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Description of document: Government of the District of Columbia (DC) Office of Contracting and Procurement (OCP) Procurement Procedures Manual, undated

Requested date: 19-July-2024

Release date: 24-January-2025

Posted date: 13-Oct-2025

Source of document: FOIA Request
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



January 24, 2025

Re: Freedom of Information Request No. R001136-071924

This letter is in response to your Freedom of Information Act (FOIA) request received by the Office of Contracting and Procurement (OCP) on July 19, 2024, requesting:

A copy of the Contracting Handbook for the District of Columbia. This may be under a different name.

The Office of Contracting and Procurement (OCP) has identified one hundred thirty-six (136) pages in response to your request.

The FOIA implementing regulations and the Freedom of Information Documents Administrative Cost Assessment Amendment Act of 2004 provide for the recovery of fees for the search for records (per quarter hour, after first hour) and reproduction fee of twenty-five cents per page for copies of records. The total time for records search was less than one (1) hour; therefore, there is no charge for searching. A total of one hundred thirty-six (136) pages are being provided in this response. The charge for reproduction has been waived.

Please know that, under D.C. Official Code § 2-537 and 1 DCMR § 412, you have the right to appeal this letter to the Mayor or to the Superior Court of the District of Columbia. If you elect to appeal, your appeal must be in writing and contain “Freedom of Information Act Appeal” or “FOIA Appeal” in the subject line of the letter as well on the outside of the envelope. The appeal must include (1) a copy of the original request; (2) a copy of any written denial; (3) a statement of the circumstances, reasons, and/or arguments advanced in support of disclosure; and (4) a daytime telephone number, and e-mail and/or U.S. Mail address at which you can be reached. The appeal must be mailed to: The Mayor’s Office of Legal Counsel, Freedom of Information Act Appeal, 1350 Pennsylvania Avenue, N.W., Suite 407, Washington, D.C. 20004. Electronic versions of the same information can instead be e-mailed to: foia.appeals@dc.gov. Further, a copy of all appeal materials must be forwarded to the OCP Freedom of Information Officer. Failure to follow these administrative steps will result in delay in the processing and commencement of a response to your appeal to the Mayor.

Sincerely,

A handwritten signature in black ink, reading "Jeremiah S. Regan". The signature is fluid and cursive, with the first name being the most prominent.

Jeremiah S. Regan
FOIA Officer, District of Columbia
Office of Contracting and Procurement
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PROCUREMENT PROCEDURES MANUAL



OFFICE OF CONTRACTING AND PROCUREMENT

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Introduction

PREFACE

This *Procurement Procedures Manual* has been designed to guide new and current Office of Contracting and Procurement (OCP) employees through the procurement process of the District of Columbia. Acquiring goods and services by District government agencies can often be a very complex, nuanced process. There are numerous laws, regulations, policies, and procedures that affect how an acquisition is conducted. Moreover, there are numerous stakeholders—such as agency program personnel, private industry, and other District agencies—that may be an integral part of an acquisition. This *Procurement Procedures Manual* contains the information and tools necessary for procurement personnel to navigate the District’s procurement process while adhering to the highest ethical and professional standards.

All OCP staff are encouraged to familiarize themselves with this *Procurement Procedures Manual* and to refer to it as questions or ambiguities arise during the course of an acquisition. OCP’s charge is critical—we obtain the goods and services upon which District residents rely every day. As a team we can only meet this charge if we are equipped with the right tools and information of which this *Procurement Procedures Manual* is a component.

VISION & MISSION

OCP's mission is to partner with vendors and District agencies to purchase quality goods and services in a timely manner and at a reasonable cost while ensuring that all purchasing actions are conducted fairly and impartially.

OCP is a contracting and procurement organization that incorporates best practices that streamline the acquisition process, provides value-added customer support, and expands opportunities for certified business enterprises (CBE). OCP is staffed with procurement, legal and administrative professionals who have the requisite skills to serve their customers while securing the best value in goods and services for the District of Columbia.

- **Streamlined Process** – Quality is at the source in an effort to eliminate redundant reviews and contract processing. OCP processes will be consistent across all working groups and units. We will work collaboratively with our process partners to acquire efficiently quality goods and services. The streamlining of this process requires a heavy reliance on technology to facilitate the buying process.
- **Customer Support** – We will work in partnership with our customers to develop and execute effective procurement plans. We will understand our customers' business requirements so that we can provide value-added service. Pursuant to the laws of the District of Columbia, OCP will help customers secure the goods and services required to meet their missions.
- **Certified Business Enterprise Opportunities** – We will identify opportunities for certified business enterprises to compete for the full range of work available.
- **Skills Alignment** – OCP staff will have the opportunity to receive training to develop the skills and knowledge base needed to perform their jobs efficiently, effectively, and ethically.

The Chief Procurement Officer

Established in 1997 by the *Procurement Reform Amendment Act*, the Chief Procurement Officer (CPO) is vested the authority to conduct procurements on behalf of select District agencies, departments, and other government entities. This law was replaced in 2011 by the *Procurement Practices Reform Act of 2011*, which governs procurement in the District of Columbia today. During FY16, OCP purchased over \$4.4 billion in goods and services on behalf of 76 District agencies, departments, and other government entities. OCP has grown to over 200 staff members and had an operating budget of \$23.7 million in FY16. In addition to serving as the Director of OCP, the CPO:

- Provides the overall leadership in the implementation of procurement rules and coordinating all procurement activities of the District government, in accordance with the PPRA;
- Develops a system of unified and simplified procurement procedures and forms;

- Reviews, monitors, and audits the procurement activities of the District;
- Prepares, establishes, and implements periodic review process for the evaluation of contractors;
- Develops guidelines for the recruitment, learning & development, career development and performance evaluation of all procurement personnel;
- Establishes certification requirements for contracting personnel; and
- Delegates contracting authority to experienced contracting officers and procurement.

OCP Divisions and their Functions

OCP is divided into the following five divisions: Procurement, Operations, Learning and Development, Business Resources and Support, and General Counsel's Office. The responsibilities and organization of each of these divisions is listed below.

- A. **Procurement Division.** This Division is responsible for procuring goods and services on behalf of the agencies and programs under OCP's authority in accordance with District laws and regulations. OCP teams working under the CPO's delegated procurement authority are co-located with program staff at customer agencies and manage procurement services for their assigned agencies. It is divided into ten units:
- Government Operations;
 - Public Safety;
 - Health Services;
 - Human Services;
 - Homeless/Youth Human Services;
 - Transportation Infrastructure;
 - Information Technology;
 - Public Works and Fleet Services;
 - Simplified Acquisition/DC Supply Schedule/P-Card; and
 - Procurement Operations.
- B. **Operations Division.** This Division is headed by the Chief of Staff and provides agency operational oversight, coordinates initiatives, executes CPO commitments, procurement support, and serves as the agency point of contact. It is comprised of the following components:
- ***Office of Procurement Integrity and Compliance (OPIC)*** – provides a full complement of audit and non-audit advisory services to agency leadership, staff and affected stakeholders on both pre- and post-award basis. Specifically, OPIC

conducts internal audits and reports its findings to various stakeholders within the agency; serves as the primary lead for OCP in support of the Comprehensive Annual Financial Report (CAFR) and Single Audit; and performs operational assessments of procurement processes and functions for agencies and teams under the authority of the CPO. OPIC also administers the agency's deficiency remediation, records management, and performance monitoring programs.

- ***Communications and Engagement*** – handles requests and provided information to key stakeholders including vendors, District residents, customer agencies, Council, and the media regarding contracting and procurement-related matters.
- ***Procurement Technology*** – provides technical and consultative support to agencies, vendors and OCP contracting staff, while preserving data integrity and advancing the agency's transparency efforts. The IT team manages OCP's Procurement Automated Support System (PASS), provides technical support for PASS and Ariba eSourcing applications, and operates the IT Helpdesk for internal and external OCP customers.
- ***Strategy and Performance Management*** – develops policies and procedures to help employees and other stakeholders work toward common goals, establish intended outcomes/results, and adjust the organization's priorities in response to a changing environment
- ***Human Resources*** – provides human resource management services to attract, develop, and retain a well-qualified and diverse workforce.

