Implementing Order

Implementing Order No.: 3-21

Title: Bid Protest Procedures

Ordered: 6/26/25 **Effective:** 7/6/25

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 and effective July 6, 2025.

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 $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. 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 $25,000 up to and including $250,000.

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**
$500,001-$5 million	**$3,000**	**$1,500**
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), 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. 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 $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

FILING OF PROTESTS

For the recommended award of a contract or purchase involving the expenditure of over $250,000, 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. The hearing examiner shall conduct a hearing in connection with the bid protest, which shall be completed within ten (10) 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.

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) working days of his or her appointment, or twenty (20) 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 $25,000 UP TO $250,000

POSTING AWARD RECOMMENDATIONS

Award recommendations for contracts and purchases involving the expenditure of over $25,000 up to $250,000 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 $25,000 OR LESS

(a) Award recommendations for contracts and purchases involving the expenditure of $25,000 or less are considered final and may not be protested.

(b) Bid Award Recommendation of $25,000 or less 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 $25,000.00 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