
CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
JAMES L. SHEA, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

June 21, 2021

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 21-0061 – Minority and Women’s Business Enterprises –
Self-Performance Credit

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0061 for form and legal sufficiency. The bill is for the purpose of modifying the applicable self-performance credit for minority and women’s business enterprise prime contractors.

The bill conflicts with the Board of Estimates regulations, which restate the current code and cap the percentage of work of a certified prime contractor that can count as a self-performance credit at 50%. *See* Board of Estimates Regulations, III(G)(1)(d). Section 11(a) of Article VI of the Charter states that “[t]he Board of Estimates shall be responsible for awarding contracts and supervising all purchasing by the City as provided in this section and elsewhere in the Charter.” The City Council cannot by ordinance alter the authority granted in the Charter to the Board of Estimates. “In the event of an inconsistency between the provisions in the Charter and any contrary [ordinance], the provision in the Charter would control....” *Swarthmore Co. v. Kaestner*, 266 258 Md. 517, 526–27 (Md. 1970). The Baltimore City Charter itself recognizes the supremacy of the City Charter over all municipal ordinances. Article III, § 11 provides, “The Mayor and City Council of Baltimore shall have power to pass all ordinances, not inconsistent with the Charter....”. The charter, therefore, supersedes all ordinances that are inconsistent.

Procurement powers are specifically reserved in the Charter for the Board of Estimates unless provided otherwise in the Charter or State law. While the City Council plays a role in the purchasing process, it is subject to the authority of the Board of Estimates in the procurement process.

Since this bill is inconsistent with the regulations promulgated pursuant to the Charter’s grant of authority over contracting and procurement to the Board of Estimates, the bill cannot be approved.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Ashlea H. Brown', enclosed in a thin blue rectangular border.

Ashlea H. Brown
Assistant Solicitor

cc: Matthew Stegman
Nina Themelis
Nikki Thompson
Elena DiPietro
Victor Tervalo
Hilary Ruley