- C. **Business Resources and Support Division.** This consists of two teams: *Support Services* and *Surplus Property*. Together, these teams handle several key functions including: execution of OCP's acquisitions and facility maintenance, District-wide acquisition efforts during declared emergencies, fleet management, surplus property management, and property disposal services to District agencies.
- D. **Learning and Development Division.** This division is responsible for the District Procurement Certification Program (DPCP). This division also operates the Procurement Training Institute, which provides: (1) a District-focused procurement competency model designed to assure the right acquisition outcomes for the District, (2) a procurement training strategy tailored to the needs of the District's procurement professionals, (3) a procurement library, and (4) cost and price analysis support to contracting officers.
- E. **Office of the General Counsel.** Headed by OCP's General Counsel, she and four Assistant General Counsels provide legal services to the procurement staff including: general legal advice, litigation support to the Office of the Attorney of General, responses to Freedom of Information Act (FOIA) requests, and drafting of regulations and legislation

SYNOPSIS OF DISTRICT PROCUREMENT LAWS & REGULATIONS

This section provides an overview of procurement law in the District. Non-attorneys are often, and understandably, uncertain as to where to start should they need to look up a procurement law or regulations. This section provides a very broad overview of the structure of the District's various procurement laws. The goal of this section is to equip all staff members with a general understanding of the District's laws, where to look for them, and what resources are at their disposal.

The Procurement Practices Reform Act

The primary law that currently governs District procurement is the *Procurement Practices Reform Act of 2010*, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351 *et seq.*) (PPRA). The PPRA is Chapter 3A in the D.C. Official Code above. In 2016, the PPRA was amended by a new statute, the *Procurement Integrity, Transparency, and Accountability Amendment Act of 2015*, effective October 8, 2016 (D.C. Law 21-158; D.C. Official Code § 2-351 *et seq.*) (PITAAA). An up-to-date, searchable PPRA is available to all OCP staff on the intranet site as well as a version that highlights the changes made by the PITAAA.

The PPRA defines the authority of OCP and the CPO and establishes the statutory purposes and policies for the procurement of goods, services, and construction in the District of Columbia. The law's purposes include:

- Ensuring transparency in the procurement process;
- Promoting full and open competition;
- Fostering effective and equitably broad-based competition in the District;
- Providing for increased public confidence in procurement;
- Ensuring fair and equitable treatment of all persons; and
- Promoting uniform procurement procedures District-wide.

The law applies to all subordinate agencies, instrumentalities, and employees of the District government, independent agencies, boards, and commissions, except for those specifically exempted. The following agencies, under D.C. Official Code § 2-352.01(a)–(b), are exempt from the CPO's authority but still must adhere to the PPRA:

- Office of the Chief Financial Officer;
- The Office of the Attorney General;
- District of Columbia Housing Authority;
- District of Columbia Public Schools;
- Public Service Commission;
- Department of General Services; and
- Tax Revision Commission;
- University of the District of Columbia;
- District of Columbia Public Library;
- Child and Family Services Agency;
- Office of the People's Counsel;
- Criminal Justice Coordinating Council.

Some District agencies, departments, and other government entities—Neighborhood Advisory Commissions and the D.C. Courts for example—are wholly exempt from both the PPRA and the CPO’s authority. A complete list of agencies exempted from both PPRA and CPO’s authority can be found at D.C. Official Code § 2-351.05(c).

District of Columbia Municipal Regulations (“27 D.C.M.R.”)

The *District of Columbia Municipal Regulations* (abbreviated “D.C.M.R.” or “D.C. Mun. Regs.”) are the collection of permanent rules and statements of general applicability and legal effect promulgated by executive departments and agencies and by independent entities of the Government of the District of Columbia. The D.C.M.R. is divided into titles, of which Title 27 contains the rules for contracts and procurements (abbreviated “27 D.C.M.R.”). Title 27 is comprised of numerous chapters organized by general topic. For example, Title 27, Chapter 16 covers Procurement by Competitive Sealed Proposals.

The CPO is authorized under the PPRA to issue rules under this title. See D.C. Official Code § 2-361.06(a)(1). A proposed procurement rule comes into effect after it is published in *District of Columbia Register* (abbreviated “DCR”) for a 30-day notice and comment period and subsequently approved as a final rulemaking. The rulemaking process from start to finish can take between two and six months. However, under certain circumstances and CPO may issue an Emergency and Proposed Rulemaking. Such emergency rule goes into effect immediately and expired at the end of 120 days.

Hierarchy of District Procurement Law



Like the PPRA, OCP has assembled a searchable Title 27 that contains all rules—including emergency rules—that are in effect. Staff may access on the OCP intranet.

Other Applicable District Laws and Regulations

In addition to the PPRA, District procurements are subject to the following District law and regulations:

- A. **The District Anti-Deficiency Act of 2002, D.C. Official Code § 47-355.01 et seq.** This law prohibits District employees from exceeding budget appropriations or entering in to a contract without an appropriation. Note the District is also subject to the federal anti-deficiency law.
- B. **District of Columbia Government Quick Payment Act of 1984, D.C. Official Code § 2-221.01 et seq.** Establishes a payment of interest penalty when the District fails to meet the required payment date for invoices under contracts at a rate of interest is 1.5% per month, for a maximum period of one year.
- C. **51 Percent District Resident New Hires Amendment Act of 2001, D.C. Official Code § 2-219.01 et seq.** Establishes “First Source” requirement that 51% of new hires on contracts over \$300,000 be District residents.
- D. **Small and Certified Business Enterprise Development and Assistance Act of 2005, D.C. Official Code § 2-218.01 et seq.** This law increases opportunities for certified business enterprises (CBEs) to participate in the District’s contracting and procurement process by requiring:
 - District agencies to spend 50% of their expendable budgets on CBE programs;
 - A preference of up to 12 percent or 12 points in the evaluation of a CBE’s bid or proposal;
 - Contracts of \$250,000 or less to be awarded to qualified small business enterprises on the DC Supply Schedule or be set aside for qualified small business enterprises; and
 - Any contract over \$250,000 to include a requirement that 35% of the total dollar amount of the contract be subcontracted to small business enterprises.
- E. **Living Wage Act of 2006, D.C. Official Code § 2-220.01 et seq.** Sets minimum wage of \$13.95 per hour for District services contracts.
- F. **Mayor’s Order 85-85, Equal Employment Opportunity Requirements in Contracts, (Chapter 11 of the OHR Regulations, 33 DCR 4952, August 15, 1986).** Contractors are prohibited from discriminating against any employee or applicant based on categories listed in District law

Applicable Federal Laws and Regulations

Certain federal laws and regulations apply to District procurements, including:

- A. **Service Contract Act of 1965, 41 U.S.C. § 6701.** Requires payment of prevailing wages as determined by the Department of Labor in service contracts.
- B. **Davis-Bacon Act, 40 U.S.C. § 3141.** Requires payment of prevailing wages as determined by the Department of Labor in construction contracts
- C. **Federal Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1).** Requires an appropriation of funds prior to authorizing an obligation or expenditure of District funds.
- D. **Federal Adequacy of Appropriations Act, 41 U.S.C. § 11.** Requires sufficient funds prior to authorizing an obligation or expenditure of funds; prohibits authorizing obligations for unlimited expenditures or expenditures that cannot be quantified with certainty.
- E. **Office of Management and Budget, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR, Part 200 (December 26, 2014).** Establishes requirements governing state procurements using federal grant funds.

OVERVIEW OF THE PROCUREMENT PROCESS

District of Columbia Procurement Process



Each of the chapters that follow outlines a specific component of the District's procurement process. Chapter 1 discusses the requirements and requirements planning phases: the identification of the need of a good or service and preparing for its acquisition, respectively. Chapter 2 delves further into the procurement process by discussing the solicitation, review, and award phases. Some of the issues discussed here are small purchases, awarding contracts, emergency procurements, and obtaining approval for multi-year procurements and contracts valued in excess of \$1 million. The roles of other stakeholders such as the Office of the Chief Financial Officer (OCFO); the Executive Office of the Mayor (EOM); and the D.C. Council are also discussed in Chapter 2.

Chapter 3 outlines specific issues that affect the solicitation and award phases: suspensions, debarments, and suspensions. Chapter 4 takes us further into the procurement process by looking at contract management, executing modifications and change orders, ratifying unauthorized commitments, and exercising contract options. Chapters 5 and 6 discuss the critical issues of contract closeout and file management, respectively. Lastly, and by no means least, procurement ethics and related topics are addressed in Chapter 7.

REQUIREMENTS, PROCUREMENT PLANNING, & ANNUAL ACQUISITION PLANS

1.1 IDENTIFYING REQUIREMENTS

The procurement process begins when a District agency, whose procurements are conducted by OCP, identifies and assesses the need for specific goods or services—the agency’s *requirement*. The timely and accurate identification of a requirement is necessary for an agency to meet its legally-mandated mission and functions. During the requirement OCP and the program agency then collaborate on a plan to procure the needed good or service.

