

MEMORANDUM

Agenda Item No. 5(G)

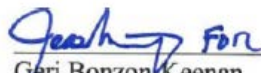
TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Public Hearing: 11-6-24)
October 16, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to delegations of authority to the County Mayor in the procurement of goods, services, and professional services; amending sections 2-8.1 and 2-8.1.6 of the Code (“Code”) to increase the County Mayor thresholds of delegated authority for the award and rejection of competitive contracts, including professional services contracts; making technical revisions

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Eileen Higgins.



Geri Bonzon-Keenan
County Attorney

GBK/gh



MEMORANDUM
(Revised)

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

DATE: November 6, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(G)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(G)
11-6-24

ORDINANCE NO. _____

ORDINANCE RELATING TO DELEGATIONS OF AUTHORITY TO THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE IN THE PROCUREMENT OF GOODS, SERVICES, AND PROFESSIONAL SERVICES; AMENDING SECTIONS 2-8.1 AND 2-8.1.6 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE") TO INCREASE THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE'S THRESHOLDS OF DELEGATED AUTHORITY FOR THE AWARD AND REJECTION OF COMPETITIVE CONTRACTS, INCLUDING PROFESSIONAL SERVICES CONTRACTS; MAKING TECHNICAL REVISIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board is committed to optimizing the County's procurement processes to ensure, among other things, the timely acquisition and provision of goods, services, and professional services for the County; and

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

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

WHEREAS, this Board has taken action to implement some of the report's recommendations (e.g., the implementation through Ordinance No. 23-27 of a 5-day period during which proposers may submit objections to a selection committee's rankings) to improve the procurement processes of the County; and

WHEREAS, the report recommended that the Board increase its delegation of authority to the County Mayor or County Mayor's designee to award contracts, in the case of competitively solicited goods and services contracts from \$1,000,000.00 to \$5,000,000.00, and in the case of competitively solicited professional services agreements from \$1,000,000.00 to \$5,000,000.00; and

WHEREAS, according to the report, these increases would reduce the timeframe of a contract award from the current average of 412 days to 200 days; and

WHEREAS, section 2-8.1.6 of the Code of Miami-Dade County, Florida (the "Code") establishes the Expedited Purchasing Program, which applies to the competitive purchase of supplies, materials, and services, including certain professional services all estimated to cost \$1,000,000.00 or less; and

WHEREAS, the report further recommended an increase to the delegated authority threshold for the Expedited Purchasing Program for goods and services competitive contracts and the expansion of the program to the currently excluded professional services; and

WHEREAS, such an increase would be consistent with the delegated authority under other County purchasing programs, including the Miscellaneous Construction Contracts ("MCC") Program and the Janitorial and Landscaping Services Purchasing Program; and

WHEREAS, under the MCC Program, created in November 2009 and codified in section 2-8.2.7.01 of the Code, the County Mayor or County Mayor's designee is delegated the authority to award construction contracts to small business construction firms where the base value does not exceed \$5,000,000.00; and

WHEREAS, similarly, under the Janitorial and Landscaping Services Purchasing Program, created in October 2022 and codified in section 2-8.2.7.02 of the Code, the County Mayor or County Mayor's designee is delegated the authority to award landscaping and janitorial contracts to small business janitorial and landscaping firms where the value of the recommended contract award does not exceed the overall program expenditure limit set by the Board by resolution, which is currently \$5,000,000.00; and

WHEREAS, the expansion of this Expedited Purchasing Program is in line with other Board efforts to expedite procurement in the County, and the expansion of the expedited purchasing program is expected to yield additional process time savings in procurements in which that program is utilized; and

WHEREAS, according to the United States Bureau of Labor Statistics, over the past two decades, there has been a significant decrease in the purchasing power of the dollar, with its value declining by approximately 42 percent, as compared to the year 2003; and

WHEREAS, these increases in delegated authority further address inflation and the potential for the purchasing power of the dollar to continue declining in the coming years, exacerbating the erosion of the value of the Board's delegation of authority; and

WHEREAS, this Board desires to optimize the procurement process in the County to enhance the County's operations and meet its diverse needs and obtain further recommendations from the County Mayor or County Mayor's designee as to how those ends might be met,

