

## Implementing Order



### Implementing Order No.: 3-39

**Title:** Standard process for construction of capital improvements, acquisition of professional services, construction contracting, change orders and reporting

**Ordered:** 5/7/2024

**Effective:** 5/17/2024

#### **AUTHORITY:**

The Miami-Dade County Home Rule Amendment and Charter including, without limitation, among others, Sections 1.01 and 2.02 and Sections 255.20 and 287.055 of the Florida Statutes; Sections 2-8.1, 2-8.5, 2-8.2.7, and 2-10.4 of the Code of Miami-Dade County (Code); Resolution Nos. R-754-97, R-1403-97, and R-1404-97; and Ordinance No. 24-47. References to legislations will be deemed to include amendments to the legislations once adopted and effective, as applicable. All legislations and Administrative/Implementing Orders cited are deemed as being incorporated by reference in this Implementing Order. Any references to the County Manager in past legislations will mean, for the purposes of this Implementing Order, the Mayor, and his/her designee(s).

#### **SUPERSEDES:**

This Implementing Order (IO) supersedes Administrative Order (AO) No. 3-39, Standard Process for Construction of Capital Improvements, Acquisition of Professional Services, Construction Contracting, Change Orders and Reporting, ordered June 17, 2003, and effective June 23, 2003.

#### **SCOPE:**

This IO establishes the standard procedures for an orderly administrative process for the implementation, classification, tracking, acquisition, monitoring, and reporting of professional architectural, engineering, landscape architecture, and land surveying and mapping services, including design-build and general construction services either through the Miscellaneous Construction Contracts (MCC) or other alternative project delivery methods.

This IO shall be applicable to Miami-Dade County project solicitations seeking the acquisition of Professional Services and general construction services as described above, which are governed by the Consultants' Competitive Negotiation Act, Section 287.055 of the Florida Statutes ("the CCNA"), Local bids and contracts for public construction works", etc., Section 255.20 of the Florida Statutes, and Section 2-10.4 of the Code.

This IO does not apply when valid public emergencies have been formally declared pursuant to applicable laws and regulations.

#### **DELEGATION OF AUTHORITY; RESPONSIBILITIES OF THE STRATEGIC PROCUREMENT DEPARTMENT (SPD):**

With respect to Covered Services, the County Mayor hereby delegates to the SPD Director the authority and responsibility to:

1. Provide advice regarding different project delivery methods and make recommendations to the client department on contracting strategies.
2. Prepare the solicitation documents for acquisition with input from the client department and advertise each solicitation.
3. Schedule, advertise, record, coordinate and conduct the selection and negotiation committee meetings for the acquisition of Covered Services including, without limitation, Professional Services included in the CCNA.
4. Indicate, in applicable solicitation(s), any participation restrictions specific to the solicitation, and/or subsequent acquisition of Covered Services
5. Identify in the advertisement any restrictions, exclusions, and/or exemptions from consultant participation in the potential forthcoming services. Include clarification in the advertisement of who may or may not participate in the specific solicitation as a result of specific requirements, previous contractual engagements, conflict of interests, or competitive advantage.
6. Request and receive any additional/supplemental information from Proposers after submittal deadline.
7. Ensure compliance with this IO.
8. Issue waivers to the extent that the Mayor is allowed to issue waivers and subject to the Mayor's limitations in issuing waivers. Any waivers will be in conformity with applicable AOs and/or IOs. Waivers exceeding the Mayor's authority will be presented to the Board of County Commissioners (BCC) for their approval.

**POLICY:**

This IO shall govern all phases of the Miami-Dade County administrative process, through SPD, for the acquisition of Covered Services, unless otherwise provided. To the extent of the Mayor's authority, the County Mayor or Mayor's designee may grant written exemptions from the application of the IO where the County Mayor or Mayor's designee determines that it is in the best interest of the County. Waivers exceeding the Mayor's authority will be presented to the BCC for their approval.

**DEFINITIONS:**

This IO hereby incorporates by reference all definitions included in the CCNA, Section 287.055, Florida Statutes, in addition to the following:

**Advancing Firms** means proposers selected by the Competitive Selection Committee to advance to the next phase of the evaluation process.

**Affiliates** means two (2) or more related parties, business concerns, organizations, corporations, limited liability companies, professional associations, partnerships, other business entities, or individual relationships in which, directly or indirectly, (i) either one party controls or has the power to control the other, or (ii) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, the bidder or Proposer, the principals, corporate officers, and managers of a bidder or Proposer, or the spouse, domestic partner, parents, stepparents, siblings, children or step children of a bidder or Proposer or the principals, corporate officers, partners, and managers thereof, which have a direct or indirect ownership interest in another bidder or Proposer, shared facilities and equipment and common use of employees, or a business entity organized by a debarred entity, individual, or Affiliate(s) following the debarment of a Contractor that has the same or similar management, ownership, or

principal employees as the Contractor that was debarred or suspended, as defined in Section 10-38 of the Code, “Debarment of contractors from County work”.

**Affirmative Action Plan (AAP)** means a plan which sets forth the procedures the entity utilizes to demonstrate its track record in regard to equitable employment, promotion, and procurement practices.

**Alternative Technical Concept (ATC)** means a request by a shortlisted Design-Builder to have the County grant an exception to the Project’s advertised specifications for inclusion in a final submittal.

**Amendment** means a written supplemental agreement executed by the County and the vendor, covering Modifications to a Professional Services Agreement.

**Average Dollar Value (ADV)** means the calculation of the average of the total of the dollars awarded and paid by the County, for Professional Services, to the prime Firm and all sub-Consultants serving as prime firms in previous engagements, during the three-year period immediately preceding the submittal date.

**BCC** means the Miami-Dade County Board of County Commissioners.

**Best Value** means a process of selection in which the final selection criteria primarily includes qualitative subjective considerations in addition to price and not solely a low bid price.

**Capital Construction Project or Capital Project** means a grouping of activities from planning through construction uniquely identifying a constructed or modified fixed asset involving the construction trades.

**Change Order** means a written amendment executed by the County, the vendor, and the vendor’s Surety (if required by the Contract, required insurance certificate if required by the Contract, or the applicable bond), covering modifications to the Contract.

**Client Department** means the County department requesting the procurement of Covered Services.

**Code of Miami-Dade County, Florida (Code)** means the systematic and comprehensive compilation of Miami-Dade County laws, rules, and/or regulations that is consolidated and classified according to subject matter. References to the County Code are references to the codified ordinances of Miami-Dade County published online by Municode.

**Consultants’ Competitive Negotiation Act (CCNA)** means Section 287.055 of the Florida Statutes, as amended. The County may apply any state approved Professional Services solicitation methodology that complies with this Statute. The County may employ any solicitation or pricing methodologies used in the CCNA or used by the State of Florida or any of its agencies, departments, or instrumentalities.

**Competitive Selection Committee (CSC)** means the committee appointed by the County Mayor or Mayor’s designee to evaluate qualifications and performance of the firms requesting consideration for the specific project and to rank the firms in order of preference, as defined in Section 2-10.4(5) of the Code.

**Construction Manager-at-Risk (CM-at-Risk)** means a procurement method which allows for a firm, following a competitive selection process, to establish a maximum price, known as the Guaranteed Maximum Price (“GMP”), act as the general contractor, bid work to trade contractors, and work cooperatively through the design, bid, and construction phases within the GMP and schedule.

**Consultant** means an Architect or Engineer, or their authorized representatives identified in the Notice-to-Proceed letter including, but not be limited to, the resident Architect/Engineer, the Construction Manager, and the Architect/Engineer of Record.

**Continuing Contract** means a Contract for Professional Services entered into in accordance with all the procedures of the CCNA and Section 2-10.4(1)(f) of the Code.

**Contract** means an executed agreement between an entity and Miami-Dade County. This term is synonymous with Professional Services Agreement (PSA), Design-Build Contract, or Construction Contract, as applicable.

**Contractor** means the individual, Firm, partnership, limited liability company, or corporation, or combination thereof, private, municipal, or public, including joint ventures, duly licensed under Florida Statutes, which, as an independent Contractor, has entered into a Contract with Miami-Dade County, who is referred to throughout the Contract Documents by singular in number and masculine in gender.

**County Mayor or Mayor’s Designee** means the chief executive officer responsible for the day-to-day operations of County government, or his/her designee.

**County Regulations** means a County ordinance, resolution, administrative order, implementing order, or specification.

**Covered Services** means professional architectural, engineering, landscape architecture, and land surveying and mapping services, including design-build, general construction services, the Equitable Distribution Program (EDP), and other forms of alternative Project delivery methods, all as defined in the CCNA.

**Debar or Debarment** means action taken to exclude a consultant or contractor, its individual officers, and its shareholders with significant interests, its qualifying agent and/or its affiliated businesses from County contracts, whether as a prime consultant or sub consultant as provided in Section 10.38 of the Code.

**Design-Build Contract** means a single contract with a design-build firm for the design and construction of a public construction project , as defined in the CCNA.

**Design-Build Firm (a/k/a Design-Builder)** has the meaning provided in the CCNA.

**Design Criteria Package** has the meaning provided in the CCNA.

**Design Criteria Professional** has the meaning provided in the CCNA.

**Equitable Distribution Program (EDP)** means a program administered by ISD, or successor department, that streamlines the solicitation process for Continuing Contracts, by distributing Professional Services to eligible firms on a defined basis. EDP Projects must have construction

costs and study activities within the thresholds established in the CCNA for Continuing Contracts.

**EDP Firms** represent a group of Architectural and Engineering (A&E) professional firms that hold a County Pre-Qualification Certificate and are approved by the County to participate in the Equitable Distribution Program.

**Expedite Process** means contracts, change orders, and amendment/modifications processed utilizing the authority stated in Sections 2.8.2.5 through 2.8.2.8 of the Code. Contract documents not eligible for processing under the expedited procedure shall be submitted through the normal process in accordance with Section 2.8.3 of the Code.

**Firm** has the meaning provided in the CCNA.

**First-Tier/Step 1** means the evaluation of responsive Proposers pursuant to the applicable criteria as specified in the Notice to Professional Consultants (NTPC) or Request for Design-Build Services (RDBS).

**Internal Services Department (ISD)**, or successor department, means the department of Miami-Dade County who is charged with the administration of facility management, design and construction management, fleet management, risk management, surplus property disposition services, and capital inventory management. Additionally, ISD is engaged in real estate development and management, Americans with Disabilities Act compliance, elevator regulation, and parking services.

**Local Certified Veteran Business Enterprise** means the program established under Section 2-8.5.1 of the Code and Section 295.187, Florida Statutes, the "Florida Veteran Business Enterprise Opportunity Act."

