 DORSEY I (FLOOR) I 08JUN26

AMENDMENTS TO COUNCIL BILL 26-0190
(1st Reader Copy)

By: Councilmember Dorsey
{To be offered on the Council floor}

Amendment No. 1

On page 1, in line 8, strike "11(h)(1)((ii)" and substitute "11(h)"; and, on that same page, strike in their entirety lines 16 and 17, inclusive, and substitute:

"[(h) *Bid awards*.]

[(1)(i) All bids made to the City in response to the formal advertising procedures contained in this section, for materials, supplies, equipment, services, or public works, or for any other purpose, unless otherwise provided in the Charter, shall be opened by the Board of Estimates.]";

and, on page 2, after line 3, insert:

"[(iii) In the event of tie bids, the using agency, with written notice to the Department of Finance, shall make a written recommendation and report to the Board of Estimates setting forth all pertinent considerations and the reasons for its recommendation. The Board, after also considering the recommendation of the Department of Finance, may then award the contract in its discretion, as long as the total cost to the City does not exceed the amount of the tie bid.]

[(iv) Once filed, bids are irrevocable.]

[(v) Any recommendation that is made by any municipal agency to the Board of Estimates as to the appropriate award to be made by the Board is advisory only and not binding on the Board.]

[(vi) Notwithstanding the competitive bid provisions of this Charter, the Board of Estimates may adopt rules and regulations that establish uniform procedures for providing, on a neighborhood service, neighborhood public work, or neighborhood public improvement contract, limited bid preferences to responsive and responsible bidders who are residents of, or have their principal places of business in, that neighborhood.]

[(2)(i) All bids for construction contracts let for the Department of Public Works, the Department of General Services, and the Department of Transportation and any other contracts for public works shall be accompanied by a check or bid bond. For all other contracts, the Director of Finance shall implement policies and procedures to determine whether a bid bond is required for a contract, the term and face value of the bond, and the manner in which the bond shall be provided and refunded.]

[(ii) Except as otherwise provided in this paragraph (2), the check shall be a certified check of the bidder, a bank cashier's check, or a bank treasurer's check, drawn on a clearing house bank. The check shall be in an amount provided by ordinance, by the bid specifications, or by an order or regulation of the using agency. In the case of bid checks of $5,000 or less, the check may be of any type drawn on any banking institution of the United States.]

[(iii) The bid bond shall be in the form and amount provided by the rules and regulations of the Board of Estimates, and shall be filed by the bidder with the Department of Finance.]

[(3)(i) The successful bidder promptly shall execute a formal contract, to be approved as to its form, terms, and conditions by the City Solicitor.]

[(ii) For all construction contracts let for the Department of Public Works, the Department of General Services, and the Department of Transportation and any other contracts for public works , the bidder shall execute and deliver to the Mayor a good and sufficient performance bond, irrevocable letter of credit, or certification that the successful bidder meets the requirements under the City's self-insurance program for performance coverage. For all other contracts, the Director of Finance shall implement policies and procedures to determine whether a performance bond is required for a contract, the term and face value of the bond, and the manner in which the bond shall be provided.]

[(iii) The bond, letter of credit, or certification shall be:]

[1. in an amount equal to the full contract price; or]

[2. for each year in a multi-year contract (other than a construction contract), in an amount equal to the estimated contract price for that year, as determined by the Director of Finance.]

[(iv) Any successful bidder who fails to execute promptly and properly the required contract, performance bond, irrevocable letter of credit, or certification, as applicable, shall forfeit the amount deposited, or an equivalent amount under the bid bond. This amount shall be taken and considered as liquidated damages and not as penalty for the bidder's failure.]

[(4) When the successful bidder executes the contract and, if required, the performance bond, the bid checks shall be returned to all bidders or the equivalent amounts charged against their bid bond shall be released. If the City has deposited bid checks, the City shall reimburse these bidders in the amounts of the bid checks.]

[(5) If a bidder is not required to file a bid bond under the policies and procedures adopted by the Director of Finance and the bidder fails to execute and perform any contract awarded to that bidder, the exempted bidder shall forfeit the right to bid on any future City contract for a period of time determined by the Board of Estimates, and shall be liable for any costs incurred by the City as a result of the default.]".