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

Section 1. Section 2-8.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-8.1. **Contracts and purchases generally.**

* * *

(b)

- (1) *Bid requirement for certain purchases; delegation of authority to advertise, award and reject bids or proposals for certain purchases.* Formal sealed bids shall be secured for all contracts and purchases within the scope of this section when the transaction involves the expenditure of more than two hundred fifty thousand dollars (\$250,000.00), except that the Board of County Commissioners, upon written recommendation of the County Mayor or County Mayor's designee, may, by resolution adopted by two-thirds ($\frac{2}{3}$) vote of the members present, waive competitive bidding when it finds this to be in the best interest of the County. The County Mayor or County Mayor's designee is hereby delegated the authority to advertise for bid all County contracts, including contracts for public improvements, purchases of supplies, materials and services, and purchases of professional services, without the need for action by the ~~[[County Commission]]~~ >>Board of County Commissioners<<. The County Mayor or County Mayor's designee shall be required to include in any such advertisement the measures ~~[[approved by the Review Committee]]~~ relating to the County's small ~~[[and community]]~~ business programs established in this Code. ~~[[The County Mayor or County Mayor's designee shall further be required to report to this Board on a bi-annual basis all contracts advertised with the measures included,~~

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

~~and other steps taken to foster small and community business programs.]~~ The Commission Auditor shall review and evaluate the >>County<<Mayor's or >>County<<Mayor's ~~[[designee]]~~ >>designee's<< exercise of authority delegated pursuant to this section and report the results of his or her evaluation to the Board of County Commissioners on a periodic basis. The County Mayor or County Mayor's designee is hereby delegated the authority to award and reject bids or proposals for contracts for public improvements (construction), and purchases of supplies, materials and services (including professional services) costing ~~[[one million dollars (\$1,000,000.00)]]~~ >>five million dollars (\$5,000,000.00)<< or less ~~[[, or in the case of miscellaneous construction contracts or purchasing programs designed to provide opportunities for Community Small Business Enterprises specifically authorized by Board ordinance or resolution five million dollars (\$5,000,000.00) or less,]]~~ without the need for action by the ~~[[County Commission]]~~ >>Board of County Commissioners<<. The authority to award contracts provided ~~[[in the preceding sentence]]~~ >>herein<< shall not constitute authority for the County Mayor or County Mayor's designee to exercise an option to renew any contract where the combined value for such contract's initial term and the option to renew would exceed ~~[[one million dollars (\$1,000,000.00)]]~~ >>five million dollars (\$5,000,000.00)<<, and in such instances the County Mayor or County Mayor's designee shall obtain the prior authorization of the ~~[[County Commission]]~~ >>Board of County Commissioners<< to exercise such option. The County Mayor or County Mayor's designee may recommend that the foregoing requirement to obtain prior Commission authorization to exercise an option to renew be waived for a specific contract when the County Mayor or County Mayor's designee deems it to be in the best interests of the County. The Inspector General shall be invited to participate as appropriate in the processes by which the authority delegated hereby is exercised. The County Mayor or County Mayor's designee is delegated the authority to utilize any of the following processes for selection

of a contractor to perform contracts for public improvements: competitive price bidding, request for proposals, or request for qualifications without the need for prior approval of the ~~[[County Commission]]~~ >>Board of County Commissioners<<. The County Mayor or County Mayor's designee shall review all construction projects to determine whether the break-up of the project into smaller contracts will increase the opportunity for ~~[[CSBEs]]~~ >>small businesses<< to participate therein. For those contracts where the County Mayor or County Mayor's designee requests authority from the ~~[[County Commission]]~~ >>Board of County Commissioners<< to advertise, the request for such authority shall advise the steps taken to accomplish the foregoing sentence. The County Mayor or County Mayor's designee may designate appropriate County staff to exercise the authority delegated hereunder by implementing order, approved by the Board of County Commissioners.

* * *

Section 2. Section 2-8.1.6 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 2-8.1.6. Program for expedited purchasing.

Notwithstanding any contrary provision of this Code, a program for expedited purchasing is hereby created, subject to the terms and conditions of this Section. The program shall be referred to as the "Expedited Purchasing Program."