**Locally Headquartered Business (LHB)** has the meaning provided in Section 2-8.5 of the Code.

**Local Preference** means the preference given under Sections 2-8.5 and 2-10.4 of the Code.

**Miscellaneous Construction Contract (MCC)** has the meaning provided in IO 3-53.

**Modification** means a written amendment or supplemental agreement executed by the County, the Professional Firm and the Firm's Surety (if required by the agreement or the applicable bond), covering modifications to the agreement.

**Notice to Professional Consultants (NTPC)** means a document soliciting professional services under the CCNA which includes but is not limited to a description of the scope of services, Technical Certification requirements, selection criteria and methodology, Review Committee contract measures established for the subject project, data sheets or forms to be completed and submitted as part of the proposal, and submission deadline date.

**Ordinal Score** means the score after the individual CSC members' total Qualitative Points, for each respondent, is converted in numerical order. For each CSC member, the highest Qualitative Points shall be equivalent to the lowest ordinal score.

**Past Performance Evaluation (PPE)** means an evaluation prepared by project managers of the performance of a Firm during or upon conclusion of a Project.

**Pre-Qualification Certification (PQC)** means the County's certification process that may include, but not be limited to, Technical Certification, affirmative action plan verification, and vendor registration.

**Prime Consultant** means a Firm that enters into a PSA with the County to render Professional Services under a solicitation.

**Professional Services** has the meaning provided in the CCNA.

**Professional Services Agreement (PSA)** means a Contract to provide services within the scope of the practice of architecture, engineering, landscape architecture, land surveying and mapping, as defined by the CCNA and performed by an architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

**Progressive Design-Build Contract** has the meaning provided in Section 337.025(2), Florida Statutes, as amended.

**Project** has the meaning provided in the CCNA.

**Proposer** means the person, Firm, entity, or organization submitting a response to a solicitation. This term is synonymous with "Respondent," "Prime Consultant," or "Design-Builder."

**Qualitative Points** means the point values assigned by CSC members for each selection criterion.

**Request for Design-Build Services (RDBS)** means a solicitation for acquisition of design-build services. The RDBS may include, but is not limited to, a description of the scope of services, Technical Certification requirements, selection criteria and methodology, Design Criteria Package, forms to be completed and submitted as part of the proposal, and submission deadline date.

**Responsibility** has the meaning established in IO 2-13.

**Responsiveness** has the meaning established in IO 2-13.

**Request to Advertise (RTA)** means a document prepared by a department to authorize and initiate the advertisement of a solicitation to contract for Covered Services as applicable.

**Rotational Value (RV)** means a Firm's position in the EDP Pool. The Firm's position in the ranking is based on their Technical Certification categories and the RV. The RV is established by a Firm's three-year award and payment history.

**Second-Tier/Step 2** means the evaluation of short-listed Proposers pursuant to the applicable criteria as specified in the NTPC or RDBS.

**Small Business Development, Office of (SBD)**, or successor department, is the department of Miami-Dade County charged with managing small business programs and services.

**Small Business Enterprise Goods Program (SBE-G&S)** means a small business certification designation used for the purchase of goods as defined in Section 2-8.1.1.1 .2 of the Code.

**Small Business Enterprise Services Program (SBE-G&S)** means a small business certification designation used for the purchase of services as defined in Section 2-8.1.1.1.1 of the Code.

**Small Business Enterprise Architecture & Engineering Program (SBE-A&E)** means a small business certification designation used for the purchase of certain professional architectural, landscape architectural, engineering, or survey and mapping services, as defined in Section 2-10.4.01 of the Code.

**Small Business Enterprise Construction Services Program (SBE-CON)** means a small business certification designation for construction related enterprise as defined in Section 10-33.02 of the Code.

**Strategic Procurement Department (SPD)**, or successor department, means the department of Miami-Dade County charged with the administration of the processes and programs covered in this IO unless otherwise expressly specified.

**Sub-Consultant** means an A&E Firm, which as a Team member, has input and responsibility for certain aspects of a Project, and who provides Professional Services under the discretion of a Prime Consultant/Contractor. Term is not synonymous with Sub-contractor.

**Sub-contractor** means a non-A&E Firm, which provides non-A&E services under the discretion of a Prime Consultant/Contractor. Term is not synonymous with Sub-consultant.

**Team** means all Firms identified in the Proposer's submittal to provide services specified in the solicitation.

**Technical Certification (TC)** means a comprehensive review by the County Technical Certification Committee affirming a firm's eligibility to provide professional services to the County in various Technical Certification categories.

**Technical Certification Committee** means the committee appointed by the County Mayor or Mayor's designee, pursuant to Section 2-10.4(5) of the Code, to review the statements of qualifications submitted by Firms to ascertain whether a Firm is fully qualified to render the required Professional Services to the County.

## **SECTION I - CAPITAL IMPROVEMENTS PROJECT TRACKING AND REPORTING REQUIREMENTS**

### **A. Initial Planning and Scheduling**

All capital construction projects are subject to BCC prioritization and budget approval. The planning and scheduling functions are important to the success of a project and shall be an element of the initial phase of project development. Upon approval of a capital construction project by the BCC, the client department shall provide SBD with all relevant project data including, but not limited to, the following:

1. Capital Budget assigned project number
2. Departmental project tracking number(s)

3. Project description
4. Project location
5. Commission district(s)
6. Needs assessment document
7. Funding source including time and use constraints when applicable
8. Initial project schedule including, but not limited to:
  - a. Planned completion of design criteria documents
  - b. Planned land acquisition if applicable
  - c. Planned start of the Architectural and Engineering design
  - d. Planned start of construction
  - e. Planned completion of project

**B. Design Criteria**

To the greatest extent possible, capital construction projects require that a design criteria document be prepared prior to the actual design creation. Larger or more complex projects may require a Design Criteria Professional service agreement to prepare these documents. The completion of the design criteria document is the first milestone in the capital construction process. For a miscellaneous design project, the design criteria package may be as simple as stating the applicable standards while for a building construction project it may include, but is not limited to, the following:

1. Function of the project
2. Design capacity requirements both short-term and long-term
3. Project constraints including, where applicable:
  - a. Funding
  - b. Time schedules
  - c. Footprint or proposed site plan
  - d. Land availability
  - e. Existing structures



- f. Location of existing utilities, utility easements, or similar restrictions
- g. Ongoing operations impact
- h. Permitting and zoning issues
- i. Traffic planning
- j. Demographics
- k. Architectural style
- l. Landscaping
- m. Interagency/intergovernmental coordination of ongoing/future/planned projects.

If a professional service agreement is used for the acquisition of architectural and engineering services, the design criteria document should be part of the solicitation package. If it is anticipated that a professional service agreement will be utilized for the design effort, then prior to the anticipated advertisement the department should have completed the scope of services and design criteria package. Exceptions to advertising without a completed design criteria package must be authorized by the Mayor or Mayor's designee prior to placement of the advertisement. The scope of services and technical classifications for the project should be submitted to SBD for the establishment of Small Business Enterprise goals.

**C. Land Acquisition**

The appropriate Administrative and/or Implementing Orders, the Code, and Florida Statutes shall govern land acquisition.

**D. Architectural and Engineering Design**

Upon completion and review of the design criteria document, the client department shall enter the design phase of the project. Project progress reporting shall include, but is not limited to:

1. Planned commencement of design effort or notice to proceed to consultant
2. Planned thirty percent (30%) completion (50% for utility design)
3. Planned dry run plans review submission or seventy percent (70%) completion
4. Planned completion of construction specification documents
5. Planned start of construction groundbreaking
6. Planned completion of project

## **E. Construction**

Approximately thirty (30) calendar days prior to the anticipated advertisement date, the client department should have completed the construction specifications package. The client department should create and submit the project data sheet with appropriate trade recommendations to SBD to establish SBE-CON goals. Also, the client department shall initiate the Request to Advertise obtaining required signatures and budgetary approvals. Information to be included on the Request to Advertise and Award Recommendation documents is provided in Section III – Capital Construction Contracting Policy. The Request to Advertise Project Memorandum shall include, but is not limited to, the following:

1. Pre-bid Meeting Date if applicable
2. Bid opening date
3. Planned Bid Award date
4. Planned pre-construction meeting
5. Planned Notice to proceed
6. Planned groundbreaking
7. Planned completion date

All capital improvement projects are subject to BCC prioritization and budget approval. The planning and scheduling functions are key to the success of a project and shall be an element of the initial phase of project development. Upon approval of a capital project by the BCC, the client department shall enter into the County's available database all relevant project data.

## **SECTION II – ACQUISITION OF PROFESSIONAL SERVICES**

### **POLICY:**

It is the policy of the County to have a fair and equitable selection and distribution process for the solicitation and award of Contracts for Covered Services. The procurement process will be performed depending on the type of Covered Services as follows:

### **A. Request to Advertise (RTA) for Covered Services**

#### **1. Provisions**

Professional Services requests that are below the threshold for Continuing Contracts as established by the CCNA shall be procured through a Continuing Contract, or through the EDP, without an RTA. SPD may identify other opportunities for Continuing Contract services to address the needs of the client department that are in the County's best interest. When Professional Services are required in excess of the CCNA thresholds for Continuing Contracts, and for all Contracts which the County solicits outside of the EDP, the client departments shall:

- a. Develop a draft RTA based on the project and associated sites, pursuant to the County's Capital Budget and Multi-Year Plan, or the funding authority and approval allocated for the project;
- b. Pursuant to Section 2-10.4 of the Code, submit project's relevant data for SBD's consideration to establish project measures or set aside as deemed appropriate, and make any appropriate recommendation for the process of selection, including any for the use of a one tier method of selection, upon application of the standards set forth below;
- c. Upon certification from the Office of Management and Budget (OMB) that funding is available, and establishment of project goals by SBD, the client department shall prepare a complete package, along with a detailed scope of work and design criteria document and submit to SPD for review. Scope of services and design criteria may differ significantly based on the nature and complexity of the desired professional service agreement;
- d. Finalize the RTA and forward it to OMB to certify funding availability;
- e. Forward it to the County Attorney's Office (CAO) to review for legal sufficiency;
- f. Approval by the County Mayor or Mayor's designee shall constitute concurrent approval of the measures established by SBD. Upon receipt of approval, SPD shall forward a copy to the client department and the Architectural and Engineering (A&E) Unit may proceed with the advertisement.

## **2. Solicitation for Covered Services**

SPD shall review and approve the RTA for the scope of work, criteria, and pertinent information to be incorporated in the solicitation document(s) for public advertisement. While SPD shall generally adhere to the criteria for selection set forth in this IO, the SPD Director or the Director's designee shall be entitled to make the final determination, in the exercise of his/her professional discretion, of what selection criteria shall be utilized in the solicitation to address the needs of the project in the best interests of the County.