District of Columbia Procurement Process—Requirements Phase



District government agencies serviced by OCP always have a need for a particular good or service. When a need arises, it is essential that an agency consult with OCP to conduct an assessment of that need. The table below outlines the roles and responsibilities of the program agency staff and those of the contracting officer.

Roles and Responsibilities in the Requirements Phase

Contracting Officer	Agency Staff
Assist with requirements and Statement of Work	Draft Requirements and Statement of Work
Verify Funding	Obtain Proof of Funding
Provide Templates and Sign Appropriate Justifications	Draft and Sign Appropriate Justifications
Assist with Developing the Independent Government Estimate	Develop Independent Government Estimate
Discuss Evaluation Factors	Consider Evaluation Factors

1.2 PROCUREMENT PLANNING

After agency requirements are identified, the contracting officer and agency staff ascertain the appropriate procurement method based on the available sources of the good or service, the urgency of the requirement, the type of product or service, and the dollar amount of the procurement.

District of Columbia Procurement Process—Procurement Planning Phase



Collaboration and communication between procurement and agency are essential in the procurement planning phase. The following table outlines the respective roles and responsibilities of agency and procurement staff.

Roles and Responsibilities in the Procurement Planning Phase	Contracting Officer	Agency Staff
	Perform Additional Market Research	Finalize Market Research
	Review Requirements and the Statement of Work	Finalize Requirements and the Statement of Work
	Complete and share a Milestone Plan	Identify a Contract Administrator
	Engage with Vendors per Customer Needs	Provide Additional Information as Necessary

1.2.1 Determining the Procurement Method—Preliminary Considerations

When an agency is ready to purchase a particular set of goods and services, an OCP contracting officer should meet with the agency's program manager to determine the appropriate procurement method. The contracting officer will review the agency's acquisition history and conduct market research. The purpose of this review is to help determine the appropriate method of procurement. Questions to be addressed include:

- How much is the dollar value of the requisition?
- Is there an existing contract?

- Is there more than one vendor capable of providing the need?
- What is the delivery time frame a vendor can meet?
- Did the previous procurement require discussions?
- Do the vendors compete their products or services based on only price and price-related factors?
- Did the previous procurement require evaluation of a vendor's technical capabilities before making award?
- Do the vendors provide products or services that are commercially available and can be described adequately and understood by the general public?

1.2.2 Types of Procurement Methods

Based upon the review of the agency's acquisition history and market research, the contracting officer will determine the most appropriate method of procurement. The most commonly used procurement methods and corresponding thresholds include:

- A. **P-Cards or "Micro-purchasing"**. This method is typically used for procurements up to \$2,500 for services and up to \$5,000 for goods. The authorized purchase card holder may contact contractors to procure the goods and services. The purchases must not exceed \$2,500 per day for services or \$5,000 for goods, or \$20,000 per month unless OCP approves an exception to these requirements.
- B. **Small Purchases (RFQs)**. This method applies to procurements of up to \$100,000.00.
 - ***Purchases of \$10,000.00 or less*** – non-competitive.
 - ***Purchases ranging from \$10,000.01 to \$100,000.00*** – at least 3 written quotes are required.
- C. **Competitive Sealed Bids (IFBs)**. The required means of soliciting goods and services in excess of \$100,000.00 unless it is determined that use of competitive sealed bidding is not practicable or in the best interest of the District.
- D. **Competitive Sealed Proposals (RFPs)**. A formal solicitation required for purchases when a contracting officer determines competitive sealed bidding is not practicable or advantageous to the District.
- E. **Emergency Procurements**. Emergency procurements occur when there is an imminent threat to the public health, welfare, property, or safety, or to prevent or minimize serious disruption in District services. The contracting officer must prepare a D&F justifying the sole source that includes the following information:
 - The identification of the agency;
 - A statement that emergency procurement procedures will be used for the procurement;

- A description of the requirement;
- A description of the emergency;
- A description of the efforts made to ensure that proposals or bids are received from as many potential sources as possible;
- The estimated value or cost;
- A determination that the anticipated costs to the District will be fair and reasonable in light of the emergency;
- A specific citation to “section 405 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-37; D.C. Official Code § 2-354.05 (2011 Repl.))”;
- Any other pertinent facts that support the emergency justification.

F. **Sole Source.** A sole source procurement may be used when there is only one source for the required goods or services. The contracting officer must prepare a D&F justifying the sole source that includes the following information:

- The using agency;
- A statement that the requirement is a sole source;
- The requirement, including the estimated cost or value;
- The factors that establish the proposed vendor is the only source of the required goods or services;
- A statement that the anticipated costs to the District will be fair and reasonable;
- A specific citation to “section 404 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-37; D.C. Official Code § 2-354.04 (2011 Repl.))”;
- A specific citation to “27 D.C.M.R. § 1700”;
- A description of the market survey conducted and the results, including a list of the potential sources contacted by the contracting officer or which expressed, in writing, an interest in the procurement (if no market survey was done, a statement of the reasons why a market survey was not conducted); and
- Any other relevant facts to support the use of a sole source procurement.

1.2.3 Priorities for the Use of Required Sources

The following list contains the sources from which a good or service may be procured. Priority must be given to sources in descending order.

Priorities for Required Sources

Preference	Source of Goods or Services
1	Existing agency inventories
2	Excess personal property from the OCP's Surplus Property Division
3	Existing requirements contracts
4	Existing indefinite quantity contracts (to the extent of the minimums stated in those contracts)
5	For contracts of \$250,000 or less, qualified small business enterprises on the District of Columbia Supply Schedules (DCSS)
6	For contracts of \$250,000 or less, qualified certified business enterprises (CBE) on the DCSS
7	For contracts of \$250,000 or less, qualified small business enterprises
8	For contracts of \$250,000 or less, qualified CBEs
9	Other sources, including federal schedules and cooperative purchasing agreements

1.2.4 Certified Business Enterprise (CBE) Requirements

The OCP contract specialist and program manager should make every effort to consider whether there is an opportunity to utilize a Small Business Enterprise (SBE) or a Certified Business Enterprise (CBE).

- A. **Mandatory Set-Asides.** Contracts of \$250,000 or less must be awarded to qualified small business enterprises on the DC Supply Schedule or must be set aside for

qualified small business enterprises. The DCSS is the District's multiple award schedule under which contracts may be awarded to CBEs providing goods and services to District government agencies. There are 16 schedule categories for commercial products and services. If the contracting officer determines in writing that there are not at least two qualified SBEs that can provide the goods or services, the contracting officer may use a qualified CBE that can provide the goods or services.

- B. Subcontracting Requirements.** Any construction or non-construction contract over \$250,000 shall include a requirement that 35% of the total dollar amount of the contract be subcontracted to small business enterprises. Subcontracting requirements can be waived if there is insufficient market capacity for the goods and services and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements. Only the Director of the Department of Small and Local Business Development can waive subcontracting requirements.

1.3 PREPARING THE PROCUREMENT PACKAGE

1.3.1 Statement of Work

First, the agency requesting specific goods or services should have its program manager develop what is called a Statement of Work (SOW) if it is required. The SOW is the portion of a contract that describes the work to be performed by the contractor. The SOW includes:

- Specifications or other minimum requirements or quantities;
- Period of performance;
- Delivery schedule;
- Time and place of performance services; and
- Quality requirements.

In the case of a larger or complex acquisition, it may be appropriate for the OCP contracting officer to meet with the agency to:

- Finalize the procurement method;
- Layout milestones and the schedule for the procurement; and
- Discuss the SOW or assist with the development of the SOW.

The prospective contractors should not write the SOW or be informed of the specific requirements prior to issuance of the solicitation unless the following criteria are met:

- The contractor is the sole source;
- The contractor has participated in the developmental and design work; or
- More than one contractor has been involved in preparing the SOW.

1.3.2 Identifying Potential Contractors

The agency requesting the goods or services may provide OCP with a list of potential contractors that could be utilized in the provision of a requested service. However, the contracting officer makes the final selection of a bidders' or offerors' list.

