

11-1776

(Do Not Write Above This Line)

AN ORDINANCE  
BY: COUNCILMEMBER FELICIA A. MOORE

AN ORDINANCE TO AMEND THE  
PROCUREMENT CODE OF THE CITY OF  
ATLANTA, GEORGIA, BY AMENDING  
SEC. 2-1161, TO ADD NEW LANGUAGE;  
AND FOR OTHER PURPOSES.

AUTOMATICALLY TERMINATED  
AND  
FILED BY CLERK  
PER CHARTER SECTION 2-407

DEC 02 2013

substitute

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 11/21/11

Referred To: Finance/Exec

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred To \_\_\_\_\_

Committee Finance/Exec  
Date 11-30-11  
Chair \_\_\_\_\_

Action  
Fav, Adv, Hold (see rev. side)  
Other substitute  
Members \_\_\_\_\_

Refer To \_\_\_\_\_

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair \_\_\_\_\_

Action  
Fav, Adv, Hold (see rev. side)  
Other \_\_\_\_\_

Members \_\_\_\_\_

Refer To \_\_\_\_\_

Committee Finance/Exec  
Date 3-27-12  
Chair \_\_\_\_\_

Action  
Fav, Adv, Hold (see rev. side)  
Other substitute  
Members \_\_\_\_\_

Refer To \_\_\_\_\_

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair \_\_\_\_\_

Action  
Fav, Adv, Hold (see rev. side)  
Other \_\_\_\_\_

Members \_\_\_\_\_

Refer To \_\_\_\_\_

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd
- 3rd
- Readings
- Consent
- V Vote
- RC Vote

CERTIFIED

DEC 02 2013

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

on MM outline # 26 on Agenda # 25

DEC 02 2013

Rhonda Dandrea Johnson  
MUNICIPAL CLERK

MAYOR'S ACTION

BY: COUNCILMEMBER FELICIA MOORE

**AN ORDINANCE TO AMEND ARTICLE X, DIVISION 3, SECTION 2-1161 OF THE PROCUREMENT AND REAL ESTATE CODE OF THE CITY OF ATLANTA CODE OF ORDINANCES TO CLARIFY PROTEST PROCEDURES; TO PROVIDE FOR MAKING CERTAIN PUBLIC PROCUREMENT DOCUMENTS AVAILABLE; AND FOR OTHER PURPOSES.**

**WHEREAS**, Article X, Section 2-1161 of the City of Atlanta Code of Ordinances sets forth the City's authority to resolve protested solicitations and awards; and

**WHEREAS**, Section 2-1161(a) specifically addresses the right to protest the result of an invitation for bids or request for proposals; and

**WHEREAS**, the City Council desires to amend Section 2-1161(a) to clarify the protest procedure; and

**WHEREAS**, certain records generated through a procurement process may be relevant to an actual offeror in connection with the exercise of the right to protest, as such; and

**WHEREAS**, as part of such duties and authority, the Chief Procurement Officer maintains documentary records related to solicitations and executed contracts..

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS** as follows:

**Section 1.** The City of Atlanta Real Estate and Procurement Code, Section 2-1161(a), which **currently** reads:

- (a) *Right to protest.* Any actual offeror that has submitted a bid/proposal for a particular procurement and is aggrieved in connection with the solicitation or award of the contract shall protest in writing to the chief procurement officer after the date that the specific bid or proposal is submitted. No protest will be accepted or considered prior to the date the specific bid or proposal is submitted; it will be considered untimely. All protests shall set forth in full detail the factual and legal bases for the protest and specific relief sought by the protestor. Protests arising from factual or legal bases that the protestor knew or should have known prior to the submission of the bid/proposal must be submitted within three days of the submission of the bid/proposal. Protests arising from factual or legal bases that the protestor knew or should have known subsequent to the date the

bid/proposal was submitted must be submitted within ten days after the protestor knew or should have known of such bases, but in no event shall any protest be submitted more than ten days after the award of the contract. Untimely protests will not be considered by the chief procurement officer and will be simply denied as untimely.

Shall be **amended** as follows:

- (a) (1) *Right to protest.* Any actual offeror that has submitted a bid/proposal for a particular procurement and is aggrieved in connection with the solicitation or award of the contract shall protest in writing to the chief procurement officer after the date that the specific bid or proposal is submitted.
  - (i) All protests shall set forth in full detail the factual and legal bases for the protest and specific relief sought by the protestor.
  - (ii) No protest will be accepted or considered prior to the date the specific bid or proposal is submitted; it will be considered untimely.
  - (iii) Protests arising from factual or legal bases that the protestor knew or should have known prior to the submission of the bid/proposal must be submitted within three (3) days of the submission of the bid/proposal.
  - (iv) Protests arising from factual or legal bases that the protestor knew or should have known subsequent to the date the bid/proposal was submitted must be submitted within ten days after the protestor knew or should have known of such bases, but in no event shall any protest be submitted more than ten (10) days after the award of the contract.
  - (v) Untimely protests will not be considered by the chief procurement officer and will be simply denied as untimely.
- (2) The chief procurement officer shall make the following records available for inspection within three (3) business days of receipt of a written request from an actual offeror; provided that no such request shall be accepted until after a public vote has occurred by the city council or a city council committee of purview pursuant to this Article:
  - (i) The bids or proposals timely submitted by an actual offeror in connection with a solicitation;

- (ii) Any bid or proposal tabulation sheet developed by the Department of Procurement in connection with a solicitation;
- (iii) Any final evaluation sheet that shows the final calculation of an evaluation of any actual offeror created in connection with a solicitation;
- (iv) The invitation for bids or proposals, as advertised, including any instructions to bidders/proponents and associated contract documents;
- (v) Any written letters from the Chief Procurement Officer to any actual offeror;
- (vi) A copy of the advertisement, as posted on the City of Atlanta website or as published in the city's legal organ; and
- (vii) Final copies of any addenda issued in connection with any solicitation

No record shall be subject to disclosure as a public record if such record or portion of a record has been identified and/or redacted by the city or an actual offeror as exempt from public disclosure, pursuant to Georgia Law.

**Section 2.** Any ordinances in conflict with this ordinance are hereby waived to the extent of the conflict.