The client department may recommend preferred project experience and qualifications as part of the solicitation evaluation criteria. To increase competition, any preferred criteria or pre-requisites recommended by client departments will be evaluated by SPD on a project-by-project basis. All project/staff experience pre-requisites are to be indicated as "preferred" instead of "required" in the solicitation document.

SPD shall prepare the public announcement for publication in a newspaper(s) of general circulation. The public announcement shall contain information on obtaining the solicitation document, inclusive of the scope of services for the project, and the procedures to be followed by any Firm wishing to be considered.

The Cone of Silence, as defined in Section 2-11.1 of the Code, commences after the advertisement of the solicitation document.

## **3. Pre-qualification Certifications (PQC)**

All Firms providing Professional Services are required to be prequalified and technically certified by the County. Proposers shall have an active PQC status at the time of negotiation and at Contract award recommendation. Technical Certification is required for Firms providing Professional Services at the time of proposal submittal deadline, evaluation, negotiation, and if selected, at the time of Contract award, and throughout the effective term of the Contract. If at the commencement of these phases, a Proposer and its Sub-consultants do not have the required Technical Certification, the proposal will be deemed non-compliant with the solicitation requirements and will not advance to the next step of the process. Should there be a lapse on the Technical Certification status in between the procurement phases, SPD will make the effort to have the Proposer cure the lapse prior to the next procurement phase, if the project timeline is not impacted. Client departments are responsible for verifying PQC/TC compliance at the time of Contract award and throughout the effective term of the Contract.

A Competitive Selection Committee (CSC) shall be appointed by the County Mayor or Mayor's designee, pursuant to IO 3-34.

In a Two-Tier selection process, if a member of the CSC is no longer serving on the CSC at the time of the Second-Tier Selection, the remaining CSC members will continue with the process until the CSC concludes their deliberations and makes their recommendation.

The selection process shall adhere to the CCNA and Section 2-10.4 of the Code in accordance with the guidelines established in this IO. By application of the criteria and processes set forth in this IO, the County intends to short list and select in the order of preference, not fewer than three (3) responsive and responsible proposals. If the County receives fewer than three (3) proposals, or fewer than three (3) proposals are determined to be responsive and responsible to perform the required services, the County may conduct an analysis of market availability for the specific subject services and, in its sole discretion, may proceed with the proposal(s) received which are responsive and responsible.

Any requested changes to the proposed Team composition after the response deadline, including replacement of firm(s) or assigned personnel listed in the proposal, will only be considered (1) before the completion of Negotiations; and (2) solely in the case of unforeseen circumstances (e.g., a change in employment status outside the employer's control or a change in the organizational structure of any Team member).

Any such change to the proposed team submitted by the Proposer is subject to County approval, in its sole discretion, which may include a review by the client department and SPD as to all matters concerning the requested change, including the time elapsed between the qualifying event and the submittal of the request, comparability of experience and qualifications and possession of required technical certifications (as applicable), and consultation with the CAO.

## **B. Notice to Professional Consultants (NTPC) Solicitation**

### **1. Provisions**

SPD shall be responsible for the County's procurement of A&E Services with the coordination of the client departments. A&E Services solicitations shall comply with the

CCNA. The following is applicable to the A&E Services process:

All Consultant selections shall proceed to Second-Tier evaluation unless the following circumstances are applicable: (1) the solicitation is for work to be assigned through individual work orders for engineering Contracts with a value of less than \$5 million, or the solicitation is for work to be assigned through individual work orders for architecture Contracts with a value of less than \$2 million, as specified in the solicitation document; or (2) the CSC waives the Second-Tier by a majority vote when the solicitation allows a Two-Tier selection process. Under these two above referenced circumstances, the Consultant selection shall be based on the results of the First-Tier evaluation only.

The NTPC may include limitations as to page count, font size, spacing and other format requirements relating to the proposal. The following are some, but not all, of the provisions which may typically be included in the NTPC:

- a. Except where restricted by federal, state laws, or external regulations, respondents must submit as either a Prime Consultant or Sub-consultant. Failure to comply with this provision may deem the proposers non-responsible.
- b. Limit on the number of Teams that Consultants may participate in when responding to a solicitation as a Sub-consultant for the purpose of mitigating potential Organizational Conflicts of Interest. Any such limitation shall be determined by the SPD Director or the Director's designee and included in the solicitation document.
- c. If at any time the County has reason to believe that any person or Firm has provided incorrect information or made false statements in a proposal, or oral presentation before a selection committee, or if the misrepresentation is confirmed following a Contract award, the County Mayor or Mayor's designee shall refer the matter to the Office of the Inspector General and/or other investigative agencies. This includes misrepresentation of information regarding dollars awarded and paid on all County Contracts. In addition to pursuing any other legal remedies, the County Mayor or Mayor's designee may, in his/her sole discretion, find the proposer non-responsible, and eliminate the Firm from consideration or if the misrepresentation is confirmed following Contract award, may terminate the Contract. Furthermore, the County Mayor or Mayor's designee may initiate Suspension and/or Debarment proceedings in accordance with the Code.
- d. An accounting of all County awarded dollars allocated and paid for Professional Services, records, and performance evaluation history that will be used in the evaluation of proposals shall be maintained by the County.

## **2. Evaluation**

The Architectural and Engineering Professional Services solicitations typically involve a Two-Tier selection process as specified in the criteria included in the solicitation document. The First-Tier is the Evaluation of Experience and Qualifications, and the Second-Tier is the Oral Presentations.

As more particularly set forth below, the evaluation in both tiers involves the CSC's evaluation and application of points based on the CSC's qualitative evaluation of the

proposals, and the concurrent application by SPD staff of certain points based on eligibility and/or established formulas.

a. **First-Tier Selection: (Maximum 110 points)**

The CSC shall assign points based on the selection criteria set forth in 1A, 2A, 3A, and 4A below which totals 90 points. SPD staff shall assign an additional 20 points based on the selection criteria set forth in 5A, 6A, 7A, and 8A as applicable to the project.

**Criterion 1A: QUALIFICATIONS OF THE TEAM MEMBERS ASSIGNED TO THE PROJECT** (Maximum of 40 points)

Evaluation of the qualifications of the individuals and experience level of the professional and management staff to be assigned to the project, quality and availability of the project manager and staff of the Firm to be assigned, if any, including any preferred qualifications as specified in the NTPC. The qualifications shall also include, but not be limited to, familiarity with County Regulations and sustainability design principles as set forth in the solicitation documents.

**Criterion 2A: PAST EXPERIENCE ON SIMILAR PROJECTS** (Maximum of 30 points)

Evaluation of the Firm's past experience, professional role, and knowledge of similar projects, including any preferred experience as specified in the NTPC; and the Firm's understanding of the scope of work which may include, but not be limited to, studies performed that may affect the specific project being evaluated, key design elements, approach to the project, understanding and awareness of the regulatory, permitting, and compliance requirements involved with the project, health and safety programs, and number of LEED accredited completed projects, as applicable.

**Criterion 3A: PAST PERFORMANCE OF THE FIRMS** (Maximum of 15 points)

Evaluation of the Firm's past performance, overall interrelationship with proposed Team members, responsiveness, experience in scheduling projects, and timely submittal of deliverables on past projects will be considered, including performance on any non-County projects. CSC members are required to review the available Past Performance Evaluation reports in the County's database as of the submittal due date.

**Criterion 4A: FIRM'S PROJECT STAFFING AVAILABILITY, AND ABILITY TO MEET TIME AND BUDGET** (Maximum of 5 points)

Evaluation of the Firm's staffing levels assigned to the project, including the Firm's ability to replace key personnel if so needed, their experience in scheduling projects, systems utilized to keep track of the project schedule, cost controls, familiarity with County guidelines and regulations, as well as tools and methods employed to avoid cost overruns, change orders, and project delays.

**Criterion 5A: AMOUNT OF WORK AWARDED AND PAID BY THE COUNTY**

(Maximum of 5 points)

SPD will use this criterion to distribute work equitably and consider amounts awarded and paid by the County for Professional Services. The formula used to determine a Team's awarded and paid amounts (Average Dollar Value or "ADV") is the sum of 50% of the dollars awarded for Professional Services to the prime Firm and all Sub-consultants by the County when they served as a Prime Consultant in previous engagements, during the three-year period immediately preceding the submittal date; plus 50% of the dollars paid for Professional Services to the prime Firm and all Sub-consultants by the County when they served as a Prime Consultant in previous engagements, during the three-year period immediately preceding the submittal date. The highest amount awarded and paid by the County to any Firm responding to the NTPC shall be the Maximum ADV. The point total awarded for Criterion 5A is determined as a percentage ratio of each Team's ADV to the Team whose ADV is the highest ("Maximum ADV").

The Team with the Maximum ADV shall receive one (1) point. The other Team shall receive points as follows:

100% to >80% of Maximum ADV	1 point
80% to >60% of Maximum ADV	2 points
60% to >40% of Maximum ADV	3 points
40% to >20% of Maximum ADV	4 points
20% to >0% of Maximum ADV	5 points

ADV calculations shall be based on the current information available within the County's database(s) and shall be performed by County staff in advance of the First-Tier meeting, but not communicated to the CSC until scoring is completed and submitted by the CSC to SPD staff for processing.

**Criterion 6A: USE OF LOCALLY HEADQUARTERED BUSINESSES** (Maximum of 5 points)

SPD staff shall assign points to all eligible Teams based on the percentage of Contract work assigned to Locally Headquartered Businesses (LHB) as specified in this Section in furtherance of Sections 2-8.5 and 2-10.4 of the Code. Points will only be awarded to A&E firms assigned work associated with TC category(ies) required by the NTPC.

LHB will be included, if it is an applicable criterion, in the solicitation document.

If the Prime is not an LHB, then the following points will be assigned based on the percentage of work sub-contracted to the LHB Sub-consultants as set forth below:

Percentage (%) of work assigned for LHB Sub-consultants	Points
< 5%	0
5% to < 15%	1
15% to < 25%	2

25% to < 35%	3
35% to < 45%	4
45% and over	5

In the event a Locally Headquartered Business is the Prime, and such Firm commits to perform a minimum of 50% of the value of the work of the Contract with its own forces, the Firm shall be entitled to three (3) points on account of the Firm's own status as an LHB. Such Firm shall be entitled to an additional two (2) points based on subcontracting, as provided for all firms in the schedule below:

Percentage (%) of work assigned for LHB Sub-consultants	Points
< 5%	0
5% to <15%	1
15% and over	2

The LHB preference shall be implemented and enforced in accordance with the enforcement provisions set forth in the applicable enforcement implementing order.

**The funding source for the project may affect applicability of Criterion 6A. A funding source may require disregarding this Criterion.**

**Criterion 7A: LOCAL PREFERENCE (5 points)**

SPD staff shall assign five (5) points to all Teams eligible for Local Preference, per Sections 2-8.5 and 2-10.4 of the Code. The County will assign the points upon review of the submitted qualifying information meeting this requirement as specified in the NTPC.