1.4 THE PROCUREMENT AUTOMATED SUPPORT SYSTEM (PASS)

1.4.1 Creating a PASS Requisition

A *requisition* is what initiates the formal procurement process. Before any contract is awarded, the program personnel enter a requisition into the Procurement Automated Support System (PASS). PASS is the District-wide Procurement system. Within OCP, the system is used to track the procurement of goods and services. End-users request goods or services directly in the system. The requisitions are then electronically routed for approval, funding and processing. Any special approvals that are required are also routed to the appropriate individual for approval. End users may access the system at any time to obtain the status of their request.

Once a requisition has been processed, a purchase order is created and sent to the appropriate vendor. PASS requires acknowledgment of the receipt and acceptance of all goods and services purchased through the system. After receipt and acceptance are acknowledged, PASS routes the information electronically to the Office of the Chief Financial Officer (OCFO) so vendors can be paid. Vendors cannot be paid until the appropriate information is entered into PASS.

The agency program manager requesting the goods and services should:

- Identify whether or not there are any available funds for those goods and services by checking with the OCFO for corresponding accounting attributes and object codes;
- Enter the appropriate attributes or codes into PASS; and
- Attach any supporting documentation to the requisition. If documents cannot be attached electronically, they should be hand delivered to the contract specialist.

The following resources for navigating PASS are available to staff:

- Procedures on how to input requisitions into PASS are found on the [Administrative Services Modernization Program website](#).
- Helpful hints on PASS usage are also found on the [OCP intranet](#).

1.4.2 Securing Approval of a Requisition in PASS

Each agency should develop its own internal requisition approval process in PASS. An agency's budget manager or Agency Financial Officer (AFO) should, first, approve the funds in PASS if a specific requisition is under \$25,000. If a specific requisition is over \$25,000, the agency CFO must then certify the availability of the funds through the OCFO. If the request is for Information Technology (IT) goods and services and greater than \$25,000, the program manager must prepare a procurement information package (PIF) for review by the OCTO.

1.5 THE ACQUISITION PLANNING TOOL (OAPT)

An important topic related to determining agency requirements and procurement planning is an agency's annual *acquisition plan*. An acquisition plan identifies the size and nature of the anticipated procurement workload for the following fiscal year (procurement planning pertains to a specific requirement; acquisition planning encompasses all anticipated requirements over the course of the next fiscal year). The purpose of acquisition planning is to ensure that the government: (a) meets its needs in the most effective, economical and timely manner; (b) maintains regulatory and legal compliance; and (c) budgets for proper lead time for procurements.

Each agency subject to the CPO's authority must submit an acquisition plan that contains its anticipated procurement needs for the coming fiscal year, with specific information on the following:

- Program-level needs;
- Anticipated multiyear procurements;
- Anticipated exercises of option periods of existing contracts;
- Expected major changes in ongoing or planned procurements;
- The guiding principles, overarching goals, and objectives of the agency's acquisitions of work, goods, and services; and
- Goals and plans for utilization of strategic sourcing.

OCP is responsible for ensuring that agencies receive clear guidance on the acquisition planning process and steps and tools needed to complete this task.

PROCURING GOODS & SERVICES

This chapter covers three key phases of the procurement process—solicitation, review and evaluation, and contract award. Each of these phases contains subtle differences depending on the size of the procurement. Small purchases, D.C. supply schedule procurements, requests for proposals, invitation for bids, and human care agreements are all covered in the following sections.

2.1 ROLES AND RESPONSIBILITIES

District of Columbia Procurement Process— Solicitation Process, Review and Evaluation, and Award Phases



Roles and Responsibilities in the Solicitation Process Phase

Contracting Officer	Agency Staff
Schedule pre-proposal and pre-bid conferences with customer collaboration	Participate in Pre-Proposal and Pre-Bid Conferenced
Discuss Request for Information (RFI) or Sources Sought Synopsis	Respond to procurement concerns regarding solicitation
Issue Synopsis	Alert procurement office of the need for changes
Release Solicitation	Refer all vendor communication to the contracting officer
Keep customer informed and on the team	—

**Roles and Responsibilities
in the Review
& Evaluation Phase**

Contracting Officer	Agency Staff
Pre-Award Approvals	—
Council Approval Packages	—
Notice of Public Award	—

2.2 SMALL PURCHASES

The District’s Small Purchases Procedures may be used to procure goods and services not exceeding \$100,000. Small purchases are generally defined by the “RFQ” procurement method or “Requests for Quotations.”

- A. ***Purchase requisitions valued at \$10,000 or less*** -- Purchase requisitions valued at \$10,000 or less may be processed without obtaining competitive quotes.
- B. ***Purchase requisitions with a price greater than \$10,000 but not exceeding \$100,000*** – At least three written quotations are required for purchase requisitions with a price greater than \$10,000 but not exceeding \$100,000.

2.2.1 Creating a Small Purchase Solicitation

- A. **Receipt and Assignment.** The contracting officer receives a requisition via PASS and assigns it to the appropriate contract specialist.
- B. **Review and Verification.** The contracting officer or assigned contract specialist, upon receiving the requisition, does the following:
 - Review the requisition(s) in PASS to understand the requirements, determine if there are any deficiencies, and determine the appropriate procurement strategy;
 - Review the SOW to determine if it adequately describes the required goods or services requested in the requisition. If there are any discrepancies the contracting officer or contract specialist will work with the requesting agency’s program staff to correct the SOW.
 - For orders placed using a DC Supply Schedule, verify that the required goods or services are included in the DC Supply Schedule contract to be used.

- C. **Wage Determinations.** If the request is for services greater than \$2,500.00, the contract specialist must incorporate the applicable Department of Labor (DOL) wage requirements which can be found at www.wdol.gov. If procuring construction related goods and services the threshold is reduced to procurements priced more than two-thousand dollars \$2,000.
- D. **Creation of Solicitation.** The contract specialist creates a solicitation through an eSourcing Event within PASS and includes the basis for the award in the solicitation.

2.2.2 Evaluating a Small Purchase Quotation

The contracting officer reviews quotes submitted to determine the lowest price offered and to determines each bidder's compliance with the requirements for contracting with the District of Columbia. The CO/CS shall determine price reasonableness, apply preference points, and document due diligence to achieve competition as follows:

- A. **Reasonableness.** If the request is for services it may be appropriate to have the agency review the responses;
- B. **CBE and SBE Preferences.** If the procurement is designated for an open competition or a set aside, the contracting officer will apply CBE preference points to determine the evaluated price. To determine CBE points, the contracting officer shall use the [DSLBD website](#). When the competition is among DC Supply Schedule vendors these points are not applied.
- C. **Due Diligence.** If only one response or bid is received, the CO/CS must document due diligence in obtaining the required number of quotes.
- D. **Documentation.** The contract specialist uploads to PASS the appropriate compliance documents for the requisition, such as:
 - District and Federal Excluded Parties Lists
 - Cleans Hands Documentation;
 - Business Licenses; and
 - Other documents as appropriate for the procurement.
- E. **Sole Source.** If an agency requests the good or service to be sole sourced, then, prior to proceeding with the procurement, the contract specialist must request documents from the agency's program staff justifying the sole source.
 - If the sole source procurement is greater than \$10,000, the contract specialist prepares a D&F explaining and justifying the sole source. Templates and forms regarding sole source procurements and may be found at www.ocp.dc.gov, under the Policy and Procedures in the OCP Library.

- Prior to executing the order, the contracting officer shall publicize the District's intent to enter into sole source procurement for 10 days. The CPO must review and approve the D&F.

2.3 D.C. SUPPLY SCHEDULE PROCUREMENTS

The Simplified Acquisitions Procedures Section is responsible for establishing new DC Supply Schedules (DCSS) and processing applications.

