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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

MEMORANDUM

TO:	Honorable Chairman Oliver G. Gilbert, III and Members, Board of County Commissioners	DATE:	Agenda Item No. 7(A) (Second Reading: 5-2-23) March 7, 2023
FROM:	Geri Bonzon-Keenan County Attorney	SUBJECT:	Ordinance relating to bid protest procedures; amending section 2- 8.4 of the Code; requiring that proposers protesting selection committee scoring, rankings or recommendations submit written objections to County procurement professionals within a certain time period after receiving the Selection Committee Coordinator Report or waive such objections as a basis of protest

Ordinance No. 23-27

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator René García and Co-Sponsor Commissioner Kevin Marino Cabrera.



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



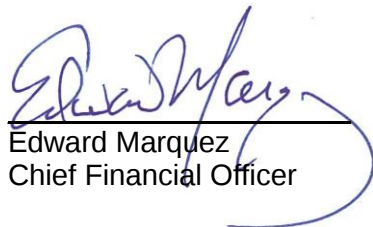
Date: May 2, 2023

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

From: Daniella Levine Cava
Mayor 

Subject: Fiscal Impact Statement for Ordinance Relating to Written Objections to County Procurement Certain Time Period

The implementation of this Ordinance will not have a fiscal impact to Miami-Dade County.


Edward Marquez
Chief Financial Officer

Memorandum



Date: May 2, 2023

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

From: Daniella Levine Cava
Mayor

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

Subject: Social Equity Statement for Ordinance Relating to Bid Protests

The proposed ordinance amends the bid protest procedures in Section 2-8.4 of the Code of Miami-Dade County to require, as a condition to filing a protest proceeding based on a Competitive Selection Committee's scoring, rankings, or recommendations, that proposers submit written objections to the Selection Committee Coordinator's report within five working days of the proposers receiving the report.

This ordinance will provide a social benefit by strengthening the integrity of procurements utilizing selection committees. Additionally, it will improve confidence in the procurement process by providing for a specific objection period to allow any issues to be addressed expeditiously. This should further minimize correspondence that may be directed to the Board during the procurement process, which can lead to prolonged delays in contract awards.

A handwritten signature in blue ink that reads "Edward Marquez".

Edward Marquez
Chief Financial Officer



MEMORANDUM

(Revised)

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

DATE: May 2, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(A)

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. 7(A)
5-2-23

ORDINANCE NO. 23-27

ORDINANCE RELATING TO BID PROTEST PROCEDURES;
AMENDING SECTION 2-8.4 OF THE CODE OF MIAMI-DADE
COUNTY, FLORIDA; REQUIRING THAT PROPOSERS
PROTESTING SELECTION COMMITTEE SCORING,
RANKINGS OR RECOMMENDATIONS SUBMIT WRITTEN
OBJECTIONS TO COUNTY PROCUREMENT
PROFESSIONALS WITHIN A CERTAIN TIME PERIOD AFTER
RECEIVING THE SELECTION COMMITTEE COORDINATOR
REPORT OR WAIVE SUCH OBJECTIONS AS A BASIS OF
PROTEST; PROVIDING SEVERABILITY, INCLUSION IN THE
CODE, AND AN EFFECTIVE DATE

WHEREAS, pursuant to section 2-8.4 of the Code of Miami-Dade County, Florida (the
“Code”), participants in a competitive process for the award of County contracts may initiate
proceedings to protest the County Mayor’s award recommendation; and

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

WHEREAS, this Board is committed to optimizing Miami-Dade County’s procurement
processes to ensure, among other things, the timely and efficient award of contracts; and

WHEREAS, with respect to County procurements that utilize selection committees,
section 2-11.1(t)(5) of the Code sets forth certain timing and reporting requirements that the
County Mayor or County Mayor’s designee must comply with once a selection committee makes
a recommendation; and

WHEREAS, specifically, section 2-11.1(t)(5) mandates that within thirty days of a recommendation from a selection committee, the County Mayor or County Mayor's designee shall either appoint a negotiation committee or take other affirmative action with respect to the solicitation, including, but not limited to, rejection of proposals or recommendation for award; and

WHEREAS, section 2-11.1(t)(5) of the Code also provides that the County Mayor or County Mayor's designee shall present the Clerk of the Board with a recommendation for award, or a recommendation to reject proposals, within ninety days from the date a selection committee makes a recommendation; and

WHEREAS, this Board is concerned with the length of time it has taken to complete several County procurements utilizing selection committees; and

WHEREAS, accordingly, this Board adopted Resolution No. R-57-22 directing the County Mayor or County Mayor's designee to (1) prepare a report to the Board analyzing the amount of time County procurements that utilize selection committees take from the opening of proposals to placement of an award recommendation on a Board agenda; (2) identify reasons why some procurements fail to comply with the timelines in section 2-11.1(t)(5) of the Code; and (3) provide recommendations on how to improve the timeliness of procurements utilizing selection committees; and

WHEREAS, on July 7, 2022, the County Mayor presented her report to the Board pursuant to Resolution No. R-57-22; and

WHEREAS, the County Mayor's report recommended implementing a five-day period for participants in a competitive process to submit their objections to a selection committee's rankings to allow the County's professional staff to promptly address any objections and thereby reduce the delay in processing competitive contract awards; and

WHEREAS, Miami-Dade County Implementing Order 3-34 (“IO 3-34”), which relates to the formation and performance of competitive selection committees, currently provides for the preparation of a selection committee coordinator report disclosing a selection committee’s scoring, rankings and recommendations that is subject to Mayoral approval; and

WHEREAS, the filing of a bid protest attacking a selection committee’s scoring, rankings or recommendations will also delay the County’s competitive award process; and

WHEREAS, this Board desires to implement procedures so that the County’s procurement professionals can evaluate and consider objections to selection committee scoring, ranking or recommendations as efficiently as possible so as to not delay the award process and, if possible, limit unnecessary and prolonged protest proceedings; and

WHEREAS, specifically, this Board wishes to adopt the Mayor’s recommendation of a five-day objection period and amend the protest procedures in section 2-8.4 of the Code to require, as a condition to filing a protest proceeding based on a selection committee’s scoring, rankings or recommendations, that proposers submit written objections to the County’s procurement professionals within a certain time period after receiving the Selection Committee Coordinator Report referred to in IO 3-34,

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

Section 1. Section 2-8.4 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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.

Sec. 2-8.4. - Protest procedures.

This section shall govern any protest made 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 Consultant's Competitive Negotiation Act, F.S. Section 287.055 et seq.), or to lease any county property.

The foregoing notwithstanding the protest procedures contained in this section shall not apply to contracts and purchases which the County Mayor has the delegated authority to award under Section 2-8.1(b) of this Code, and protests thereon shall be governed by procedures established by implementing order approved by the Board of County Commissioners.

A protest hereunder may not challenge the relative weight of the evaluation criteria or the formula specified for assigning points therefor contained in bid, request for proposals ("RFP") or request for qualifications ("RFQ") specifications which have been approved by the Commission. A protest hereunder may not challenge any recommendation to reject all proposals received for a solicitation.

>>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. 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.<<

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Section 2. 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 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, 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 4. 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:

May 2, 2023

Approved by County Attorney as
to form and legal sufficiency:




Prepared by:

Eduardo W. Gonzalez
Keoki M. Baron

Prime Sponsor: Senator René García
Co-Sponsor: Commissioner Kevin Marino Cabrera