**The funding source for the project may affect applicability of Criterion 7A. A funding source may require disregarding this Criterion.**

**Criterion 8A: LOCAL CERTIFIED VETERAN BUSINESS ENTERPRISE PREFERENCE (5 points)**

SPD staff shall assign five (5) points to all Teams eligible for Local Certified Veteran Business Enterprise preference, per Section 2-8.5 of the Code. The County will assign the points upon review of the submitted qualifying information meeting this requirement as specified in the NTPC

**The funding source for the project may affect applicability of Criterion 8A. A funding source may require disregarding this Criterion.**

Points awarded for Criteria 5A through 8A will be calculated by County staff in advance of the meeting and will be shared upon completion of scoring by the CSC.



**b. Second-Tier Selection (Maximum 110 points).**

Note: The CSC may decide, in their sole discretion, not to hold Second-Tier Selection in which case the recommendation will be based on First-Tier Selection.

The Second-Tier meeting provides the opportunity for shortlisted firms identified at the First-Tier selection to present additional information during an oral presentation based on the criteria set forth below. A question-and-answer period may also be involved. Furthermore, the CSC may request supplemental written information prior to or in lieu of oral presentations.

The CSC shall assign points based on the selection criteria 1B, 2B, and 3B which total 95 points. SPD staff shall assign an additional 15 points based on the selection criteria 4B, 5B, and 6B as applicable to the project.

The oral presentation schedule will be based on the reverse order of the First-Tier's final ranking of the Firms.

**Criterion 1B: QUALIFICATIONS OF PROFESSIONAL PERSONNEL AND TEAM MEMBERS ASSIGNED TO THE PROJECT (Maximum of 40 points)**

Evaluation of the qualifications and experience level of the professional personnel and Team members assigned to the project. The qualifications may include past experience with similar type projects and familiarity with County Regulations.

**Criterion 2B: KNOWLEDGE OF PROJECT SCOPE AND PROJECT APPROACH (Maximum of 40 points)**

Evaluation of the respondent's understanding of the proposed scope of work, which may include, but not be limited to, studies performed that affect this project, key design elements (a design scheme may be required), effects on the community involved, and awareness of the permitting requirements including health and safety measures applicable to the project's scope. Respondents approach to the project, sustainable design principles as set forth in the solicitation document, and implementation of LEED requirements, as applicable.

**Criterion 3B: PROPOSER'S PROJECT MANAGEMENT METHODOLOGY (Maximum of 15 points)**

Staffing levels assigned to the project, their experience in scheduling projects, systems utilized to keep track of the project schedule, cost control, quality assurance, and quality control, as well as tools and methods employed to avoid cost overruns and project delays. Evaluation of the Firm's management approach to the proposed scope of services.

**Criterion 4B: USE OF LOCALLY HEADQUARTERED BUSINESSES (LHB) (Maximum of 5 points)**

SPD staff shall assign points to all eligible firms based on the percentage of Contract work assigned to LHB as specified herein. Points will only be assigned to A&E firms assigned work associated with TC category(ies) required by the NTPC.

If the Prime is not an LHB, then the following points will be assigned based on the percentage of work sub-contracted to the LHB Sub-consultants as set forth below:

< 5% LHB	0 points
5% to <15% LHB	1 point
15% to <25% LHB	2 points
25% to <35% LHB	3 points
35% to <45% LHB	4 points
45% and over LHB	5 points

If an LHB is the Prime, and such Firm commits to perform a minimum of 50% of the value of the work of the Contract with its own forces, the Firm shall be entitled to three (3) points on account of the Firm's own status as an LHB. Such Firm shall be entitled to an additional two (2) points based on subcontracting, as provided for all firms in the schedule below:

Percentage (%) of work assigned for LHB Sub-consultants	Points
< 5%	0
5% to <15%	1
15% and over	2

The LHB preference shall be implemented and enforced in accordance with the enforcement provisions set forth in this IO and in Implementing Order 3-68. The County will provide the points upon review of the submitted qualifying information meeting the above criteria as specified in the NTPC.

**The funding source for the project may affect applicability of Criterion 4B. A funding source may require disregarding this Criterion.**

**Criterion 5B: LOCAL PREFERENCE (5 points)**

SPD staff shall assign five (5) points to all Teams eligible for Local Preference, per Sections 2-8.5 and 2-10.4 of the Code. The County shall assign the points upon review of the submitted qualifying information meeting this requirement as specified in the NTPC.

**The funding source for the project may affect applicability of Criterion 5B. A funding source may require disregarding this Criterion.**

**Criterion 6B: LOCAL CERTIFIED VETERAN BUSINESS ENTERPRISE PREFERENCE (5 points)**

SPD staff shall assign five (5) points to all Teams eligible for Local Certified Veteran Business Enterprise preference, per Section 2-8.5 of the Code. The

County shall assign the points upon review of the submitted qualifying information meeting this requirement as specified in the NTPC.

**The funding source for the project may affect applicability of Criterion 6B. A funding source may require disregarding this Criterion.**

Points assigned for Criteria 4B through 6B shall be calculated by SPD staff in advance of the meeting and will be shared upon completion of scoring by the CSC.

**c. Tabulation of Scores (First-Tier and Second-Tier)**

Each CSC member shall assign Qualitative Points on each respondent's evaluation report in accordance with the established evaluation criteria.

SPD shall record the Qualitative Points assigned to each Team by individual CSC members for each respondent and read the information into the record. SPD shall monitor the Qualitative Points assigned to each Team by individual CSC members. Any disparities for variation more than thirty-three percent (33%) of the average score awarded by all CSC members by criteria will be brought to the individual CSC member's attention during the meeting. The committee member will be afforded an opportunity to review/modify his/her disparate score(s).

SPD staff shall convert the qualitative scores for all criteria for each CSC into Ordinal Scores. If a tie exists in the Ordinal Scores of a CSC member, all tied Proposers shall retain the lowest Ordinal Score (i.e., highest ranking). The ordinal ranking sequence will then skip the number of tied rankings (i.e., if three firms are tied for 1st, all three will retain an ordinal score of 1 and the next highest ranked firm shall receive an ordinal score of 4), to the next highest ranked Proposer.

The lowest qualitative score for each Proposer will be discarded. The remaining qualitative scores will be totaled to yield the Adjusted Qualitative Points for each respondent. The highest Ordinal Score for each Proposer will be discarded. The remaining Ordinal Scores of each CSC member for each Proposer shall then be totaled to yield the Adjusted Ordinal Score. The Proposers shall be ranked numerically starting with the total lowest Adjusted Ordinal Score.

Tiebreakers in the total Adjusted Ordinal Scores for the Final ranking shall be applied as follows:

First tiebreaker during First-Tier and Second-Tier will be the highest total Adjusted Qualitative Score. During a First-Tier meeting, if the tie remains, it will be the highest total Qualitative Points for criterion 1A, followed by 2A, 3A, and 4A. During a Second-Tier meeting, if the tie remains, it will be the highest total Qualitative Points for criterion 1B, followed by 2B, and 3B, in that order, until the tie is broken.

The final ordinal ranking is then determined as the next order of business.

**3. PSA Negotiations**

After evaluations are completed, the CSC shall recommend to the County Mayor or Mayor's designee, in order of preference, no fewer than the three (3) highest

ranked firms deemed to be the most qualified, provided no fewer than three (3) firms have responded to the solicitation, and/or have been deemed responsive, pursuant to the CCNA, or however many fewer number of firms remain eligible for negotiations. The CSC's recommendation, in final ranking order, shall be forwarded to the County Mayor or Mayor's designee for approval to negotiate a Contract for the solicited services. Upon the County Mayor or Mayor's designee's approval, the County shall negotiate with the recommended Firm(s).

Negotiations shall be conducted as follows:

- a. SPD is to schedule, coordinate, and lead negotiations with support from the client department.
- b. The County Mayor or Mayor's designee will select a team of personnel, which may be referred to as the negotiation team, that he/she deems advisable to negotiate a Contract with the recommended firm(s). The client department and/or the SPD Director may recommend specific individual(s) who are experienced and knowledgeable with the subject matter to be part of the negotiations.
- c. Should negotiations fail to achieve a mutually satisfactory PSA, negotiations with that Firm may be formally terminated by SPD. The negotiation team will proceed to negotiations with the next highest ranked Firm until a satisfactory agreement is achieved.
- d. Upon failure to negotiate an agreement with any of the recommended firm(s), the County Mayor or Mayor's designee may recommend to reject all proposals and re-advertise the project. Rejection of proposals for projects exceeding the threshold in Section 2-8.1(b)(1) are subject to approval by the BCC.

#### **4. PSA Award**

Upon successful negotiation of a PSA, SPD will prepare for and on behalf of the client department who will present the Contract Award Recommendation (CAR) memorandum.

Upon execution of the CAR by the County Mayor or Mayor's designee, as applicable, the CAR shall be filed with the Clerk of the Board, and the client department shall notify SBD to remove the project from the Cone of Silence Report.

#### **5. Rejection of All Respondents**

If either the selection or negotiations process fail to result in a Contract award, SPD shall prepare a memorandum for and on behalf of the client department addressed to the BCC, the County Mayor, or Mayor's Designee, as applicable, for the client department to request rejection of all proposals. The recommendation for rejection shall be filed with the Clerk of the Board and the client department shall notify SBD to remove the project from the Cone of Silence Report.

## **6. Professional Services Agreement (PSA)**

SPD will maintain a draft form PSA for each client department. The PSA should:

- a. Require Professional Services firms to register with the County and maintain an active registration throughout the term of the Contract;
- b. Require Professional Services firms to provide all documents required by applicable County Regulations, including, without limitation: certificates of good standing, and insurance certificates;
- c. Require Professional Services firms, and all members of Contracting Teams, to maintain active Technical Certifications in the required categories for the project throughout the term of the Contract, and submit current paid and award records for all County Contracts; and
- d. Provide a reasonable cure period for any curable violations of County requirements.

## **7. Managing the Professional Service Agreement**

The client department shall manage the Consultant's performance in accordance with the PSA.

Client departments shall complete periodic performance evaluation reports for each PSA. At a minimum, one (1) evaluation shall be completed per year, or on a more frequent basis, if Consultant performance warrants it. The client department shall prepare a final performance evaluation report within thirty (30) calendar days of issuing the Certificate of Completion. PSAs shall include language advising the Firm(s) that performance evaluations of the services rendered shall be prepared by the client department and may be utilized by the County as an evaluation criterion for future solicitations and consideration.

Firms shall have the right to review their performance evaluations report and submit a notice of appeal letter, and a detailed rebuttal of the ratings contained therein, within thirty (30) days of the issuance date of the evaluation to SBD. If any performance evaluation is appealed by the applicable Firm, then the County shall not utilize that evaluation when selecting a Consultant until the appeal process has been resolved.

