid protest process; and

WHEREAS, specifically, recommendation 31 of the Task Force's Final Report recommends that during two-step qualification-based competitive procurements, to ensure that any local preference issues are addressed promptly during the procurement process, a five-day objection period similar to what is currently provided under Section 2-8.4 of the Code of Miami-

Dade County (the “Code”) be implemented after the first step in the procurement process, whereby any question, issue, objection or disagreement concerning, generated by, or arising from the rankings, scoring or recommendations of a selection committee in a competitive procurement process shall be deemed waived by the protestor and shall be rejected as a basis of a bid protest unless it was brought by that proposer to the attention of the procurement agent or contracting officer in writing with a copy to the Clerk of the Board and in compliance with the Cone of Silence provisions in Section 2-11.1 of the Code, within five working days of the date the proposers have received the Selection Committee Coordinator report for the first step; and

WHEREAS, recommendation 49 of the Task Force’s Final Report recommends that, in a bid protest proceeding, if a hearing examiner finds that a protest is frivolous, the recovery of attorney’s fees may be permitted; and

WHEREAS, recommendation 50 of the Task Force’s Final Report recommends that the protest procedures be amended to allow motions to dismiss in bid protest proceedings to avoid spending resources on hearings regarding issues that can be dismissed as a matter of law; and

WHEREAS, the implementation of recommendations 31, 49, and 50 require amendments to Section 2-8.4 of the Code and Implementing Order (“IO”) 3-21, titled Bid Protest Procedures; and

WHEREAS, recommendation 52 of the Task Force’s Final Report recommends that the County raise the formal protest threshold from \$250,000.00 to \$5,000,000.00 to align with the Mayor’s current delegated authority for the award and rejection of competitive contracts and raise the informal protest threshold from \$25,000.00 to \$250,000.00; and

WHEREAS, the implementation of recommendation 52 will also require amending IO 3-21; and

WHEREAS, the Task Force determined that implementation of these recommendations will streamline the protest process, improve transparency and accountability during the protest process, and preserve the integrity of competitive procurements; and

WHEREAS, this Board desires to implement the Task Force recommendations as set forth in this legislation,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Pursuant to Recommendations (“Rec.”) Nos. 31, 49, as modified herein, and 50 of the Task Force, Section 2-8.4 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-8.4. – Protest procedures.

* * *

Any question, issue, objection or disagreement concerning, generated by, or arising from the rankings, scoring or recommendations of a selection committee in a competitive procurement process shall be deemed waived by the protestor and shall be rejected as a basis of a bid protest unless it was brought by that proposer to the attention of the procurement agent or contracting officer identified in the competitive solicitation responsible for administering the procurement process, in writing with a copy to the Clerk of Board and in compliance with the Cone of Silence provisions in Section 2-11.1 of this Code, within five (5) working days of the date the proposers have received the Selection Committee Coordinator report referred to in Implementing Order 3-34.

>>Additionally, during two-step qualification-based procurements, any question, issue, objection or disagreement concerning, generated by, or arising from the rankings, scoring or recommendations of a selection committee within the first step of the procurement process shall be deemed waived by the protestor and shall be rejected as a basis of a bid protest unless it was brought by that proposer to the

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.

attention of the procurement agent or contracting officer identified in the competitive solicitation responsible for administering the procurement process, in writing with a copy to the Clerk of the Board and in compliance with the Cone of Silence provisions in Section 2-11.1 of this Code, within five (5) working days of the date the proposers have received either the Selection Committee Coordinator report referred to in Implementing Order 3-34 for the first step or a notification of shortlisted proposers.

Such written objections<<[[~~The written objection~~]] shall state with particularity the basis of the objection and with sufficient information to allow the County's procurement professionals to promptly consider, evaluate and address the issues raised in the objection in a manner that does not delay completion of the procurement process.