2.3.1 DCSS Solicitation Process

The contract specialist and contracting officer will work with the DSLBD to identify SBEs and CBEs that offer goods or services in product/service categories where no current DCSS contract exists to fulfill the District's needs. The DCSS solicitation process is as follows:

- A. **Statement of Work.** The contracting officer and contract specialist consult with the procuring agency program staff to develop a SOW for needed good(s) or services.
- B. **Solicitation Package.** The contracting officer or contract specialist prepares a DCSS solicitation or application package. This package should include current wage rates from the Federal Department of Labor (DOL) for services and construction. Federal wage rates can be found at <http://www.wdol.gov/>.
- C. **Review and Approval.** The contracting officer reviews the draft DCSS solicitation package and works with the contract specialist to ensure edits and or changes needed are incorporated into the final package. Once approved, the contracting officer submits the final package to the CPO or designee for review and approval.
- D. **Publication.** Upon approval by the CPO, the contracting officer or contract specialist shall publish each proposed solicitation as follows:
 - ***Procurements between \$100,000 and \$250,000*** – the contracting officer or contract specialist publishes the solicitation on OCP's Internet site, and may publish the solicitation using any other methods reasonably available such as newspapers or trade publications.
 - ***Procurements Greater than \$250,000*** – the contracting officer or contract specialist publishes the solicitation on the OCP Internet site and in a newspaper of general circulation and in trade publications considered by the CPO to be appropriate to give adequate public notice.
 - ***Shortened Timeframe*** – The program personnel may request that the CO/CS shorten the timeframe for advertisement. The contracting officer or contract specialist shall prepare the D&F for a shortened advertisement period and secure the necessary approvals

- E. **Announcement.** The contracting officer or contract specialist completes the procurement form and forwards request for advertisement to the solicitation e-mail address (solicitations.ocp@dc.gov). The forms must be received at least 48 hours in advance of the desired advertisement date. Forms are available on the OCP intranet website. The contracting officer or contracting specialist then sends the required information to the OCP webmaster and a copy to solicitations.ocp@dc.gov so that the solicitation can be posted on the OCP website.

If a solicitation is cancelled after it has been issued, then the contracting officer or contract specialist prepares a D&F to cancel the solicitation and an amendment to the solicitation. The contracting officer or contract specialist secures the required approvals.

2.3.2 Evaluating a DC Supply Schedule Application

The Simplified Acquisition Group is responsible for processing DCSS applications. Only CBE may apply for DCSS contract participation. Information regarding the DCSS can be found on the OCP website at www.ocp.dc.gov under opportunities and support.

- A. **Pre-Application Documentation.** The following documents are required prior to processing a DCSS Application:
- Completed Application;
 - Tax Affidavit;
 - Basic Business License;
 - First Source Agreement;
 - Letter of Offer;
 - Capabilities or Mission Statement;
 - CBE Certification;
 - EEO Documents;
 - COG Rider Clauses (signed by vendor);
 - Certificate of Insurance (COI);
 - Signed Solicitation, Offer, and Award;
 - Bidder/Offeror Certification Form;
 - GSA Schedule; and
 - Three (3) Business References Regarding Past Performance.
- B. **Receipt of Applications.** DCSS applications are received at the OCP front desk where the date, time and name of the company submitting the application are officially recorded and the contracting officer or contract specialist (or front desk) issues a receipt of the application to the applicant. Upon notification from the contact

specialist, the contracting officer signs for and picks up the application and enters the application information into the DCSS Excel Log Sheet. And then, the contracting officer assigns and provides the application to the contract specialist for processing.

- C. **Review of Applications.** The contracting officer or contract specialist reviews and evaluates the application for responsibility and completeness. If the contracting officer or contract specialist discovers deficiencies in the application the contracting officer or contract specialist will prepare and issue a letter to the applicant noting of them of the problem areas and allow a reasonable amount of time to for the applicant to correct the deficiencies or problem areas. The contract specialist is responsible for creating a Vendor Maintenance Form (VM) for all new vendors in addition to creating a Contract Workspace (CW) number in the Contract Module of PASS.
- D. **Forms and Verification.** The contract specialist is responsible for obtaining evidence of the applicant's compliance with District of Columbia laws and regulations by:
- Obtaining a Clean Hands Report from the District Office of Tax and Revenue;
 - Verifying compliance from the Department of Employment Services (DOES);
 - Submitting the appropriate Equal Employment Opportunity and First Source Employment forms with the appropriate agencies for approval;
 - Verifying that the applicant is currently a CBE approved by the District's Department of Small and Local Business (DSLBD) and that all necessary and required licenses are present and current. This activity includes contacting the three required business to confirm past performance, and ensuring that the applicant is not listed on the on the excluded parties list by the District or the Federal Government; and
 - The contract specialist also reviews the applicant's Dun & Bradstreet report along with the required Capability Statement demonstrating the applicant's qualifications, skills and work experience related to the requirements described in the SOW.
- E. **Determination of Price Reasonableness.** The contract specialist reviews the applicant's adopted federal pricing schedule and pricing for consistency with Section 3 of the Description/Specifications/Work Statement of the DCSS solicitation. The contract specialist determines price reasonableness based on current federal labor rates. Vendor's pricing shall not exceed the adopted GSA Price Schedule.

2.4 AWARDING A CONTRACT VIA COMPETITIVE SEALED PROPOSALS (RFPs)

Competitive Sealed Proposals, otherwise known as "Requests for Proposals" or "RFPs", require three to eight months to complete. During the annual Acquisition Planning process the contracting officer should make the agency aware of the lead time to complete the process and

provide necessary supporting documentation. The contract specialist and contracting officer then meet with agency's program staff to plan the procurement and develop the procurement package.

2.4.1 Planning and CBE Subcontracting Requirements

At the beginning of the RFP Procurement Planning Phase the contracting officer and contract specialist must review the requirements of the procurement for possible CBE participation. If there are at least two qualified small business enterprises (SBEs) certified by DSLBD, the contracting officer may set-aside the procurement for participation only by certified SBEs. For open-market procurements greater than \$250,000, the RFP must include a 35% subcontracting requirement. This requirement, however, can be waived, either partially or completely, by the Director of DSLBD if there is insufficient market capacity for the goods or services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements at as project level. The contracting officer must submit a waiver request that includes the following:

- The number of certified business enterprises, if any, qualified to perform the elements of work that comprise the project;
- A summary of the market research or outreach conducted to analyze the relevant market; and
- The consideration given to alternate methods for acquiring the work to be subcontracted to make the work more amenable to being performed by CBEs.

The contracting officer should request the waiver prior to issuing the RFP.

2.4.2 Preparing the RFP Package

The contracting officer or designee prepares the RFP package via the following steps:

- A. **Milestone Plan.** The contracting officer develops a milestone schedule for the procurement based on the "need date" and input from the agency program staff.
- B. **Procurement Package Assembly.** The contract specialist assigns a solicitation number to the procurement and assembles a procurement package for submission to the contracting officer. The package should include the items noted below:
 - The SOW (Section C of the RFP template);
 - An Independent Government Estimate;
 - Proof of funds availability (*i.e.*, a requisition in PASS or a certification of funding signed by the Agency Chief Financial Officer);
 - Deliverables (Section F of the RFP template);
 - Proposal submission requirements (Section L of the RFP template);

- Evaluation factors (Section M of the RFP template);
 - List of potential offerors suggested by the agency program staff;
 - Proposed Contract Administrator Letter;
 - The DSLBD waiver if a waiver was granted; and
 - Information regarding a pre-proposal conference.
- C. **Determination and Findings.** The contract specialist prepares a D&F for Use of Competitive Sealed Proposals for approval by the contracting officer. If the approval is conditional, the contract specialist makes all necessary changes and resubmits the package to the contracting officer. The contracting officer then reviews the procurement package for approval.
- D. **Offerors List.** The contract specialist develops the list of potential offerors, which may include:
- Vendors identified by the program personnel;
 - Vendors who notified the contract specialist or contracting officer of their interest in being placed on the offerors list; and
 - Other vendors known to the specialist or contracting officer, or discovered through market research.
- E. **Advertisement.** The solicitation must be posted on the OCP's internet site, and if the procurement is over \$250,000, it must also be advertised in a newspaper of general circulation. Typically, RFPs are advertised for 21 days but the contracting officer may shorten the time frame for advertisement to no less than 14 days, by preparing the D&F for a shortened advertisement period. The contract specialist verifies that the OCP website and the local newspaper posting of the solicitation in fact occurred and takes any necessary action to ensure this was completed.
- If a solicitation is cancelled after being posted, the contract specialist prepares a D&F canceling the solicitation and an amendment to the solicitation, ensures the required approvals, and posts the cancellation notice on the OCP web site.
- F. **Pre-proposal Conference.** The contract specialist works with the agency program staff to plan and schedule any required pre-proposal conference and the contracting officer facilitates the conference. Information on the pre-proposal conference should be included in the RFP upon its release.
- During the conference the contracting officer collects names and contact information for attendees and notifies the attendees that all questions must be submitted in writing.
 - All questions and answers from the conference are documented and the contracting officer distributes written responses to all offerors through an amendment to the solicitation. This amendment includes any changes in the

date and time of submission of proposals and answers to an offeror's questions.