Amendments to the PSA shall be prepared by the client department and presented to the BCC for approval.

## **B. Request for Design-Build Services Solicitation**

### **1. Provisions**

SPD shall be responsible for the County's procurement of design-build services with the coordination of the client departments. Design-build solicitations shall comply with the CCNA. The following is applicable to the design-build process:

- a. The Design Criteria Package shall be prepared by a Design Criteria Professional meeting the requirements as defined by the CCNA prior to advertisement. The County may procure the Design Criteria Professional through an NTPC or EDP as required by the project. The County Mayor or designee may grant exceptions to advertising without a completed Design Criteria Package.
- b. The Design Criteria Professional shall be responsible for the following including, but not limited to:
  - i. Preparing the Design Criteria Package for the design and construction of the public construction project.
  - ii. Reviewing responses submitted by the Design-Build Firms for compliance with the design criteria.
  - iii. Assuring compliance of project construction and Design Criteria Package, by supervising and approving the detailed construction documents of the project.
  - iv. Evaluating the construction project's compliance with the Design Criteria Package.
- c. The Design Criteria Professional who has been selected to prepare the Design Criteria Package is **not** eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package and in accordance with CCNA.
- d. The Design Criteria Package shall contain any other items as required by procedures, laws, ordinances, or prevailing circumstances.
- e. The RDBS may include limitations as to page count, font size, spacing and other format requirements relating to the proposal.
  - i. Except where restricted by federal or state laws, or external regulations, respondents must submit as either a Design-Builder or a Sub-consultant. Failure to comply with this provision may deem the proposals non-responsive.
  - ii. Limit on the number of Teams that Consultants may participate in when responding to a solicitation as a Sub-consultant. Any such limitation shall be determined by the County Mayor or Mayor's Designee and included in the solicitation document.
  - iii. If at any time the County has reason to believe that any person or Design-Builder has provided incorrect information or made false statements in a proposal, or oral presentation before a selection committee, or if the misrepresentation is confirmed following a Contract award, the County Mayor or Mayor's designee shall refer the matter to the Office of the Inspector General and/or other investigative agencies. This includes misrepresentation of

information regarding dollars awarded and paid on all County Contracts. In addition to pursuing any other legal remedies, the County may, in its sole discretion, find the proposer non-responsible, and eliminate the Firm from consideration or if the misrepresentation is confirmed following Contract award, may terminate the Contract. Furthermore, the County may initiate Suspension and/or Debarment proceedings in accordance with the Code.

- iv. All accounting of County awarded dollars and paid for Professional Services, records, and performance evaluation history that will be used in the evaluation of proposals shall be maintained by the County.

## **2. Evaluation**

The selection for design-build services is based on a two-step process:

Step 1 Evaluation is the evaluation of a design-build Team's qualifications based on the Step 1 evaluation criteria. Unless otherwise specified in the RDBS, the CSC will attempt to qualify no fewer than three (3) responsive and responsible firms unless the County had already proceeded with fewer than three (3) Design-Builders to the Step 1 process, and by majority vote will determine the maximum number of responsive and responsible firms to advance to Step 2.

Only those advancing Design-Builders from the Step 1 evaluation/selection process are eligible to submit a technical and price proposal in the Step 2 evaluation process.

Only advancing Design-Builders found to be responsive and responsible who choose to offer a responsive and responsible proposal shall participate in the Step 2 evaluations, which consist of the Design-Builder Team presentation followed by a question-and-answer period.

As more particularly set forth below, the evaluation in both Steps involves the CSC's evaluation and application of points based on the CSC's qualitative evaluation of the proposals, and the parallel application by SPD staff of certain points based on eligibility and/or established formulas.

- a. Step 1 Evaluation:

The Step 1 evaluation shall be based on the selection criteria listed below, or as specified in the RDBS.

### **Step 1 Selection: (Maximum 110 points)**

The CSC shall assign points based on the selection criteria 1A, 2A, 3A, and 4A which totals 95 points. SPD staff shall assign up to an additional 15 points based on criteria 5A, 6A, and 7A, as applicable to the project.

### **Criterion 1A: QUALIFICATIONS OF THE TEAM MEMBERS ASSIGNED**

**TO THE PROJECT** (Maximum of 45 points)

Evaluation of the qualifications of the individuals and experience level of the professional and management staff to be assigned to the project, including the Team's ability to replace key personnel if needed, quality and availability of key personnel, including any preferred experience as specified in the RDBS, and demonstrated project experience relative to this type of project.

**Criterion 2A: KNOWLEDGE AND PAST EXPERIENCE OF SIMILAR TYPE PROJECTS** (Maximum of 35 points)

Evaluation of the Design-Builder's understanding of the scope of work, and experience on previous similar type projects, including any preferred experience as specified in the RDBS. Consideration may also be given to key design elements, understanding and awareness of the permitting requirements involved with the project, and health and safety programs, as applicable.

**Criterion 3A: PAST PERFORMANCE OF THE TEAM** (Maximum of 10 points)

Evaluation of Team's past performance, overall interrelationship with proposed Team members, responsiveness, experience in scheduling projects and timely submission of deliverables on past projects, including any non-County projects. CSC members are required to review all Consultant/Contractor Past Performance Evaluation reports available in the County's database as of submittal due date.

**Criterion 4A: ABILITY OF TEAM MEMBERS TO INTERFACE WITH THE COUNTY** (Maximum of 5 points)

Evaluation of Design-Build Team's communication ability, commitment to satisfy the County's requirements, familiarity with County Regulations, and sustainability design principles.

**Criterion 5A: AMOUNT OF WORK AWARDED AND PAID BY THE COUNTY** (Maximum of 5 points)

SPD will use this criterion to distribute work equitably and consider amounts awarded and paid by the County for Professional Services. The formula to determine a Team's awarded and paid amounts (Average Dollar Value or "ADV") is the sum of 50% of the dollars awarded for Professional Services to all Sub-consultants by the County when they served as a Prime Consultant in previous engagements, during the three-year period immediately preceding the submittal date; plus 50% of the dollars paid for Professional Services to all Sub-consultants by the County when they served as a Prime Consultant in previous engagements, during the three-year period immediately preceding the submittal date. The highest amount awarded and paid by the County shall be the Maximum ADV. The criterion is determined as a percentage ratio of each Team's ADV to the Team



whose ADV is the highest (“Maximum ADV”).

The Team with the Maximum ADV shall receive one (1) point. The other Team shall receive points as follows:

100% to > 80% of Maximum ADV	1 point
80% to > 60% of Maximum ADV	2 points
60% to > 40% of Maximum ADV	3 points
40% to > 20% of Maximum ADV	4 points
20% to > 0% of Maximum ADV	5 points

ADV calculations shall be based on the current information available within the County’s database(s) and shall be performed by County staff in advance of the First-Tier meeting, but not revealed to the CSC until scoring is completed and submitted by the CSC to SPD staff for processing.

**Criterion 6A: LOCAL PREFERENCE (5 points)**

SPD staff shall assign five (5) points; or if the Step 1 total Qualitative Points exceed 110, then this criterion shall be 5% of the Step 1 criteria maximum points excluding criteria points for Local Preference and Local Certified Veteran Business Enterprise; to all Teams eligible for Local Preference, per Sections 2-8.5 and 2-10.4 of the Code. The County shall assign the points upon review of the submitted qualifying information meeting this requirement as specified in the RDBS.

**The funding source for the project may affect applicability of Criterion 6A. A funding source may require disregarding this Criterion.**

**Criterion 7A: LOCAL CERTIFIED VETERAN BUSINESS ENTERPRISE PREFERENCE (5 points)**

SPD staff shall assign five (5) points; or if the Step 1 total Qualitative Points exceed 110, then this criterion shall be 5% of the Step 1 criteria maximum points excluding criteria points for Local Preference and Local Certified Veteran Business Enterprise; to all Teams eligible for Local Certified Veteran Business Enterprise preference, per Section 2-8.5 of the Code. The County shall assign the points upon review of the submitted qualifying information meeting this requirement as specified in the RDBS.

**The funding source for the project may affect applicability of Criterion 7A. A funding source may require disregarding this Criterion.**

Points awarded for Criteria 5A through 7A shall be assigned by SPD staff in advance of the meeting and will be shared upon completion of scoring by the CSC.

b. Step 2 Evaluation:

The Step 2 evaluation shall be based on the selection criteria listed below, or as specified in the RDBS.

**Step 2 Selection: (Maximum 110 points)**

The CSC shall assign points based on the selection criteria 1B, 2B, and 3B which totals 80 points. Criterion 4B – Price may be evaluated by the CSC or based on a formula calculated by SPD as specified in the RDBS. SPD staff shall assign up to an additional 30 points based on the selection criteria 4B, 5B, and 6B as applicable to the project.

**Criterion 1B: PROJECT DESIGN APPROACH** (Minimum of 1 point - Maximum of 30 points)

Evaluation of the project concept offered in the proposal including, but not limited to, the evaluation of design including, but not limited to, aesthetics, functionality, efficiency, and overall compliance with the County's objectives and requirements defined in the Design Criteria Package.

**Criterion 2B: PROJECT CONSTRUCTION APPROACH** (Minimum of 1 point - Maximum of 30 points)

Evaluation of the constructability, phasing of the work, staging and sequencing, managerial approach, environmental control methods, work quality control, safety and construction schedule, overall effects on the community, understanding and awareness of permitting requirements of all authorities having jurisdiction including, without limitation, the County, and adherence to County's construction objectives and requirements as set forth in the Design Criteria Package.

**Criterion 3B: ABILITY TO PROVIDE REQUIRED SERVICES WITHIN TIME AND BUDGET** (Minimum of 1 point - Maximum of 20 points)

Evaluation of the Design-Builder's overall management approach, including experience in scheduling projects, systems that will be utilized to keep track of the project schedule, cost control, quality assurance, quality control, issues and methods employed to avoid cost overruns and project delays, and evaluation of Design-Builder's capability to provide the appropriate personnel, and equipment to efficiently carry out the requirements of the work. Evaluation of the Design-Builder's Team approach to the project, including an evaluation of the expertise of the prime, Sub-consultants, and subcontractors.

**Criterion 4B: PRICE** (Minimum of 1 point - Maximum of 20 points)

Price evaluation will be stipulated in the RDBS.

**Criterion 5B: LOCAL PREFERENCE (5 points)**

SPD staff shall assign five (5) points; or if the Step 1 total Qualitative Points exceed 110, then this criterion shall be 5% of the Step 2 criteria maximum points excluding criteria points for Local Preference and Local Certified Veteran Business Enterprise; to all Teams eligible for Local Preference per Sections 2-8.5 and 2-10.4 of the Code. The County shall award the points upon review of the submitted qualifying information meeting this requirement as specified in the RDBS.