* * *

- (c) Protests filed in accordance herewith shall be referred to a hearing examiner. A hearing examiner shall be appointed not later than five (5) working days following the filing of a bid protest. >>Within five (5) working days following the appointment of the hearing examiner, the County may move for dismissal of a protest when there is no genuine dispute as to any material fact and the County is entitled to a decision in its favor as a matter of law. The hearing examiner must issue a written decision on such motion within five (5) working days of receiving the County's filing. If granted, such dismissal shall be final and binding on all parties. If the County's motion to dismiss is denied, the hearing examiner shall conduct a hearing in connection with the bid protest within ten (10) working days of the denial of the motion to dismiss. If the County does not move for dismissal of the protest, the<< [[~~The~~]] hearing examiner shall conduct a hearing in connection with the bid protest which shall be completed within >>fifteen (15)<< [[~~ten (10)~~]] working days following his or her appointment. The hearing examiner shall, within five (5) working days of the hearing, file written findings and recommendations with the Clerk of the Board and shall submit or mail a copy of same to all participants in the competitive process and to the County Attorney. The hearing examiner may extend the deadline for completion of the hearing upon written petition for good cause shown, but such extension shall not exceed an additional five (5) working days. The hearing examiner shall consider the written protest and supporting documents and evidence appended thereto, the County Mayor's recommendation, and supporting documentation, and all evidence presented at the hearing. The hearing examiner may also require written summaries, proffers, affidavits and other documents the hearing examiner determines to be necessary in order to conclude the hearing and issue the report and recommendation within the time limits set forth in this ordinance. The hearing examiner shall be entitled to rely on evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs, whether or not such evidence would be admissible in a trial in the courts of Florida. The

Hearing Examiner shall determine, for each protest, whether the legal or factual grounds for the protest are frivolous; in making such determination, the Hearing Examiner shall consider whether or not the protest was supported by material facts necessary to establish the claim, or if the claim was supported by the application of then-existing law to those material facts. >>For procurements valued at over twenty-five million dollars (\$25,000,000), if the hearing examiner determines that the legal or factual grounds for the protest are frivolous, the hearing examiner shall award attorney's fees to the County and/or any party defending the County Mayor's award in the protest if the County or the defending party filed a notice of intent to seek attorney's fees for a frivolous protest within five (5) working days of the protest being filed and the protestor did not withdraw the protest prior to the commencement of the hearing.<<

* * *

Section 2. Pursuant to Rec. Nos. 31, 49, 50, and 52 of the Task Force, this Board approves the revisions to Implementing Order ("IO") 3-21, titled "Bid Protest Procedures," in substantially the form attached hereto as Exhibit A. This section and IO 3-21 may be amended by resolution of the Board.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance contained in section 1 shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. It is the intention of the Board, and it is hereby ordained, that section 2 of this ordinance shall be excluded from the Code of Miami-Dade County, Florida.

Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Jose I. Ortega
Sophia Guzzo
Eduardo W. Gonzalez


SMA

Prime Sponsor: Chairman Anthony Rodriguez

Implementing Order



Implementing Order No.: 3-21

Title: Bid Protest Procedures

Ordered: [[6/26/25]]>>insert date<< **Effective:** [[7/6/25]]>>insert date<<

AUTHORITY:

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter and Section 2-8.4 of the Code of Miami-Dade County.

SUPERSEDES:

This Implementing Order supersedes previous Implementing Order No. 3-21, ordered [[June 16, 2025]]>>insert date<< and effective [[July 6, 2025]]>>insert date<<.

POLICY:

It is the policy of Miami-Dade County (the "County") to provide a participant in any competitive process the opportunity to protest an award recommendation with respect to County contracts and purchases involving the expenditure of over >>\$250,000<<[[\$25,000]].

SCOPE:

This Implementing Order ("IO") establishes the requirements and procedures governing a bid protest brought by a participant in any competitive process utilized for selection of a person or other entity to construct any public improvement, to provide any supplies, materials or services (including professional or management services other than professional services whose acquisition procedure is governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes), or to lease any County property. This IO covers those professional services selections funded by the Federal Transit Administration.

Under this Implementing Order, a "formal" bid protest is a bid protest with respect to the recommended award of a County contract or purchase involving the expenditure of over [[\$250,000]]>>\$5,000,000<<. An "informal" bid protest is a bid protest with respect to the recommended award of a County contract or purchase involving the expenditure of over >>\$250,000<<[[\$25,000]] up to and including [[\$250,000]]>>\$5,000,000<<.