G. Solicitation Questions and Amendments.

- OCP controls this process and functions as the central repository for offeror questions and responses. Responses to an offeror's questions must be provided to all offerors, if the response would affect how any offeror would respond to the solicitation.
- Agency program staff and the contracting officer prepare responses to questions. The agency tends to handle those questions related to the SOW or services to be provided. OCP addresses those questions directly related to the contracting process. The contract specialist and contracting officer should review the complete set of questions and answers before they are published. Depending on the nature of the questions, the contracting officer must decide whether it is necessary to change the proposal due date.

2.4.3 RFP Evaluation Process

A. Evaluation Panel. While the solicitation is being advertised, the contracting officer works with the agency program staff to identify an evaluation panel that will evaluate the proposals. The contracting officer, however, makes the final decision regarding who will participate on the panel.

- ***Composition*** – The evaluation panel should consist of knowledgeable, independent District employees. Subject Matter Experts from other jurisdictions and other parties not involved in the procurement may also be utilized; however, these additional resources may be voting members of the evaluation panel only if the resources are hired by the District for their specific technical expertise and there is no conflict of interest. The panelists should choose a chairperson who will be responsible for completing the evaluation reports.
- ***Evaluation Instructions*** – Prior to the commencement of the evaluation, the contracting officer should provide the panel with evaluation instructions and worksheets. The worksheets will allow the panelists to note their individual evaluation ratings or scores, significant strengths and weaknesses of each offeror, and any questions that the panelists may have regarding an offeror's proposal. The evaluation instructions will include the following:
 - Evaluation factors and rating scale from the solicitation;
 - A description of the process including independent technical evaluations, consensus meeting, and price evaluation; and
 - A timetable for the completion of those evaluations and non-disclosure forms and conflict of interest statements

B. Evaluation of Technical Proposals. The evaluation of technical proposals by the panel occurs in two phases:

- ***Independent Evaluations*** – Evaluation panel members independently evaluate technical proposals; and
- ***Consensus Meeting*** – After completion of the individual evaluations, the panel meets to develop a consensus rating or score for each offeror. The contracting officer should facilitate the consensus meeting. Upon conclusion of the consensus meeting, the panel chairperson prepares a consensus report and submits it to the contracting officer.

C. Evaluation of Price Proposals. Once the evaluation panel submits its consensus technical evaluation report, the contracting officer may distribute the price proposals to the panel. The evaluation panel may assess the price proposals by answering questions such as (but not limited to):

- Are the prices offered consistent with those in previous year's contracts?
- Were the prices proposed for new or additional services reasonable?
- Do the proposed subcontracts seem justified?
- Are there items of work that should be added or deleted?

The Panel then presents its findings and recommendations report to the contracting officer who also performs an independent review of the proposals. The contract specialist computes the price score based on the formula for price evaluation included in the solicitation.

D. Score Computations. The contract specialist computes the total overall score for each offeror including the technical scores assigned by the technical panel, price score, and preference points.

- ***CBE Preference Points*** – The contract specialist reviews the CBE certification information submitted by the offeror and verifies that the offeror is certified by checking the DSLBD website DSLBD (www.dslbd.dc.gov) to determine if the offeror should be awarded preference points. If the offeror has claimed preference but does not appear on the DSLBD website, the contract specialist should contact DSLBD to verify certification. The offeror must be certified as of the solicitation closing date to receive preference points.

E. Contracting Officer's Independent Assessment. Notwithstanding the input of an evaluation panel, the contracting officer is ultimately responsible for the evaluation of proposals and for determining the relative merits of competing proposals. The contracting officer must conduct an independent assessment of the proposals and cannot simply adopt the findings of the evaluation panel. Elements of a sound independent assessment include:

- An independent review of technical proposals

- Conversations with the technical panel’s chairperson regarding the panel’s initial evaluation and findings
- Reviewing the panel’s final evaluation report
- Comparing the final evaluation report against the contracting officer’s own review of the technical proposals.

The contracting officer must provide contemporaneous documents of the independent assessment.

2.4.4 Pre-Award Negotiations

- A. Pre-Negotiation Memorandum.** The contracting officer prepares pre-negotiation Business Clearance Memorandum (“BCM”) including discussion questions, and obtains all necessary, approvals in accordance with Business Clearance Review and Approval Matrix. Discussion questions should relate to the significant weaknesses or deficiencies in the offeror’s proposal. The BCM should also include the contracting officer’s recommendation to:

1. Award based on initial offers received,
2. Conduct negotiations with offerors in the competitive range, or
3. Negotiate with the highest ranked offeror in accordance with

See D.C. Official Code § 2-354.03(h).

- B. Competitive Range.** If an award cannot be made based on the initial offers received, or negotiations with the highest ranked offeror are not held under D.C. Official Code § 2-354.03(h), the contracting officer must conduct discussions with all offerors considered in the competitive range. The contracting officer determines in writing the competitive range including all offerors who are considered most highly qualified. If all the offerors have been notified in the solicitation of the possibility that the competitive range can be limited for purposes of efficiency, the contracting officer may determine to limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals

- C. Procurement Review Committee.** Prior to awarding based on initial offers or conducting negotiations with either the highest ranked offeror or the competitive range, the contracting officer must submit the BCM for any RFP over \$100,000 to the Procurement Review Committee (“PRC”) for review and approval. The contract specialist or the contracting officer may schedule a PRC by contacting the Executive Assistant for the Chief Procurement Officer and submitting the BCM. Once the PRC approves the BCM, the contract specialist may schedule discussion sessions which the contracting officer shall lead.

- D. **Best and Final Offer.** After discussions, the contracting officer requests a Best and Final Offer (BAFO). Once BAFOs are received, the evaluation panel evaluates the BAFOs following the same process as described in the previous section. The evaluation panel then submits the BAFO consensus report to the contracting officer.
- E. **Score Computations After BAFOs.** The contract specialist again computes the total overall score for each offeror submitting a BAFO, including the BAFO technical scores assigned by the technical panel, price score, and preference points.
- F. **Contracting Officer's Final Independent Assessment.** The contracting officer conducts a final independent assessment, taking into account any changes submitted by offerors in their BAFOs.
- G. **Pre-Award Documentation.** The contracting officer prepares the Post-Negotiation BCM and other necessary pre-award documentation, and other necessary pre-award documentation, including
- A D&F for Contractor's Responsibility; and
 - A D&F for Price Reasonableness.

The contracting officer obtains all necessary approvals in accordance with Business Clearance Review Approval Matrix.

2.4.5 Award

If the contract package is less than \$1 million, the contract specialist contacts the contractor to sign the Award/Contract Form. The contract specialist secures the contracting officer's signature on the contract and approval of the associated requisition in PASS. The awarded contract and associated documents are then uploaded to the Contract Module within PASS for publishing and posting on OCP's website.

The contract specialist distributes a copy of the fully executed contract to the: program manager; contract administrator; and contractor. The contract specialist keeps an original of the fully executed contract in the contract file.

The contract specialist enters the procurement action into the PASS contract workspace if over one-hundred-thousand dollars (\$100,000). If the award is over \$1 million, the contract specialist prepares a Council package in accordance with Chapter 2, Section 13, "Preparing a Million Dollar Package."

2.5 AWARDING CONTRACTS VIA INVITATION FOR BIDS (IFBs)

2.5.1 Planning and CBE Subcontracting Requirements

Like an RFP, open-market procurements by an IFB greater than \$250,000, must include a 35% subcontracting requirement for CBE participation. Discussions with the agency about placing the solicitation in the set aside market or open market with a CBE subcontracting set-aside should happen during the Procurement Planning phase.

2.5.2 Preparing the IFB Package

The contracting officer receives the requisition and assigns an IFB to a contract specialist. A Solicitation Number is assigned by using the requisition number generated in PASS. The procurement package is then prepared and should include:

- Scope of Work. The contract specialist reviews the SOW (or specifications and drawings for construction) to ensure that it is:
 1. ***Not unduly restrictive*** – Brand name or equal descriptions should be used when detailed purchase descriptions are not available. While using the brand name the salient characteristics of the brand name product should be described.
 2. ***Not redundant*** – There should be no conflicting requirements.
- Funding Documents showing availability or pre-encumbrance of funds
- Independent Government Estimate
- Potential Bidders List
- Any special terms and conditions, definitive qualifications or eligibility requirements
- Bonding Requirement based on risks associated with non-performance and the type of bond(s) that might be required.
- Compliance Checklist
- All applicable justifications
- Approvals following the updated Business Clearance Review Approval Matrix

2.5.3 Pre-Award Tasks

- A. **Solicitation Fee.** Determine if there will be a fee for contractors to pick-up a solicitation and supporting documentation. Include that information in the advertising and posting.