- (a) The County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< is hereby authorized to utilize the Expedited Purchasing Program for the competitive purchase of supplies, materials and services, including professional services ~~[[other than professional architectural, engineering and other services subject to Section 2-10.4 of this Code and Section 287.055 of the Florida Statutes]]~~, which are estimated to cost ~~[[one million dollars (\$1,000,000.00)]]~~ >>five million (\$5,000,000.00)<< or less.
- (b) For purposes of this Program, the County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< shall be expressly

authorized to waive any irregularity in any bid or proposal submission which he or she determines to be non-material.

- (c) For any purchase to be made under the Expedited Purchasing Program, the County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< shall be authorized to issue competitive solicitation documents which in the discretion of the County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< procure the best value to Miami-Dade County for the goods or services to be purchased. The method of solicitation shall be determined in the discretion of the Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< and may include, but not be limited to, invitations to bid, ~~[[request]]~~ >>requests<< for proposals or >>requests<< qualifications, >>requests to negotiate<< ~~[[negotiations]]~~, and best and final offers. In determining the best value to Miami-Dade County, the County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< shall consider criteria to include but not be limited to price, quality, experience, the ability to deliver the required goods and services, the availability of the goods and services, and the nature and urgency of the County's needs. The selection method and criteria to be used shall be set forth in the solicitation documents.
- (d) The County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< shall make the final determination of best value in accordance with the method and criteria set forth in the solicitation documents. In making the determination of best value, the County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< shall utilize a review team of his or her technical and professional staff and ~~[[of]]~~ >>consult<< the County Attorney's Office >>as needed<< for purchases made under the Expedited Purchasing Program.
- (e) ~~[[The County Mayor or County Mayor's Designee shall be authorized to award contracts pursuant to the determinations of best value made in accordance with this Section without further action of the Board, subject to bi-annual reports to the Board.]]~~ >>reserved<<
- (f) In the event the County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< determines at any time that a waiver of the competitive process for purchases ~~[[greater than]]~~ two hundred fifty thousand dollars (\$250,000.00)

>>or more<< is in the best interests of the County, the Mayor or Mayor's County ~~[[Designee]]~~ >>designee<< shall make a written recommendation to the Board for such waiver.

- (g) The written recommendation of the County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< to award a contract under the Expedited Purchasing Program shall be sufficient to commence the bid protest period and terminate the Cone of Silence as provided elsewhere in this Code.
- (h) The protest of any award under the Expedited Purchasing Program shall be made in accordance with the provisions of Section 2-8.4 of the Code of Miami-Dade County.
- (i) The County Mayor or County Mayor's ~~[[Designee]]~~ >>designee<< shall be authorized to advertise and issue solicitation documents for purchases under the Expedited Purchasing Program.
- (j) Any provisions of the Code or of any applicable resolution or administrative order contrary to the provisions of this section shall be deemed suspended or amended as necessary to give effect to the intent of this section. Similarly, any provisions of the Code or of any applicable resolution or administrative order not deemed suspended or amended hereunder shall apply to any purchase administered under the Expedited Purchasing Program.
- (k) The County Mayor may, by duly executed written instrument which specifically identifies this section, delegate any and all of the responsibilities set forth in this section, whereupon the provisions of this section and its limitations shall be understood to apply to the County Mayor's designee.
- ~~[(l) The County Mayor or County Mayor's Designee shall provide bi-annual reports to the Board of County Commissioners regarding the application of this Section for contract awards greater than two hundred fifty thousand dollars (\$250,000.00). The reports shall include a description of the goods and services procured, the procurement methodology, the existence and resolution of any bid protest, the identity of the awarded vendors and the amount of the contract awarded. The Commission Auditor shall include the Expedited Purchasing Program within~~

~~his/her review of the County Mayor's or County Mayor's Designee's exercise of delegated authorities pursuant to Section 2-8.1(b).]]~~

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

Section 4. It is the intention of the Board, and it is hereby ordained that the provisions of sections 1-3 of this ordinance shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

JMM

Prepared by:

MAG

Miguel A. Gonzalez

Prime Sponsor: Commissioner Eileen Higgins