The Bid Protest Procedure set forth in this Implementing Order does not apply to any procurements conducted by the Strategic Procurement Department exclusively on behalf of the constitutional offices of Clerk of the Court and Comptroller, Property Appraiser, Sheriff, Supervisor of Elections, and Tax Collector pursuant to an interlocal agreement. For such procurements, the bid protest procedures, if any, shall be established by the respective constitutional office.

SECTION I

GENERAL PROVISIONS

A participant in any competitive process wishing to file a “formal” or “informal” bid protest within the scope of this Implementing Order shall file the protest in accordance with the procedures and requirements described herein.

No provision of this Implementing Order shall preclude the Director of the Strategic Procurement Department or successor department, the Director of the issuing department, or the County Mayor from changing his or her recommendation. In cases of either “formal” or “informal” protests, if the award recommendation is changed in favor of the protester not later than five (5) working days following the filing of the bid protest, the filing fee shall be refunded to the protester.

BID PROTEST FEE

As a condition of initiating any bid protest within the scope of this Implementing Order, the protester shall present to the Clerk of the Board a nonrefundable filing fee (the “Filing Fee”), payable to the Clerk of the Board in accordance with the schedule provided below.

For formal bid protests, a separate Administrative Fee shall be collected in the amount of fifty percent (50%) of the applicable Filing Fee reflecting the costs of the County’s participation in the process, including legal fees and costs; this fee shall be retained by the County in the event the hearing examiner determines the protest is frivolous as provided under Section 2-8.4 of the Code of Miami-Dade County, or shall otherwise be refundable to the protester at the conclusion of the process. There shall be no administrative fee for the County’s participation in the process for informal bid protests, as defined in this Implementing Order.

Contract Award Amount	Filing Fee*	Administrative Fee*
[[\$25,001-\$250,000	\$ 500	n/a]]
\$250,001-\$500,000	\$1,000	[[\$ 500]] >> n/a <<
\$500,001-\$5 million	\$3,000	[[\$1,500]] >> n/a <<
Over \$5 million	\$5,000	\$2,500

*The Filing Fee and Administrative Fee for a certified Small Business Enterprise (“SBE”) firm shall be fifty percent (50%) of the fees above, for such contracts set-aside for bidding solely by SBEs. To be entitled to the reduced Filing Fee, the SBE must be certified with the Office of Small Business Development or successor division or department, at the time of filing of the bid protest.

Filing Fees, or any other monies received as payment of protest costs, shall be deposited in a special account administered by the Clerk of the Board and shall be used by the Clerk solely for the purpose of defraying the cost of the hearing examiner and the Clerk’s costs of administering the bid protest program. If, at any given time, there are insufficient funds

available in said special account to pay protest costs the requesting department shall be responsible for reimbursement of any shortage to the Clerk of the Board. In the event that there is more than one requesting department, the department with the largest allocation shall bear the cost of any shortage. For formal bid protests (valued at greater than ~~[[\$250,000]]~~>>\$5,000,000<<), the requesting department, or the department with the largest allocation, shall bear the cost of the court reporter and any transcript of the bid protest hearing.

Notwithstanding the foregoing, Filing Fees shall not be required for projects when such Filing Fee requirement may jeopardize federal and/or state funding.

PROCEDURE

All bid protests shall be filed with the Clerk of the Board within the applicable time periods established in this Implementing Order. Protests must be submitted to the Clerk of the Board during the operating hours of 8:00 AM through 4:30 PM, Mondays through Fridays, except for any observed holidays.

All bid protests shall be submitted in writing to the Clerk of the Board and shall state with particularity the specific facts and grounds on which they are based, include all pertinent documents and evidence and be accompanied by the corresponding filing fee. This shall form the basis for review of the protest and no other facts, grounds, documentation or evidence not contained in the protester's submission to the Clerk of the Board at the time of filing the protest shall be permitted in the consideration of the protest, except for such additional evidence as is allowed during the course of the protest proceedings.

