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	AGENCY NAME & ADDRESS	Department of Finance Room 448, City Hall (396-4940)		
	SUBJECT	City Council Bill 10-0499		

DATE: June 1, 2010

TO
 The Honorable President
 And Members of City Council
 Room 400 City Hall

Attention: Karen Randle

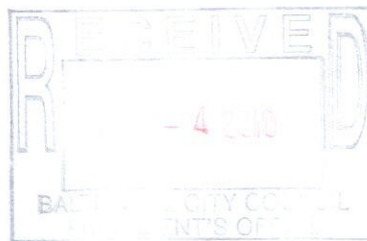
City Council Bill 10-0499 represents a series of changes to the City Charter relative to the City's procurement procedures.

The Baltimore Efficiency & Economy Foundation engaged the Johns Hopkins University Institute of Policy Studies to analyze the City's procurement process. They found that Baltimore's Charter language is much more prescriptive than other Maryland counties, and recommended four key changes to the City's Charter. City Council Bill 10-0499 incorporates those recommendations.

- (1) The charter sets the minimum threshold value that must be taken to the Board of Estimates (currently any expenditure greater than \$5,000) and the City Council sets the minimum threshold value that must be formally bid (currently \$25,000 and greater). Note that these thresholds were last changed in 1986, some 24 years ago. City Council Bill 10-0499 authorizes the City Council to set both thresholds with a two-thirds vote.

For illustrative purposes, assume that the City Council voted to increase the threshold for the Board of Estimates from \$5,000 to \$25,000 and the threshold for formal solicitation from \$25,000 to \$50,000. In Fiscal 2009, there were 975 requisitions completed for purchases between \$5,000 and \$24,999. This constituted about 22% of the total Purchases workload. Having to obtain Board of Estimates approval adds at least two weeks to the process but adds very little value to the ultimate award decision.

Also in Fiscal 2009, there were 129 requisitions completed between \$25,000 and \$50,000. Purchasing must draft an RFP and solicit formal bids for these rather routine solicitations, which is costly in terms of staff time and effort. If the formal bid threshold were increased by City Council to \$50,000, it is estimated that the City could save \$157,421 worth of staff time and effort. This time and effort could then be devoted to high-dollar transactions with higher savings opportunities for City.



1

The savings generated by formally bidding some requisitions is often not enough to justify the transaction cost, especially in the \$25,000 to \$50,000 range. For example, consider a \$40,000 solicitation. The transaction cost to process the requisition is \$2,033. Assuming the City saved 5% by formally bidding; this would generate \$2,000 of savings resulting in a net loss for the City. Multiply this by hundreds of transactions such losses begin to be significant.

It should be noted that in the other five largest Maryland counties (Baltimore, Anne Arundel, Howard, Prince Georges and Montgomery) the Purchasing Agent has authority to award all solicitations up to \$25,000 and even greater in some cases.

- (2) The charter currently requires each bidder to submit a performance bond. Performance bonds in many procurements are very difficult for the vendor to even obtain and unnecessary in carrying out the agreement of the procurement. Additionally, they are very costly to the vendor and keep otherwise well qualified vendors from bidding. For example, commodity procurement of an off-the-shelf product that is not tailored made for the City does not require a performance bond. If the vendor does not perform, the commodity can be obtained from another source. To impose a performance bond adds unnecessary cost for the City as it will be passed on to the City in the bid price. Many procurements are multi-year and add up to a lot of money. For a small vendor such as a distributor would find it hard to even obtain a performance bond on the bond market. Certain services would not necessarily require a performance bond such as food service or locksmith services. Note that vendors of such services are required to have liability insurance in the event of possible problems that may arise in the execution of their services.

There are however instances where performance bonds would be required for the procurement of commodities and services. Performance bonds are prudent when the service or commodities are of such a nature that the City would be at significant risk if the vendor failed to complete the project or the delivery of goods was impaired. Commodities that might require a performance bond would be items that are significantly customized to the City's particular needs, and hence not easily substituted with another vendor's product; an example would be custom made parts for the restoration of an antique fence around a historic building. In terms of services, the most common

example of when a performance bond is prudent is construction. (In fact, in most jurisdictions performance bonds are required only for construction projects.) A non-construction example needing a performance bond would be for health care or other benefit services providers, where changing them in mid-stream would be costly and disruptive.

This bill would give the Director of Finance the authority to set up policies with regard to performance bonds, matching the requirement to the risk on a case by case basis, rather than having a blanket requirement.

- (3) The Charter currently requires formal bids to be advertised at least twice in two or more daily newspapers published in Baltimore City. This bill would require advertisement in two places - one of which is electronic posting on the Internet, and the other in a general circulation newspaper.

In Fiscal 2009, the Bureau of Purchases spent \$50,370 for advertising. This includes the publishing of all formal bids in two newspapers, as required by law. The proposed charter change would cut this cost in half, for a savings of \$25,000.

- (4) Currently, there is no reference in the Charter with regard to procedures regarding Sole Source or Selected Source awards. The bill would require that Selected Source and Sole Source awards be posted online prior to approval by the Board of Estimates.

The Department of Finance recommends that the committee give favorable consideration to City Council Bill 10-0499.