

**CITY OF BALTIMORE
COUNCIL BILL 21-0068
(First Reader)**

Introduced by: President Mosby, Councilmembers Middleton, Ramos, Bullock, Stokes, Torrence,
McCray, Porter, Glover, Burnett

Introduced and read first time: April 19, 2021

Assigned to: Public Safety and Government Operations

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Planning
Department, Department of Public Works, Department of General Services, Minority and
Women's Business Development Office, Minority and Women's Business Opportunity Office

A BILL ENTITLED

1 AN ORDINANCE concerning

2 style="text-align:center">**Curing Mistakes in Bids**

3 FOR the purpose of permitting the City Purchasing Agent to waive minor irregularities in bids;
4 permitting a bidder to cure mistakes in a bid under certain conditions; permitting a bidder to
5 withdraw a bid under certain conditions; defining certain terms; requiring the City Purchasing
6 Agent to prepare a determination showing the relief that was granted or denied regarding a
7 bid's correction or withdrawal; and clarifying the duties of the City Purchasing Agent
8 notwithstanding this subtitle.

9 BY renumbering current

10 Article 5 - Finance, Property, and Procurement
11 Section 47-1 to be Section 47-6
12 Baltimore City Code
13 (Edition 2000)

14 BY adding

15 Article 5 - Finance, Property, and Procurement
16 Sections 47-1, 47-3, and 47-4, under the amended subtitle designation,
17 "Subtitle 47. Miscellaneous Contract Administration Provision"
18 Baltimore City Code
19 (Edition 2000)

20 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
21 Laws of Baltimore City read as follows:

22 style="text-align:center">**Baltimore City Code**

23 style="text-align:center">**Article 5. Finance, Property, and Procurement**

24 style="text-align:center">**Subtitle 47. Miscellaneous Contract ADMINISTRATION Provisions**

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 **§ 47-1. “PURCHASING AGENT” DEFINED.**

2 IN THIS SUBTITLE, “PURCHASING AGENT” (“AGENT”) REFERS TO THE CITY PURCHASING
3 AGENT OR THE CITY PURCHASING AGENT’S DESIGNEE.

4 **§ 47-2. {RESERVED}**

5 **§ 47-3. MINOR IRREGULARITIES.**

6 (A) “MINOR IRREGULARITY” DEFINED.

7 “MINOR IRREGULARITY” MEANS AN IRREGULARITY THAT IS MERELY A MATTER OF FORM
8 AND NOT OF SUBSTANCE OR PERTAINS TO AN IMMATERIAL OR INCONSEQUENTIAL DEFECT
9 OR VARIATION IN A BID OR PROPOSAL FROM THE EXACT REQUIREMENT OF THE
10 SOLICITATION, AND THE CORRECTION OR WAIVER OF THE IRREGULARITY WOULD NOT BE
11 PREJUDICIAL TO OTHER BIDDERS.

12 (B) *IN GENERAL.*

13 IF A BID CONTAINS A MINOR IRREGULARITY, THE AGENT MAY CHOOSE TO:

14 (1) WAIVE THE MINOR IRREGULARITY IF THE AGENT DETERMINES THE IT IS
15 ADVANTAGEOUS FOR THE CITY TO DO SO; OR

16 (2) ALLOW THE CONTRACTOR TO CURE ANY DEFICIENCY RESULTING FROM THE MINOR
17 IRREGULARITY.

18 **§ 47-4. MISTAKES IN BIDS.**

19 (A) *MISTAKES DISCOVERED BEFORE OPENING.*

20 (1) A BIDDER MAY CORRECT MISTAKES DISCOVERED BEFORE THE TIME AND DATE SET FOR
21 BID OPENING BY WITHDRAWING OR CORRECTING THE BID IF THE AGENT RECEIVES
22 WRITTEN NOTICE, OR, IN THE CASE OF BIDS THAT ALLOW IT, NOTICE BY ELECTRONIC
23 MEANS, OF THE BIDDER’S DESIRE TO WITHDRAW OR CORRECT THE BID BEFORE THE
24 TIME AND DATE SET FOR BID OPENING.