Failure to file the written protest within the required time limits established in this Implementing Order shall constitute a waiver of the right to protest the award recommendation.

Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for a bid protest, unless it was brought by that bidder or proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person listed in the solicitation from the County department that issued the solicitation document, at least two (2) working days (not less than 48 hours) prior to the hour of bid opening or proposal submission. This allows the issuing department the opportunity to consider, and to resolve or clarify in a timely fashion, through the issuance of an addendum, any such matter that is apparent on the face of the solicitation document, including but not limited to ambiguities or inconsistencies within the document.

Any question, issue, objection or disagreement concerning, generated by, or arising from the rankings, scoring or recommendations of a selection committee in a competitive procurement process shall be deemed waived by the protestor and shall be rejected as a basis of a bid protest, unless it was brought by that proposer to the attention of the procurement agent or contracting officer identified in the competitive solicitation responsible for administering the procurement process, in writing with a copy to the Clerk of Board and in compliance with the

Cone of Silence provisions in section 2-11.1 of the Code, within five (5) working days of the date the proposers have received the Selection Committee Coordinator report referred to in Implementing Order 3-34. >>Additionally, for two-step qualification-based competitive procurements, any question, issue, objection or disagreement concerning, generated by, or arising from the rankings, scoring or recommendations of a selection committee within the first step of the procurement process shall be deemed waived by the protestor and shall be rejected as a basis of a bid protest unless it was brought by that proposer to the attention of the procurement agent or contracting officer identified in the competitive solicitation responsible for administering the procurement process, in writing with a copy to the Clerk of Board and in compliance with the Cone of Silence provisions in Section 2-11.1 of this Code, within five (5) working days of the date the proposers have received either the Selection Committee Coordinator report referred to in Implementing Order 3-34 for the first step or a notification of shortlisted proposers. Such written objections<< ~~[[The written objection]]~~ shall state with particularity the basis of the objection and with sufficient information to allow the County's procurement professionals to consider, evaluate and address the issues raised in the objection promptly in a manner that does not delay the completion of the procurement process.

The foregoing notwithstanding, a bid protest may not challenge the relative weight of the evaluation criteria or the formula specified for assigning points therefore contained in the solicitation document.

All references to "working days" herein exclude Saturdays, Sundays and legal holidays. If the last day of the filing period is a Saturday, Sunday or legal holiday, the period shall run through the end of the next working day. As used in this rule, "legal holiday" shall mean those days designated by Miami-Dade County as such. No time will be added to the above time limits for mail service.

Upon receipt of any properly filed bid protest under this Implementing Order, the Clerk of the Board shall promptly distribute a brief written notice of the protest to the following individuals: the Director of the issuing department, each member of the Board of County Commissioners (the "Commission"), the County Mayor, and the Director of the Strategic Procurement Department or successor department.

The County's solicitation documents for contracts or purchases involving the expenditure of over >>\$250,000<< ~~[[\$25,000]]~~ shall contain provisions advising bidders and proposers of their rights and responsibilities established under Section 2-8.4 of the Code of Miami-Dade County and this Implementing Order concerning the presentation and administration of bid protests.

SECTION II

"FORMAL" BID PROTESTS: CONTRACTS AND PURCHASES INVOLVING THE EXPENDITURE OF OVER ~~[[\$250,000]]~~ >> \$5,000,000 <<

FILING OF PROTESTS

For the recommended award of a contract or purchase involving the expenditure of over ~~[[\$250,000]]~~ > \$5,000,000 <, an award recommendation letter shall be dated and transmitted by the issuing department to each competing bidder or proposer announcing the proposed award, and a copy thereof shall be deposited with the Clerk of the Board on the same day it is transmitted.

A written intent to protest an award recommendation under this section shall be filed by a protester with the Clerk of the Board and mailed to each bidder or proposer in the competitive process and to the County Attorney within three (3) working days of the filing of the award recommendation with the Clerk of the Board. This three (3) day period is determined by counting working days from the day after the award recommendation is filed with the Clerk of the Board. The written intent to protest shall state with particularity the specific facts and grounds on which the protest is based and be accompanied by the corresponding filing fee.