- B. Advertisement.** The solicitation must be advertised on the OCP website, and if the solicitation is over \$250,000, it must also be advertised in a newspaper of general circulation. Typically, IFBs are advertised for 14 days, but the contracting officer can shorten the time frame for advertisement to no less than 3 days, by preparing the D&F for a shortened advertisement period. The contract specialist verifies that the OCP website and the local newspaper posting of the solicitation in fact occurred and takes any necessary action to ensure this was completed.

- The contract specialist forwards the request for advertisement and posting to the OCP solicitation email address at solicitations.ocp@dc.gov. The forms are due at least 48 hours in advance of the desired advertisement date to the Customer Contact Center.
- OPA bid room staff provides an electronic copy to the webmaster for posting on the OCP website.
- The contract specialist checks the OCP website and the newspaper of general circulation to ensure the IFB is posted on the issue date

- C. Document Completion.** The contract specialist completes the:

- Procurement announcement form;
- Solicitation submission form; and
- The solicitation package

If a solicitation is cancelled after it has been issued, the contract specialist must:

1. *Prepare a D&F to cancel the solicitation; and*
2. *Secure the required approvals.*

- .D. Pre-Bid Conference.** The contracting officer may conduct a pre-bid conference or site visit if necessary. The contract specialist works with the program personnel to plan the conference and facilitate the meeting. All questions and answers from the conference are documented and the contracting officer distributes written responses to all offerors through an amendment to the solicitation. This amendment includes any changes in the date and time of submission of proposals and answers to an offeror's questions

- **Solicitation Questions and Amendments.** OCP manages this process and functions as the central repository for contractor questions and responses. Responses to an offeror's questions must be provided to all offerors, if the response would affect how any offeror would respond to the solicitation. Any questions or answers provided by anyone other than the contracting officer are considered informal and not be relied upon by bidders. Bidders who solicit answers from anyone other than the contracting officer risk being eliminated from further participation in the bidding process.
- Agency program staff and the contracting officer prepare responses to questions. The agency tends to handle those questions related to the SOW or services to be provided. OCP addresses those questions directly related to the contracting process.

- The contract specialist and contracting officer should review the complete set of questions and answers before they are published. Depending on the nature of the questions, the contracting officer decides whether it is necessary to change the bid due date.
- Amendments and responses to questions are posted on the OCP internet site and sent to contractors who picked up a copy of the IFB or attended the pre-bid conference.

2.5.4 Awarding an IFB

- A. Award Criterion.** The contract specialist tabulates and verifies the bids prior to evaluation. In evaluating the bids, only price or price-related factors included in the solicitation are considered. If the bid provides for multiple line items, each line item must be tabulated.

Prompt payment discounts are not to be considered in the evaluation of the bid. Any discount offered will form a part of the award and the District will take it if payment is made within the discount period specified by the bidder.

As applicable, CBE preferences should be applied to determine the apparent “low, evaluated bidder.”

If the bids are tied, the tie should be resolved by the following order of priority:

1. Certified SBE;
2. Any CBE other than an SBE; then
3. If two remain equally eligible, award is made by drawing by lot (limited to those two bidders).

- B. Responsiveness.** The contracting officer should review each bid for responsiveness to the solicitation requirements. This review should include, but not be limited to:

- Did the bidder acknowledge all the addendums?
- Did the bidder take any exceptions to any solicitation provisions? (Delivery, quantity, price, specifications, etc.?)
- If descriptive literature is required, is it included?
- If a bid sample was required, is it included?
- If a bond is required, is it included?

If the answers to any of the above are “no,” the contracting officer determines if the failure to include the information is a minor informality. If so, the contracting officer proceeds. If there are exceptions that render the bid non-responsive, the contracting officer evaluates the next lowest bidder for responsiveness.

The contracting officer may forward the bids and any attachments to the program personnel for technical evaluation and concurrence prior to award.

- C. **Fair and Reasonable Price.** The contracting officer must determine that the price of the proposed awardee is fair and reasonable.
- D. **Responsibility.** The contracting officer must determine that the proposed awardee is responsible. The contracting officer reviews responsibility data to determine if the proposed awardee can perform the required services or delivering the required goods, has business integrity, and is compliant with District law. The contracting officer may go to the proposed awardee's office or job site to inspect facilities or conduct a pre-award survey. Required compliance documents include:
- EEO approval from the Office of Human Rights;
 - Tax compliance verifications from the Clean Hands Database; and
 - First Source Employment Agreement approval from DOES.
- E. **Pre-award Documentation.** The contracting officer prepares the Business Clearance Memorandum for Competitive Sealed Bidding and other pre-award documentation, such as:
- The D&F for Contractor's Responsibility;
 - The D&F for Price Reasonableness;
 - If the award is not to the low bidder, a D&F to award to other than the low bidder; and
 - If award is greater than \$1 million, the contracting officer prepares the Council package in accordance with chapter 2, section 13, Preparing a Million Dollar Council Package.

2.6 ISSUE DELIVERY ORDERS OR TASK ORDERS

The procedures outlined below are used when buying from an existing Indefinite Delivery Indefinite Quantity ("IDIQ") contract. Specific procedures for construction-related task orders are provided separately. These procedures also apply to purchases from the DCSS. Particular contracts may have further prescribed ordering procedures, so the contracting officer should always check the ordering procedures specified in the contract and comply with them.

- A. **Assembly of Procurement Package.** The contracting officer receives the procurement package and assigns it to a contract specialist. The procurement package should include:
- A SOW;

- An Independent Government Estimate;
- A requisition in PASS (pre-encumbered funds);
- Evaluation factors if the task or delivery order is not being awarded on the basis of lowest price; and
- A list of potential offerors.

The contract specialist prepares D&Fs if required and obtains required approvals.

- B. Developing a Request for Quotes.** The contract specialist prepares requests for quotes (RFQ) for supplies or task order proposals (RFTOP) for services. The RFQ or RFTOP should indicate the basis for award, *i.e.*, lowest price or award based on the evaluation factors identified in the RFTOP. The contract specialist obtains supervisory review of the RFQ or RFTOP in accordance with the Business Clearance Review and Approval Matrix.
- C. Milestone Plan.** The contracting officer develops a milestone schedule for the procurement based on the “Need Date” specified by the program office and coordinates the schedule with the program personnel.
- D. Issuance of Solicitation.** The contracting officer issues a Request for Delivery Order or Task Order Proposals.
- E. Supply Schedule Procurements.**
- ***DC Supply Schedule*** – If the requirement is to be procured through a DC Supply Schedule, the contracting officer follows the procedures outlined in the (DCSS Terms and Conditions Section 4, ordering procedures found on the OCP intranet. A minimum of three quotes is required for any DCSS order over \$5,000.
 - ***Federal Supply Schedule*** – If the requirement is to be met through a Federal Supply Schedule (FSS), the contracting officer should follow the Basic Schedule Ordering Guidelines (www.gsa.gov). Generally three quotes are required. Other government-wide acquisition contracts (GWACs) may be available for use.
- F. Evaluation.** If the RFTOP includes evaluation factors, the contracting officer should generally follow procedures outlined for RFPs in Chapter 2 of this Manual.
- G. Executing the Task Order.** The contract specialist obtains the contractor’s signature on a proposed task order or delivery order. Once executed, the contract specialist also has the following responsibilities:
- To confirm that the task or delivery order, when added to existing task or delivery orders, remains within the contract ceiling and secures the contracting officer’s signature.

- To distribute a copy of the fully executed contract to the program manager and contractor.
- To keep the original copy in the contract file.

2.7 [RESERVED]

2.8 ORDERING ARCHITECTURAL AND ENGINEERING SERVICES FROM AN EXISTING IDIQ CONTRACT

- A. **Requisition.** The contracting officer receives the requisition in PASS (or through the agency's automated requisitioning system) and assigns to the appropriate contract specialist. The requisition should have the following items attached electronically (except for those design documents that are too large to scan):
- An SOW
 - An Independent Government Estimate
 - A requisition in PASS (pre-encumbered funds) (or through the agency's automated requisitioning system)
 - Evaluation factors
 - A list of potential offerors in the A/E category for which they were found to be most highly qualified and in which they received an IDIQ contract.
- B. **Preparation of the Request for Task Order Proposals.** The contract specialist prepares the Request for Task Order Proposals (RFTOP). The contract specialist then:
- Reviews and finalizes the SOW;
 - Clarifies any questions with the program office;
 - The contract specialist confirms that adequate funding remains on the contracts of the contractors the agency has requested. Since A/E IDIQs have fixed ceilings, this remaining funding is referred to as "cap space."
- C. **Submittal of the Request for Task Order Proposals.** The contracting officer sends RFTOPs to identified contractors under the IDIQ. Contractor opportunities to respond to a RFTOP are rotated so that each IDIQ holder may eventually receive a RFTOP.
- D. **Receipt and Review of Proposals.**
1. The contract specialist receives and review proposals for acceptability under the RFTOP, and forwards the proposals to the program for technical evaluation.