**The funding source for the project may affect applicability of Criterion 5B. A funding source may require disregarding this Criterion.**

**Criterion 6B: LOCAL CERTIFIED VETERAN BUSINESS ENTERPRISE PREFERENCE (5 points)**

SPD shall assign five (5) points; or if the Step 1 total Qualitative Points exceed 110, then this criterion shall be 5% of the Step 1 criteria maximum points excluding criteria points for Local Preference and Local Certified Veteran Business Enterprise; to all Teams eligible for Local Certified Veteran Business Enterprise preference, per Section 2-8.5 of the Code. The County shall award the points upon review of the submitted qualifying information meeting this requirement as specified in the RDBS.

**The funding source for the project may affect applicability of Criterion 6B. A funding source may require disregarding this Criterion.**

Points awarded for Criteria 5B through 6B will be assigned by SPD staff in advance of the meeting and will be shared upon completion of scoring by the CSC.

c. Tabulation of Scores (Step 1 and Step 2)

**Step 1**

Each CSC member shall assign Qualitative Points on each respondent's evaluation report in accordance with the established evaluation criteria.

SPD shall record the Qualitative Points assigned to each Team by individual CSC members for each respondent and read the information into the record. Any disparities for variation more than thirty-three percent (33%) of the average score awarded by all CSC members by criteria will be brought to the individual CSC member's attention during the meeting. The CSC member will be afforded an opportunity to review/modify his/her disparate score(s).

At the conclusion of the evaluation, scores will be totaled to yield the total Qualitative Points for all applicable criteria. The respondents shall be ranked numerically based on the highest total qualitative score first.

Tiebreakers for the Final ranking shall be applied as follows:

The first tiebreaker will be the highest total Qualitative Points for criterion 1A, followed by 2A, 3A, and 4A, in that order, until the tie is broken. The Step 1 final ranking is then determined.

## **Step 2**

Each CSC member shall assign Qualitative Points on each respondent's evaluation report in accordance with the established evaluation criteria.

SPD shall record the Qualitative Points assigned to each Team by individual CSC members for each respondent and read the information into the record. Any disparities for variation in excess of thirty-three percent (33%) of the average score awarded by all CSC members by criteria will be brought to the individual CSC member's attention during the meeting. The CSC member will be afforded an opportunity to review/modify his/her disparate score(s) at the same meeting.

At the conclusion of the evaluation, scores will be totaled to yield the total Qualitative Points. The respondents shall be ranked numerically based on the highest totaled qualitative score first.

Tiebreakers for the Final ranking shall be applied as follows:

The first tiebreaker will be the highest total Qualitative Points for criterion 1B, followed by 2B, 3B, and 4B if criterion 4B was evaluated by the CSC (if points are assigned based on a formula the tiebreaker ends with criterion 3B), in that order, until the tie is broken. The final ranking is then determined.

## **Price Proposal and Bid Bond**

Prior to finalizing the Step 2 Final rankings, the price proposals and bid bonds shall be read into the record.

### **3. RDBS Negotiations**

After evaluations are completed, the CSC shall recommend to the County Mayor or Mayor's designee, in order of preference, no fewer than the three (3) highest ranked Design-Builders deemed to be the most qualified, provided no fewer than three (3) shortlisted Design-Builders submitted responsive and responsible proposals, under the CCNA, or however many fewer numbers of Design-Builders remain eligible for negotiations. The CSC's recommendation, in final ranking order shall be forwarded to the County Mayor or designee, for approval to negotiate a Contract for the solicited services. If the County, in its sole discretion, determines that highest ranked Design-Builder does not represent the Best Value to the County, the Design-Builder representing the Best Value shall be ranked higher. This re-ranking shall be reserved to instances where: a) the price is determined to be artificially low and not reflective of the true anticipated project cost; b) the

Design-Builder through its submission and/or price appears to have misunderstood the scope of the project or the required services; c) there is a large price discrepancy between responsive and responsible Design-Builders, where the County determines that it may receive the necessary services at a much lower price; and d) upon application of such other factors as the CSC may promptly set forth in writing, the County effectively determines that the re-ranking is in the best interest of the County. The Firm with highest ranking, or the Firm providing the Best Value to the County, shall be recommended for negotiations. Upon the County Mayor or designee's approval, the County shall enter negotiations with the recommended Design-Builder.

Negotiations shall be conducted as follows:

- a. SPD is to schedule, coordinate, and lead negotiations with support from the client department.
- b. The County Mayor or designee will select a team of personnel, also referred to as the negotiation team, that he/she deems advisable to negotiate a Contract with the recommended Design-Builder. The client department and/or SPD Director may recommend specific individual(s) who are experienced and knowledgeable with the subject matter to be part of the negotiations.
- c. Should negotiations fail to achieve a mutually satisfactory Design-Build Contract, negotiations with that Design-Builder may be formally terminated by SPD. The negotiation team will proceed to negotiations with the next highest ranked Design-Builder until a satisfactory agreement is achieved.
- d. Upon failure to negotiate an agreement, the County Mayor or Mayor's designee may recommend to reject all proposals and re-advertise the project.

Responsibility reviews, if applicable, will be conducted following the CSC Step 2 recommendation and prior to forwarding the recommendation for award to the County Mayor or the Mayor's designee.

#### **4. Design-Build Contract Award**

Upon successful negotiation of a Design-Build Contract, SPD will assist the client department by preparing the award recommendation.

Upon execution of the CAR by the County Mayor or Mayor's designee, as applicable, the CAR shall be filed with the Clerk of the Board, and the client department shall notify SBD to remove the project from the Cone of Silence Report. SPD shall notify all Proposers of the commencement of the protest period pursuant to Implementing Order 3-21.

#### **5. Rejection of all Respondents**

If either the selection or negotiation process fail to result in a Contract award, or the County decides in its sole discretion to terminate the process, the client

department shall prepare a memorandum addressed to the BCC, County Mayor, or Mayor's Designee, as applicable, to request rejection of all proposals. The recommendation for rejection shall be filed with the Clerk of the Board and the client department shall notify SBD to remove the project from the Cone of Silence Report.

## **6. Design-Build Contract**

SPD will maintain a draft Design-Build Contract. The Design-Build Contract should:

- a. Require Design-Builder to register with the County and maintain an active vendor registration throughout the term of the Contract;
- b. Require Design-Builder to provide all documents required by applicable County Regulation, including, without limitation, required copies of bonds and insurance certificates;
- c. Require Professional Services firms, and all members of Contracting Teams, to maintain active Technical Certifications in the required categories for the project throughout the term of the Contract;
- d. Require Design-Builder to submit to the County current paid and award records for all County Contracts; and
- e. Provide a reasonable cure period for any curable violations of County requirements.

## **7. Managing the Design-Build Contract**

The client department shall manage the Design-Builder's performance in accordance with the Design-Build Contract and pursuant to Administrative Order 3-42.

Client departments shall complete periodic performance evaluation reports for each Design-Build Contract. At a minimum, one (1) evaluation shall be completed per year, or on a more frequent basis, if Design-Builder performance warrants it. A final performance evaluation report within thirty (30) calendar days of issuing the Certificate of Completion is required. Design-Build Contracts shall include language advising the Firm(s) that performance evaluations of the services rendered shall be prepared by the client department and may be utilized by the County as an evaluation criterion for future solicitations and consideration.

Design-Builders shall have the right to review their performance evaluations report and submit a notice of appeal letter, and a detailed rebuttal of the ratings contained therein, within thirty (30) days of the issuance date of the evaluation. If any performance evaluation is appealed by the applicable Design-Builder, then the County shall not utilize that evaluation when selecting a Design-Builder until the appeal process has been resolved.

Amendments to the Design-Build Contract shall be prepared by the client

department and presented to the BCC for approval.

## **8. Alternate Technical Concept (ATC) Process for Step 2 Evaluations**

The ATC process allows innovation, flexibility, time and cost savings on the design and construction of Design-Build Projects while meeting project commitments and while providing the Best Value for the County and the public. The proposed ATC shall provide an approach that is equal to or better than the requirements of the RDBS/DCP, as determined by the County. A proposed concept does not meet the definition of an ATC if the concept is contemplated by the RDBS/DCP. ATCs which reduce scope, quality, performance, or reliability shall not be proposed.

Advancing Firms may be asked to participate in Individual Negotiation Meetings with County staff, technical advisors, and specific stakeholders as identified by the County to present and describe proposed changes/deviations from the RDBS/DCP to obtain approval from the County prior to the Technical Proposals, Price Proposals, and/or Aesthetics Proposals submissions. Where allowed, the process to govern the proposal, clarifications, negotiations and approval or rejection of ATCs shall be set forth in the RDBS. The Individual Negotiation Meetings are to be held in accordance with Section 286.0113(2)(b)(1) of the Florida Statutes. The County's audio recordings of each Individual Negotiation Meeting and the content of such recordings are to be made available in accordance with Section 119.071(1)(b)(2), (3) of the Florida Statutes.

The Step 2 evaluation criteria of the Technical and/or Aesthetic proposals may include such pertinent items as: Project Design Approach, Project Aesthetic Approach, Project Construction Approach, Innovative Concepts and Value-Added Provisions, Accelerated Schedule, Contract Time, and Price. Kick-Off, Oral Presentations, Page Turn or Matrix presentation meetings to the CSC may optionally be held depending on the project and pursuant to the RDBS.

## **C. OTHER PROCUREMENT METHODS**

Other Design-Build methods utilized by the construction industry are available for County use depending on the nature of the project, time and budget constraints, bonding requirements, staff capabilities, etc. Only in limited situations, the County may elect a process that results in award of a Design-Build construction Contract without full price competition.

Designer-Led Design-Build is suited primarily to less prescriptive architectural projects (libraries, air/seaport terminal buildings, museums, and other specialized buildings), for the efficiencies it yields and the sophisticated design interpretation it may afford. Owner input on the design is increased. Qualifications-based selection is used with pricing developed during or after design completion by the Firm.

Progressive Design-Build enables the owner to provide substantial input on the design and buyout decisions, as it collaborates with Design-Builder during design development. Qualifications-based selection with Guaranteed Maximum Price is developed during or after design completion by the Firm.

### **1. CONTINUING CONTRACTS**

The Equitable Distribution Program (EDP) is a "Continuing Contract" for Professional Services entered into in accordance Florida Statutes 287.055 whereby a professional architectural, engineering, landscape architectural, or surveying and mapping Firm provides Professional Services for projects in which the estimated construction cost of each individual project under the Contract does not exceed \$4 million, for study activity the fee for Professional Services for each individual study under the Contract does not exceed \$500,000, or for work of a specified nature as outlined in the contract required by the agency, or such cost limits as amended in the CCNA. The Continuing Contract has a fixed term with no time limitation except that the Contract must provide a termination clause. Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another. An active PQC/TC status is a requirement for work assignment under EDP. The PQC/TC status shall be active prior to the work assignment and throughout the duration of the assigned services.