Within three (3) working days of the filing of the written intent to protest, the protester shall file the bid protest, including pertinent documents and supporting evidence with the Clerk of the Board and send copies to each bidder or proposer in the competitive process and to the County Attorney. Furthermore, if the protester makes a public record request within the three (3) working day period in which to file an intent to protest, the protester may use the information obtained from this records request to support the bid protest so long as the protester has complied with bid protest procedure deadlines established herein and the protester has made a supplementary bid protest filing with the Clerk of the Board within forty-eight (48) hours of receiving the items requested by the public records request.

The intent to protest, bid protest, and any timely filed supplement shall form the basis for review of the protest and no other facts, grounds, documentation or evidence not contained in the protester's submission(s) to the Clerk of the Board shall be permitted in the consideration of the protest, except for such additional rebuttal evidence as is allowed during the course of the protest proceedings.

Protests filed in accordance herewith shall be referred to a hearing examiner. A hearing examiner shall be appointed by the Clerk of the Board no later than five (5) working days following the filing of a bid protest. > Within five (5) working days following the appointment of the hearing examiner, the County may move for dismissal of a protest for failure of a protester to comply with the rules set forth herein or in the Code. The County may also move for dismissal of a protest where there is no genuine dispute as to any material fact and the County is entitled to a decision in its favor as a matter of law. The hearing examiner must issue a written decision on such motion within five (5) working days of receiving the County's filing. If granted, such dismissal shall be final and binding on all parties. If the County does not move for dismissal of the protest or the hearing examiner denies the County's motion, the ~~< [[The]]~~ hearing examiner shall conduct a hearing in connection with the bid protest, which shall be completed within ~~[[ten (10)]]~~ > fifteen (15) < working days following his or her appointment. The hearing examiner may extend the deadline for completion of the hearing upon the written petition for good cause shown, but in no event shall the total, cumulative time extension exceed five (5) working days for completion of the hearing, regardless of the number of requests or requests from multiple parties. The hearing examiner shall within five (5) working days of the

hearing, file written findings and recommendations with the Clerk of the Board and shall submit or mail a copy of same to all participants in the competitive process and to the County Attorney.

The hearing examiner shall consider the written protest and supporting documents and evidence appended thereto, the County Mayor's or issuing department Director's recommendation, and supporting documentation, and all evidence presented at the hearing. The hearing examiner may also require written summaries, proffers, affidavits, and other documents the hearing examiner determines to be necessary to conclude the hearing and shall issue the report and recommendation within the strict time limits set forth herein. No grounds will be considered from the protester that were not contained in the protester's written submission to the Clerk of the Board at the time of filing the intent to bid protest. The hearing examiner shall be entitled to rely on evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs, whether such evidence would be admissible in a trial in the courts of Florida. The hearing examiner shall determine, for each protest, whether the legal or factual grounds for the protest are frivolous; in making such determination, the hearing examiner shall consider whether or not the protest was supported by material facts necessary to establish the claim, or if the claim was supported by the application of then-existing law to those material facts as provided under Section 2-8.4 of the Code of Miami-Dade County. >>For procurements valued at over twenty-five million dollars (\$25,000,000), if the hearing examiner determines that the factual or legal grounds for the protest are frivolous, the hearing examiner shall award attorney's fees to the County and/or any party defending the County Mayor's award in the protest if the County or the defending party filed a notice of intent to seek attorney's fees for a frivolous protest within five (5) working days of the protest being filed and the protestor did not withdraw the protest prior to the commencement of the hearing.<<

The hearing examiner shall allow a maximum of two (2) hours for the protester's presentation of its protest and a maximum of two (2) hours for the County's response to each protest. In the event of multiple protesters, the hearing examiner shall allocate the time as necessary to ensure that the hearing shall not exceed one day.

