


FROM	NAME & TITLE	Honorable Bill Henry, Comptroller of Baltimore City	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Office of the Comptroller, Room 204, City Hall		
	SUBJECT	21-0068 Curing Mistakes In Bids		

DATE:

TO

The Honorable President and
 Members of the City Council
 City Hall, Room 400

June 15, 2021

Position: Favorable with Amendment

The Comptroller’s Office is offering comments on Council Bill 21-0068, Curing Mistakes in Bids. This Bill would allow the City Purchasing Agent to waive, or allow a bidder to cure, a minor irregularity in a bid package submitted in response to a procurement solicitation. It would also establish procedures by which a bidder or the City Purchasing Agent could correct mistakes in bids or, under certain circumstances, allow a bidder to withdraw a bid.

Background

The Comptroller is a member of the Board of Estimates, which is charged under the City Charter and Code with, among other things, reviewing and approving all City contracts with a value of \$25,000 or more. Council Bill 21-0068 would directly impact the contracts brought to the Board for approval. The details of the City’s procurement processes are the primary responsibility of the Bureau of Procurement. However, as one member of the body that has final approval authority and therefore ultimate accountability for the vast majority of City contract awards, the Comptroller offers the following comments for the Committee’s consideration.

As a general introductory point, City Code Article 5, Section 28-12(b) allows the Board of Estimates to “...waive minor defects and errors in a bidder’s submissions under this subtitle.” Council Bill 21-0068 is would expressly apply similar authority, but with much greater detailed guidance as to how to do so, to the City Purchasing Agent within the Department of Finance. This could be beneficial in that currently, many bids that contain minor defects and errors never come before the Board of Estimates to begin with, because they are in effect “screened out” by the Bureau of Procurement. This bill would give specific, detailed direction to the City Purchasing Agent that could in turn result in bid submissions being brought to the Board that are in the City’s best interest to accept but that currently are disqualified because of minor errors.

In keeping with the legislation’s intent, the Comptroller respectfully requests an amendment to authorize the City Purchasing Agent to submit any recommendations for curing mistakes in bids to the Board of Estimates. This will allow the Board to exercise their authority mentioned in the paragraph above, in a public meeting.

The Comptroller’s Office is supportive of the concepts underlying this legislation, namely that bidders who make non-substantive, truly minor mistakes in their bid submissions should not be denied the opportunity to correct those mistakes. Specifically, this will support the utilization of smaller, minority and/or women owned business enterprises, whose bids are vulnerable to disqualification for often, minor technical details. Currently, the process for addressing such mistakes is handled entirely at the administrative level by the City Purchasing Agent and staff of the Bureau of Procurement. A primary

concern of the Comptroller's Office is that any decision to allow curing mistakes in a bid should be discussed openly, in the public forum afforded by weekly meetings of the Board of Estimates.

Conclusion

While Council Bill 21-0068 does not directly affect the operations or policies of the Comptroller's Office, it could affect matters that come before the Board of Estimates, a body on which the Comptroller serves and for which the Comptroller's office provides the principal staff. Part of the process of preparing the agenda for each Board of Estimates meeting involves an in-depth, substantive review of every recommendation for contract award greater than \$25,000. This bill would affect the process by which such contracts are evaluated and therefore could impact the role the Board plays in deciding disputes relating to contested awards.

As the Administration's ongoing efforts to improve City procurement processes and systems get underway, the Comptroller's Office will continue to press for increased transparency, equity, and public scrutiny of City contract awards. In that spirit, the Comptroller's Office offers its support for Council Bill 21-0068 with the amendment requested above.