**a. Equitable Distribution Program (EDP)**

SBD is responsible for the implementation and administration of this Program. The County Mayor or Mayor's designee is delegated the authority to award EDP Professional Service Agreements to eligible participants.

The EDP establishes a structured process to procure and distribute A&E assignments to eligible EDP participants, local, and certified SBE-A&E firms.

Registration to participate in EDP is open and may be publicly advertised when funding source requires it for open participation. A condition for a Firm receiving an assignment are the following: Firm must be prequalified, technically certified, and registered in the EDP pool.

A Firm's participation in the program does not represent a Contract between Miami-Dade County and any participant, but rather an acknowledgement that a participant satisfies the qualification criteria required for membership.

Eligible Consultants must meet the following EDP qualifications requirements:

**i. Qualification Criteria:**

1. EDP firms are required to be a Locally Headquartered Business, unless the funding source to be used for the EDP Professional Service Agreement prohibits the application of the foregoing Locally Headquartered Business requirement.
2. A business owner, alone or as a member of a group, shall own or control only one (1) Firm, including Affiliates.
3. An individual design professional can only qualify one (1) Firm pursuant to the respective Licensing Governing Boards of the State of Florida.



4. As part of the EDP membership application, firms are required to confirm prime and Sub-consultant awards and payments in the Business Management and Workforce System (BMWS) on all Miami Dade County Contracts.
  5. Upon written notice, a Firm shall execute the EDP Professional Services Agreement (PSA) and submit the required documents and insurance certificates within ten (10) calendar days.
- ii. Program Participation:
1. After gaining admission into the program, each Firm shall be ranked in accordance with the rotation ranking formula in all of the MDC technical categories the Firm holds.
  2. Each Firm's position in the ranking is based on its Technical Certification categories and the Firm's Rotational Value (RV). The RV is established by a Firm's three years award and payment history ("Compensation Amount").
  3. When a Firm is selected for its first EDP assignment, the Firm shall be required to execute the EDP Professional Services Agreement, submit insurance certificates and applicable affidavits within ten calendar days from receipt of notification. A Firm's evidence of insurance will be required for each service order.
  4. EDP participants acting as a prime or Sub-consultant are subject to Section H -Sanctions for Contractual Violations and Section I - Administrative Penalties for failure to abide by this IO, the PSA, or established program policy and procedures.
- iii. EDP Work Assignment Procedures
1. The client department shall submit the work assignment request including a detailed scope of work, applicable Technical Certification categories required, estimated fee, and estimated start and completion date to the EDP Coordinator for assignment of appropriate A&E professionals.
  2. The EDP Coordinator shall review the work assignment request(s) and verify the prime Technical Certification categories required for the scope of work and any additional Technical Certification categories or specialty requirements that may be needed to complete the scope of work. The EDP Coordinator will determine the next available three (3) Primes per supporting Technical Certification category, based on their position in the EDP and provide to the client department.
  3. Client departments shall contact each Firm per their position on the list as follows: first Firm listed before going to the next Firm to request their specific qualifications for review and select the most

qualified Firm. The client department must document the factors utilized to determine the most qualified Firm. If a prime Firm is certified in all the required Technical Certification categories, it may perform the required services with its own work force otherwise the prime shall select EDP Sub-consultants from the list of EDP firms. Upon the Firm(s) acceptance of the offer of work assignment, the names of the Prime Firm and Sub-consultants shall be forwarded to the EDP Coordinator.

4. SBD shall conduct surveys when a client department has an assignment that requires specific funding requirements and/or a Consultant with unique expertise. In these instances, qualified respondents will be considered in the order of ranking according to the EDP RV.
5. If negotiations with the qualified respondent fail, the client department shall notify SBD and begin negotiations with the next qualified Firm provided by the EDP Coordinator. This process will continue until a successful agreement is reached.
6. If the client department determines that the next available Firm(s) is not qualified to perform the services, the client department shall provide (in writing to the EDP Coordinator) an explanation for the disqualification.
7. Upon the written request of the client department Director or Director's Designee, hire a specific Firm qualified in the required technical expertise area for a specific project, when deemed in the best interest of the County.
8. The client department's timeframe to obtain acceptance of work assignments, request additional firms and/or negotiate a service order may be limited by the EDP Coordinator.
9. Simultaneous with the completion of the service order and submittal of final payment requests, the client department shall prepare a performance evaluation in accordance with Implementing Order 3-42.
10. If any service order shall be cancelled or changed, the client department shall notify the EDP Coordinator.

**b. Continuing Services Contracts**

Other continuing services Contracts, as defined by the CCNA, may be utilized by departments provided that they are in the County's best interest and shall be based upon sound business rationale in accordance with the CCNA.

**E. SANCTIONS FOR CONTRACTUAL VIOLATIONS**

The County may terminate or cancel a Contract, or require the termination or cancellation of the Sub-consultant Contract, if the respondent or any Sub-consultant(s) violates Article VII of Chapter 11A of the Code. A violation by a respondent or Sub-consultant, or failure to comply with this IO, may result in the imposition of one or more of the following sanctions:

1. Suspension of any payment or part thereof until such time as the issues concerning compliance are resolved.
2. Termination, suspension, or cancellation of the Contract in whole or in part, as provided for in the applicable provisions of the Contract.
3. If a Firm attempts to comply with the provisions of this Implementing Order through fraud, misrepresentation, or material misstatement or material omission, or is found to have committed such acts, the Firm and its principals may be suspended, debarred or subject to a civil action and/or criminal prosecution based on the specific circumstances. In addition, the County may utilize some or all remedies allowed by Florida law.
4. As a further sanction, the County Mayor or designee may impose any of the above stated sanctions on any other Contracts or Sub-consultant Contracts the Firm has with the County. In each instance, the Firm shall be responsible for all direct and indirect costs associated with such, cancellation, termination, suspension, or Debarment.
5. Some of the violations that may result in the imposition of the sanctions listed above include, but are not limited to, the following:
  - a. Failure to comply with pre-qualification requirements, not reporting organizational and operational changes, providing materially inaccurate, materially omitted or false information, and other related violations.
  - b. Deviation from any compliance agreement related to the County's small business programs or other material failure to comply with program requirements.
  - c. Modifications to the scope of work, Contract terms, and/or fees of a subcontractor and/or Sub-consultant without prior approval from the County, where the same affects the County's small business programs.
  - d. Subcontracting work to a non-EDP member without written authority of the County.
  - e. Sub-standard quality of work as evidenced by revisions to design required due to lack of compliance with building codes required and re-submittal of plans for dry-run permitting.
6. All firms performing work for the County are subject to evaluation as provided for in the professional service agreement or under the rules of Administrative Order 3-42, Evaluation and Suspension of Contractors and

Consultants.

**F. Administrative Penalties**

The County Mayor or Mayor's designee may deem a Firm ineligible to participate in County Contracts for a specified period, not to exceed five (5) years, for violation of, or non-compliance with this Implementing Order, proposal(s), and/or Consultant selection documents. Subject ineligibility is applicable to an applicant, its individual officers, its shareholders with significant interests, and its affiliated businesses.

**G. PSA SUPPORT FUNCTIONS**

SBD shall:

1. Maintain Consultant performance evaluation records for consideration of County departments or selection committees.
2. Conduct workshops for employees participating in the County's CSC pool to describe the role and responsibilities of members and review pertinent legislation affecting the selection process.
3. Record the client department's utilization of authorized Continuing Contracts to monitor fair and equitable utilization of participating Firms.
4. Administer the EDP including, without limitation, the review of service orders, EDP rotation, and the appropriate selection of firms.
5. Administer the pool of County employees available to serve on the CSC. Update the CSC membership roster bi-annually.
6. Review proposals for pre and post compliance with participation measures, requirements and issuance of performance memoranda.
7. Provide work history, data and reports to SPD reflecting the amount awarded and/or paid to the Prime and Sub-consultants for selection ranking.

Notwithstanding the foregoing duties of SBD, SPD will continue to administer the Pre-Qualification process for architectural, engineering, landscape architecture, land surveying and mapping firms and provide related information to SBD.

**SECTION III - CAPITAL CONSTRUCTION CONTRACTING POLICY:**

This section governs capital contracts and the expedite process authorizing the County Mayor or Mayor's designee to advertise, negotiate, and award uncontested contracts for funded capital improvement construction projects and certain unanticipated yet funded capital repair or rehabilitation projects, as well as qualifying Professional Service Agreements.

**PURPOSE:**

Section 2-8.2.7 of the Code, as amended, authorizes the County Mayor, subject to BCC ratification, to approve and expedite capital projects authorized therein. Eligible projects and

contracts may include:

1. Approved funded capital construction projects where no protest is filed within the timeframe specified in Section 2-8.4 (b) of the Code, and all associated professional service agreements.
2. The negotiation and settlement of contractor claims, change orders issued for additional work and amendments/modifications to professional service agreements, if specified in the bid or other competitive specifications and the contract document. Change orders and amendments/modifications shall not exceed five hundred thousand dollars (\$500,000) in cumulative dollar amount and shall not exceed fifteen percent (15%) of the contract price in the cumulative percentage amount, unless related to environmental remediation or health requirements.

The County Mayor or Mayor's designee is authorized to advertise for bid, award, and reject bids or proposals for contracts and purchases at the thresholds specified in Section 2-8.1 of the Code, without the need for further action by the BCC.

All eligible capital construction contracts shall be processed utilizing this procedure and standard forms developed by ISD. Contracts deemed controversial in nature or holding special interest to the BCC shall be processed as a BCC Agenda item.

#### **A. Capital Construction Contracting**

1. Request to Advertise

County departments shall request general construction services under Section 255.20 of the Florida Statutes, and applicable County Regulations. General construction services, valued up to \$5 million, shall be procured through the MCC, without an RTA. ISD may identify other opportunities for Continuing Contract services to address the needs of the client departments when in the County's best interest.

Procedures: When general construction services are required in excess of the above-mentioned threshold, the client departments shall:

- i. Develop a draft RTA based on the project and associated sites, pursuant to the County's Capital Budget and Multi-Year Plan, or the funding authority and approval allocated for the project.
- ii. Pursuant to Section 2-10.4 of the Code, submit project's relevant data for SBD's consideration to establish contract measures or set aside as deemed appropriate.
- iii. Finalize the RTA and forward it to OMB to certify funding availability.
- iv. Upon certification from OMB that funding is available, and establishment of project goals by SBD, the client department shall prepare a complete package, along with a detailed scope of work and submit to the client department's director for approval. Scope of services may differ significantly based on the nature and complexity of the desired construction contract.