The Clerk of the Board is responsible for appointing a hearing examiner within the stipulated timeframe and advising the hearing examiner of his or her responsibilities established under Section 2-8.4 of the Code of Miami-Dade County and this Implementing Order. Upon making the appointment, the Clerk shall furnish the hearing examiner a copy of all submissions filed by the protester as well as a copy of the County Mayor's or issuing department Director's award recommendation memorandum and award recommendation letter. The Clerk is responsible for monitoring the timely advancement and completion of the bid protest process and shall issue payment to the hearing examiner upon the hearing examiner's submission of his or her completed report and recommendation.

The Clerk of the Board, in coordination with the hearing examiner, is responsible for obtaining an adequate facility for the conduct and completion of the bid protest hearing within the stipulated time period.

The hearing examiner is responsible for performing in accordance with the provisions of Section 2-8.4 of the Code of Miami-Dade County and this Implementing Order and completing the bid protest hearing and preparing and submitting his or her report and recommendation within the stipulated time periods.

The hearing examiner shall be paid a fee of \$200.00 per hour and in no event to exceed \$2,500.00 per completed hearing.

In the event the hearing examiner fails to abide by the time limitations set forth in Section 2-8.4 of the Code of Miami-Dade County and this Implementing Order, that is, does not submit his or her completed report and recommendation to the Clerk of the Board within ~~[[fifteen (15)]]~~ >>twenty (20)<< working days of his or her appointment, or ~~[[twenty (20)]]~~ >>twenty-five (25)<< working days in the event five (5) additional working days are allowed by the hearing examiner for completion of the bid protest hearing, a reduction in the hearing examiner's fee shall be assessed by the Clerk of the Board at a rate of \$100 per working day late. In no event, however, shall the hearing examiner's fee be less than \$1,300.00 per completed hearing.

The Clerk of the Board shall render payment of the hearing examiner's fee within ten (10) working days of the Clerk's receipt of the completed report and recommendation, and an itemized hourly invoice, from the hearing examiner.

Prior to the Board of County Commissioners or any committee thereof hearing any protest relating to a competitive contract award recommendation, the County Mayor shall request the County Attorney to certify whether the bid or proposal in question is responsive. Upon receiving such request, the County Attorney shall, in consultation with the County Mayor, if necessary, determine whether the bid or proposal is responsive. The Board of County Commissioners and any committee thereof shall be bound by the determination of the County Attorney with regard to the issue of responsiveness.

~~[[When a formal protest involves the expenditure of an amount that exceeds the County Mayor's delegated authority to award under Section 2-8.1(b) of the Code, as set forth in Section 2-8.4 of the Code of Miami-Dade County, the following shall apply:]]~~ The hearing examiner's findings and recommendation shall be presented to the Commission by the County Mayor together with the recommendation of the County Mayor. Notice shall be mailed by the issuing department to all participants in the competitive process at least five (5) days in advance of such presentation. If the hearing examiner concurs in the County Mayor's recommendation, the Commission shall not allow presentations by any participants in the competitive process or their representatives at the time the matter is presented to the Commission. A two-thirds (2/3) vote of the Commission members present shall be required to take other than the recommended action. Provided, however, that a two-thirds (2/3) vote shall not be required to reject all bids. If the hearing examiner does not concur in the County Mayor's recommendation, the participants in the competitive process and their representatives may make presentations to the Commission and the Commission shall decide the matter by majority vote.

~~[[When a formal protest involves the expenditure of over \$250,000 up to the County Mayor's delegated authority to award under Section 2-8.1(b) of the Code, the following shall apply: If~~

~~the hearing examiner concurs in the award recommendation of the issuing department, the department shall be bound thereby and shall implement such recommendation within five (5) working days. If the hearing examiner does not concur in the award recommendation, the Director of the Strategic Procurement Department or successor department or of the issuing department shall either accept the hearing examiner's recommendation and implement such recommendation within five (5) working days, or shall submit a written recommendation to the County Mayor within five (5) working days with supporting findings and reasons that the County Mayor should approve the department's recommendation despite the recommendation of the hearing examiner in which event the County Mayor shall, within five (5) working days, choose either the department's or the hearing examiner's recommendation, provide written findings therefore and instruct the department director to implement said recommendation accordingly.]]~~

SECTION III

"INFORMAL" BID PROTESTS: CONTRACTS AND PURCHASES INVOLVING THE EXPENDITURE OF OVER >>\$250,000<< [[~~\$25,000~~]] UP TO [[~~\$250,000~~]] >>\$5,000,000<<

POSTING AWARD RECOMMENDATIONS

Award recommendations for contracts and purchases involving the expenditure of over >>\$250,000<< [[~~\$25,000~~]] up to [[~~\$250,000~~]] >>\$5,000,000<< shall be posted on the Strategic Procurement Department or successor department website.