25 (2) IF THE BID IS WITHDRAWN IN ACCORDANCE WITH THIS SUBTITLE, THE AGENT SHALL
26 RETURN ANY BID SECURITY TO THE BIDDER.

27 (3) THE AGENT SHALL INCLUDE ALL DOCUMENTS RELATED TO THE MODIFICATION OR
28 WITHDRAWAL OF BIDS IN THE APPROPRIATE PROCUREMENT FILE.

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1 (B) *MISTAKES DISCOVERED DURING OPEN BIDDING PERIOD.*

2 (1) THE AGENT MAY REQUEST THE BIDDER CONFIRM THE BID DURING THE OPEN BIDDING
3 PERIOD IF:

4 (I) THE AGENT KNOWS THAT THE BIDDER HAS MADE A MISTAKE;

5 (II) THE BID INCLUDES OBVIOUS ERRORS ON ITS FACE; OR

6 (III) THE BID IS UNREASONABLY LOWER THAN OTHER SUBMITTED BIDS.

7 (2) IF THE BIDDER ALLEGES MISTAKE, AND UPON WRITTEN APPROVAL FROM THE CITY
8 SOLICITOR OR THE CITY SOLICITOR'S DESIGNEE, THE BIDDER MAY CORRECT THE
9 INTENDED BID OR WITHDRAW A LOW BID IF THE BIDDER SUBMITS PROOF WHICH
10 CLEARLY DEMONSTRATES THAT A MISTAKE WAS MADE.

11 (3) UPON NOTIFICATION OF A BIDDER'S MISTAKE, THE CITY SOLICITOR OR THE CITY
12 SOLICITOR'S DESIGNEE MUST REPLY WITH WRITTEN APPROVAL OR DISSENT WITHIN 1
13 BUSINESS DAY.

14 (C) *MISTAKES DISCOVERED AFTER BID.*

15 UNLESS CORRECTION OF THE MISTAKE RESULTS IN A CHANGE IN PRICE, MISTAKES MAY BE
16 CORRECTED AFTER AWARD OF THE CONTRACT IF:

17 (1) THE AGENT DETERMINES THAT IT WOULD BE UNCONSCIONABLE NOT TO ALLOW
18 THE MISTAKE TO BE CORRECTED;

19 (2) THE AGENT SUBMITS THE NEEDED CORRECTIONS IN WRITING TO THE CITY
20 SOLICITOR; AND

21 (3) THE CITY SOLICITOR, IN WRITING, APPROVES THE CORRECTIONS.

22 (D) *DETERMINATIONS REQUIRED.*

23 WHEN A BID IS CORRECTED OR WITHDRAWN, OR THE AGENT REFUSES TO ALLOW A
24 CORRECTION OR WITHDRAWAL, THE AGENT SHALL PREPARE A DETERMINATION SHOWING
25 THAT THE RELIEF WAS GRANTED OR DENIED IN ACCORDANCE WITH THIS SECTION.

26 (E) *AUTHORITY OF AGENT NOT ABROGATED.*

27 NOTHING IN THIS SECTION ABROGATES THE AUTHORITY OF THE AGENT TO:

28 (1) REJECT ANY AND ALL BIDS;

29 (2) MAKE PARTIAL AWARDS;

30 (3) WAIVE ANY IRREGULARITIES IN ANY BID;

31 (4) INCREASE OR DECREASE QUANTITIES IF QUANTITIES ARE LISTED IN THE BID;

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1 (5) REJECT ANY BID THAT SHOWS ANY OMISSIONS, ALTERATIONS OF FORM AND
2 ADDITIONS, CONDITIONS, OR ALTERNATE PROPOSALS NOT CALLED FOR; AND

3 (6) MAKE ANY AWARD THAT THE AGENT DEEMS TO BE IN THE BEST INTEREST OF THE
4 CITY.

5 **§ 47-5. {RESERVED}**

6 **§ 47-6. [47-1.] No dumping clause.**

7 . . .

8 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
9 are not law and may not be considered to have been enacted as a part of this or any prior
10 Ordinance.

11 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
12 after the date it is enacted.