- v. Approval by the County Mayor or Mayor's designee shall constitute concurrent approval of the measures established by SBD. Upon receipt of approval, the client department shall file the RTA with the Clerk of the Board.

2. Client Departments Responsibilities:

- i. Include a "Termination For Convenience" clause in the bid specifications and contract documents.
- ii. Utilize the standard bid specifications and contract documents, which include a clause indicating the County Mayor may negotiate and settle contractor claims, issue change orders for additional work and amend/modify PSAs, which do not exceed five hundred thousand dollars (\$500,000) in cumulative dollar amount and do not exceed fifteen percent (15%) of the contract price in the cumulative percentage amount or the criteria established in the Section 2-8.2.7 of the Code and Section 2-8.1 of the Code, as amended.
- iii. Ensure that all contingency and allowance accounts conform to the requirements of Section 2-8.1(h) of the Code, as amended.
- iv. Notify SBD and ISD of changes in scope of work after approved application of an SBE measure and prior to advertisement. SBD shall review the change and determine whether the contract requires further review to reconsider the assigned SBE measures.
- v. Notify SBD and ISD of any contract advertisement dates that are in excess of one hundred and twenty (120) days of the initial review and approval of SBE measures allowing SBD to identify any changes in availability. After six (6) months, all contracts should be resubmitted to SBD to establish current availability.

**B. Construction Contract Award**

Upon opening of bids, the client department (or ISD if it is the Department purchasing) shall obtain verification of contractor compliance with the SBE-CON program, prepare the CAR with the selected bidder and forward it to OMB for certification of funds availability.

- a. If the contract award recommendation amount differs from the client department's (or ISD if it is the Department purchasing) estimated cost provided in the RTA by more than ten (10%) percent (above or below estimate), the client department shall justify the variance in the Project Memorandum. Larger variances shall require additional written explanation and support including a statement from the design engineer or architect.
- b. Once funding is approved, the client department (or ISD if it is the Department purchasing) shall prepare a package including the Award Recommendation, the Compliance Review Report, the Bid Tabulation, the SBD Project Worksheet, the OMB approval, the Project Memorandum with the approval of

the County's Attorney's Office as to legal sufficiency, and any other relevant documentation. The complete package shall be submitted to County Mayor's Office for review and further processing before scheduling the CAR for inclusion on BCC and BCC committee agendas.

- c. The client department (or ISD if it is the Department purchasing) shall review the package and submit a recommendation to the County Mayor's Office for final review and approval.
- d. Upon approval by the County Mayor or designee of the award recommendation, client department (or ISD if it is the Department purchasing) shall file the documents with the Clerk of the Board and forward a copy to the client department to notify all firms of the award recommendation for the project and proceed with the contract award. The award recommendation shall not constitute an executed contract until approved by the BCC or executed by the County Mayor or Mayor's designee under the authority granted by the BCC.
- e. If a protest is filed with the Clerk of the Board within three (3) calendar days of filing the documents approved by the County Mayor or Mayor's designee, existing procedures for processing bid protests shall govern. The filing of a protest nullifies the County Mayor's or Mayor's designee's approval and requires the client department to prepare and submit a formal BCC Agenda item unless the Hearing Examiner concurs with the County Mayor's recommendation.
- f. Upon expiration of the bid protest period without a bid protest being filed, the client department (or ISD if it is the Department purchasing) shall proceed with the execution of the contract. The client department shall forward a copy of the executed contract package to ISD for the County Mayor's or Mayor's designee's execution.
- g. If the project is listed on the Economic Stimulus Program list of approved projects, or was advertised pursuant to Section 2-8.2.7 of the Code or any other expedite or economic stimulus or similar ordinance, ISD shall prepare a Project Ratification List on a quarterly basis and present it to the appropriate committee for approval and subsequent submission to the BCC for ratification.
- h. If all bids are rejected, the client department (or ISD if it is the Department purchasing) shall prepare a Request to Reject all Bids and Authorization to Re-Advertise for Bids, including detailed justification for rejection of all bids and the rationale to re-advertise without modifying original specifications. If the reason for rejection is related to the allotted budget for the particular project, the client department should demonstrate changes that would affect pricing.
- i. The client department (or ISD if it is the Department purchasing) shall forward the Request to Reject to OMB for approval and once approved, shall submit documentation to SBD to initiate the re-advertising process following the procedures outlined in this Implementing Order.

**C. Execution of Contract Options**

If options to extend or increase funding are provided for in the contract, the client department (or ISD if it is the Department purchasing) may recommend exercising the contract option as follows:

- a. The client department (or ISD if it is the Department purchasing) shall prepare the amendment identifying the specific contract and options being executed. The amendment must be signed by the contractor, reviewed, and approved by the CAO as to legal sufficiency, then submitted to ISD for further processing. If the contract option being executed involves an increase of the contract amount, the client department shall obtain an Increase Rider and an Executed Payment and Performance Bond and submit these forms to ISD or client department's unit overseeing insurance requirements along with the amendment.

The client department (or ISD if it is the Department purchasing) shall review the documentation and submit a recommendation to the County Mayor's Office for final review and approval.

- b. Upon approval by the County Mayor or designee, the client department (or ISD if it is the Department purchasing) shall file the documents with the Clerk of the Board and forward a copy to the client department, as applicable.

**D. Unanticipated Funded Capital Repair and Rehabilitation Projects**

Unanticipated funded capital projects not specified in the Annual Proposed Capital Budget and Multi-Year Capital Plan for fiscal year 1999-2000, or subsequent fiscal years, may be included in the expedite process by approval of a resolution by the BCC. Upon BCC approval, the process shall be as follows:

- 1. The client department(or ISD if it is the Department purchasing) shall submit the project to OMB for approval of funding source and level of funding intended for use on the project.
- 2. The client department (or ISD if it is the Department purchasing) shall prepare the resolution and accompanying documentation for BCC approval to process the project(s) under the ESP or any other current expedite ordinance(s), as applicable.
- 3. Upon BCC approval of the resolution, the project may proceed in accordance with the procedures outlined in this IO.

**E. Alternative Methods of Acquiring Construction Contracts**

Miscellaneous Construction Contracts (MCC) are addressed in Implementing Order 3-53.

**SECTION IV – CHANGE ORDERS AND PSA AMENDMENTS/MODIFICATIONS**



## **SCOPE:**

This section establishes the procedures for client departments (or ISD if it is the Department purchasing) to implement and maintain on a timely basis an internal formalized classifying, tracking, monitoring and reporting system for all change orders or amendments to design and construction projects. Specific construction change order information shall be supplied to SBD and ISD, who shall be responsible for maintaining and integrating this information into a countywide construction award and change order database for quarterly reporting to the County Mayor.

## **PROCEDURE:**

The client department (or ISD if it is the Department purchasing) shall prepare a change order for additional work or time extension or an amendment/modification to a PSA, if such authority is specified in the bid specifications or contract, for approval by the County Mayor, subject to BCC ratification under a current applicable expedite ordinance, for:

1. Compensation for time extensions and contractor claims which shall not exceed five hundred thousand dollars (\$500,000) in cumulative dollar amount and shall not exceed fifteen percent (15%) of the contract price in cumulative percentage amount, or the current thresholds in the Code.
2. Environmental remediation or health requirements in any amounts.
3. Reduction of contract scope and contractor compensation.
4. Granting time extensions without compensation or waiver of liquidated damages.

### **A. Change Orders and Amendments/Modifications**

1. The client department (or ISD if it is the Department purchasing) shall prepare a package including the change order, amendment or modification form or electronic facsimile with the appropriate approvals from SBD, OMB, and the CAO, the change order or amendment/modification memorandum, and the following exhibits: Exhibit "A" SBD Firm History Report, Exhibit "B" Summary of Bids and Exhibit "C" Detail of Contingency and Contract Usage.
2. Time-only change orders and amendments that do not include a request for increase of the original contract amount, for projects awarded under a current applicable expedite ordinance(s), will be processed for approval by the County Mayor or Mayor's designee.
3. The client department (or ISD if it is the Department purchasing) shall review the package and submit a recommendation to the County Mayor's Office for final review and approval. If the County Mayor or designee determines that, based on ISD's recommendation, the change order, amendment or modification is not eligible to be processed under a current applicable expedite ordinance, or deems it controversial or holding a special interest to the BCC, the documents shall be returned to the user department for processing as a regular BCC agenda item.

4. Upon approval by the County Mayor, the client department (or ISD if it is the Department purchasing) shall file the documents with the Clerk of the Board and forward a copy to the client department.
5. Client department (or ISD if it is the Department purchasing) shall prepare a Project Ratification List under a current applicable expedite ordinance, and present it on a quarterly basis to the appropriate committee for approval and subsequent submission to the BCC for ratification.

## **B. Change Order Memorandum Requirements**

Change Order Memorandum requirements shall include, but not be limited to, the following:

1. The original cost estimate for the construction of the project.
2. A copy of the original Bid Tabulation for all bids received for the contract.
3. The time impact to the contract period (in days).
4. The cost impact to the contract value.
5. The classification of the type of change order in at least one of the following categories (multiple classifications are allowed):
  - a. **Regulatory Change:** change caused by revisions in federal, state or local regulations after contract award.
  - b. **Other Agency Requested Change:** change requested by other county, state or federal agency.
  - c. **Design Errors Change:** change caused by design errors on the part of the architect or engineer. The identity of the party believed to be responsible for the design error shall be stated.
  - d. **Design Omission Change:** change to include items necessary for the project that were inadvertently not included in the contract. This type of change differs from Design Errors Change, in that the County would have paid for such items if included in the original bid. The identity of the party believed to be responsible for the design omission shall be stated.
  - e. **County Requested Change:** change caused by revision in the County's programmatic requirements, operational requirements, or occupancy schedule after contract award.
  - f. **Unforeseen or Unforeseeable Change:** change such as differing sub-soil conditions, variation in location of hidden or underground utilities, unforeseeable environmental requirements, or unavailability of specified product(s) due to manufacturer's discontinuance.

- g. **Force Majeure:** an unexpected or uncontrollable event including, without limitation, storms, fires, floods, strikes, lockouts, and similar events.
- h. **Escalation Change:** change caused by material price fluctuations triggering cost adjustments pursuant to contract provisions.
- i. **Cost Overruns or Underruns:** a final balancing change order of those costs, which exceed or fall below the estimated contract amount.
- j. The change order number (i.e., Change Order No. 1).
- k. The word 'Final' when applicable (i.e., Change Order No. 2 and Final).
- l. The history of previous change order requests to the contract.
- m. Indication of the timely submittal by the contractor. If the change order was not timely submitted, the following statement must be included in the County Mayor's memorandum: "The contractor did not submit this claim during the time provided in the contract for making claims. The Board of County Commissioners has no legal obligation to consider this claim."
- n. The status of the allowance account including the original amount, any increases or decreases and the current balance.

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