A written intent to protest an award recommendation under this section must be filed by a protester with the Clerk of the Board and sent to each bidder or proposer in the competitive process and to the County Attorney within three (3) working days of the posting of the award recommendation. This three (3) day period is determined by counting working days from the day after the award recommendation is posted. The written intent to protest shall state with particularity the specific facts and grounds on which the protest is based and be accompanied by the appropriate Filing Fee.

Within three (3) working days of the filing of the written intent to protest, the protester shall file the bid protest, including pertinent documents and supporting evidence with the Clerk of the Board and mail copies to each bidder or proposer in the competitive process and to the County Attorney. Further, if the protester makes a public record request within the three (3) working day period in which to file an intent to protest, the protester may use the information obtained from this record request to support the protest so long as the protester has complied with bid protest procedure deadlines established herein or the protester has made a supplementary filing with the Clerk of the Board within forty-eight (48) hours of receiving the items requested by the public records request.

The Clerk of the Board shall immediately forward to the Director of the issuing department the intent to protest, the protest, any supplementary bid protest, and any other material presented by the protester.

Contracts for which an informal protest is not received within the three (3) working day period referenced above shall be awarded in accordance with the department's recommendation.

For bid protests under this section, the Department Director or designee shall, after reviewing the written recommendation for award and the written protest, and after consultation with the County Attorney, issue a report stating the department's recommendation and a summary of the factual and contractual grounds for such decision. The department Director's findings shall be forwarded to the County Mayor, or County Mayor's designee, for the County Mayor's final determination and disposition of the protest.

When an informal protest is filed, the department shall provide an opportunity to settle the protest by mutual agreement. This should take place within five (5) working days of the filing of the protest. Failing resolution of the protest within said time period, the department Director or designee shall issue a report and recommendation to the County Mayor not later than twenty (20) working days from the filing of the protest.

SECTION IV

CONTRACTS AND PURCHASES INVOLVING EXPENDITURES OF >>\$250,000<< ~~[\$25,000]~~ OR LESS

- (a) Award recommendations for contracts and purchases involving the expenditure of >>\$250,000<< ~~[\$25,000]~~ or less are considered final and may not be protested.
- (b) Bid Award Recommendation of >>\$250,000<< ~~[\$25,000]~~ or less >>~~for~~<< Transit-related contracts using federal funds, in whole or in part, only (Miami-Dade Department of Transportation and Public Works (DTPW), or successor department).

For those protests described in Section IV(b), bidders may submit a written protest to the DTPW Director, or its successor department, at 701 NW 1st Court, Suite 1700, Miami, FL 33136, for any contract with a value of >>\$250,000<< ~~[\$25,000]~~ or less, with a copy to the Clerk of the Board, within five (5) working days of the recommendation for award. No Filing Fee is required. The protest letter sent to the DTPW Director must indicate that a copy has been sent to the Clerk of the Board. The decision by the DTPW Director shall be final.

SECTION V

ARCHITECTURAL/ENGINEERING CONSULTANT SELECTIONS (DTPW, OR SUCCESSOR DEPARTMENT, ONLY)

For all Architectural/Engineering Consultant Selections funded in whole or in part by federal funds or where it has been determined by the DTPW Director that federal funding requirements apply, any proposer may submit a written protest to the County Mayor, 111 N.W. 1st Street, 29th Floor, Miami, Florida 33128, with a copy to the Clerk of the Board, within five working days of the County Mayor's filing of an authorization to negotiate. The decision of the County Mayor shall be final and conclusive on these matters.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

County Mayor

Approved by the County Attorney as
to form and legal sufficiency