2. OCP also reviews the proposal terms for compliance with the IDIQ contract, such as the rates being the same as (or better than) those used in the original award.
3. Agency program personnel review the responses to the RFTOP and evaluate, score, and rank proposal in descending order from highest ranked to lowest. The program office submits a report of its findings to the OCP contracting officer.

E. Evaluation and Award.

1. OCP manages any negotiations between the agency and the highest ranked consultant about the work to be performed, reasonableness of labor-hours and the final price.
2. The contract specialist prepares the task order package with input from the program personnel.
3. The contract specialist follows guidelines outlined in updated Business Clearance Approval Matrix.
4. The contracting officer explains any differences between the IGE and the negotiated price in the record of negotiation.
 - ➔ If the task order is for more than \$1 million, go to Chapter 2, Section 13 of this Manual, *Prepare and Process a Million Dollar Package* (unless the matter was included in the Council-approved Plan of Contracts, or the task order is within a Council-approved contract ceiling).
 - ➔ If the task order is for less than \$1 million, go to Chapter 2, Section 14 of this Manual, *Making an Award* for guidelines to issue the task order.

2.9 CREATING A HUMAN CARE AGREEMENT

A Human Care Agreement (HCA) may be used for the procurement of education, special education, health, human, or social services, to be provided directly to individuals who have disabilities or are disadvantaged, displaced, elderly, indigent, mentally ill, physically ill, unemployed, or minors in the custody of the District. This section outlines the process by which HCAs are executed by the District.

2.9.1 **Requisition and Statement of Work**

The requesting agency develops and provides to the contracting officer the SOW of the actual services that must be performed, including an identification of the minimum provider qualifications and a description of any unique qualifications necessary to provide the services.

- A. Receipt of Requisition.** The contracting officer receives requisition through PASS, including the SOW, and assigns it to a contract specialist through PASS. The procurement package shall at a minimum include:

- An SOW which shall demonstrate that the services are for individuals who have disabilities, or are disadvantaged, displaced, elderly indigent, mentally ill, physically ill, unemployed or minors in the custody of the District of Columbia, who need education or special education, health, human or social services;
- Justification of an IGE and other benchmark rates;
- A list of potential prospective providers with current points of contact, phone numbers, email addresses, etc.;
- Minimum required qualifications (these qualifications must be authentic and carefully considered);
- Any special or additional known required qualifications, which must be included in the RFQ solicitation;
- An estimated annual dollar value for the services to be procured in the Human Care Agreement for each contract year. The dollar value should align with the IGE and should represent an actual need based upon the requirements established by the program office;
- If a rate has been pre-established, by law or regulation, a description of the rate structure, unit cost, and hourly rate for the services to be procured through the mechanism of a Human Care Agreement; and
- The name of the Contract Administrator for the HCA.

B. Determination & Findings. The contract specialist will prepare and secure approval of a written D&F for use of a Human Care Agreement procurement method ensuring that it is the appropriate method for obtaining the required services. If the D&F is conditionally approved, the contract specialist must make all necessary changes and resubmit for approval before issuing the RFQ.

2.9.2 Request for Qualification Solicitation Process

The contracting officer or designee will conduct the following procedures and prepare a RFQ solicitation by:

1. Developing a milestone schedule for the procurement;
2. Inputting data provided by the program office in standard RFQ template and continuing to work with program manager to finalize the RFQ;
3. Ensuring that the cover page of the RFQ contains relevant information, such as response date, time, and place of delivery and other relevant information; and

Important Note:

The human care agreement is not a commitment to purchase any quantity of a particular service covered under the human care agreement. The District is obligated only to the extent that authorized purchases are made against a human care agreement pursuant to a human care agreement task order/purchase order.

4. Including the following statements in each RFQ.

When in compliance with 27 D.C.M.R. §§ 1905–1908 of Title this shall constitute a competitive procedure for the procurement of human care services.

2.9.3 Advertising RFQ Solicitation

The contracting officer shall publish the RFQ solicitation of general requirements for human care services on the OCP website. The contracting officer must follow the procedures below:

- The contract specialist completes a procurement announcement form, solicitation submission form and the solicitation package, and forwards the request for advertisement and posting to the Customer Contact Center (“CCC”). CCC needs 48-hour notice for advertisement.
- Generally, an HCA is advertised for 10 days, although the contracting officer may determine that a longer or shorter period is appropriate.
- If a solicitation is cancelled after it has been issued, the contracting officer or designee prepares a D&F to cancel the solicitation and amend the solicitation, after securing the required approvals.
- The contracting officer or designee shall issue Amendments to the RFQ (if required). The contract specialist forwards any amendments, including an amendment cancelling the solicitation, to the OCP Solicitation e-mail (solicitations.ocp@dc.gov) for posting on the OCP website.

2.9.4 Technical Evaluation Panel

The contracting officer shall establish a technical evaluation panel and a Chairperson for each RFQ solicitation. The technical evaluation panel may be established while waiting for responses from prospective offerors or before the issuance of the solicitation

Prior to the submission of a Contractor Qualifications Record (CQR), OCP Form 1900 in response to the solicitation, the contracting officer or designee must conduct a technical orientation to the members of the technical evaluation panel. The technical evaluation panel shall receive an evaluation toolkit for technical evaluation. The chairperson shall lead the panel and prepare a final written report of the results of the panel’s findings and recommendations. The panel shall be composed of program personnel or individuals who possess considerable knowledge of the services requested in the RFQ to assist in reviewing and considering the qualifications of a prospective human care contractor. An individual from the program office shall be the chairperson of the technical panel.

2.9.5 Evaluating Responses

- A. **Receipt of Contractor Qualifications Record.** The prospective service provider shall submit a written and signed CQR, OCP Form 1900, and if requested, the service provider's service plan.
- B. **Determine Qualifications.** Upon completion of and return of the CQR by the prospective contractor to the contracting officer, the contracting officer and technical evaluation panel shall review and determine the qualifications of each prospective human care contractor in accordance with the requirements for each human care service area stipulated in the RFQ solicitation that was advertised or otherwise publicly announced
- C. **Independent Assessment.** The contracting officer shall perform an independent assessment of each potential service provider's CQR after reviewing the panel's evaluation results and recommendations to determine qualification.

2.9.6 Contracting Officer's Responsibility Determination

The contracting officer shall determine in writing that each service provider's qualifications and capability to providing the required services is based on the contracting officer's independent assessment of each potential service provider's CQR, taking into consideration the technical evaluation panel's technical evaluation results and recommendations. The contracting officer shall certify by a D&F that one of the following applies:

- If a prospective service provider is determined **not qualified**, the contracting officer shall prepare a D&F of Non-responsibility stating that the prospective service provider does not meet all of the certification criteria in accordance with Title 27 D.C.M.R. § 1905.4.
- The contracting officer or designee shall notify, in writing, any prospective service provider of the contracting officer's determination of professional or financial non-responsibility.
- The contracting officer may permit a prospective service provider to cure a status of non-responsibility.
- If a prospective service provider is determined **qualified**, the contracting officer shall certify by a D&F of Responsibility in accordance with Title 27 D.C.M.R. § 1905.4 the financial and professional responsibility of each prospective service provider based on the criteria in the CQR.

2.9.7 Price Negotiation and Discussions

After pre-qualification of the service providers' capability to provide the required services, the contracting officer or designee may conduct discussions with all qualified services providers, and negotiate cost on a unit rate or fee for each service, or group of services, by the potential service

provider using benchmarks and quantifiable measurements that are uniformly applied, including but not limited to, each service provider's cost data attributable to provision of the services, and consideration of each service provider's maximum customer capacity.

- If negotiations are held, the contracting officer or designee should negotiate or discussions with all qualified, prospective service providers.
- The contract specialist schedules negotiation and discussion sessions.
- The contracting officer leads negotiation and discussion sessions and includes the agency program personnel to accommodate technical or programmatic issues.

Note: Negotiations need not be held when rates are regulated by District statute or law, or federal regulations.

Upon the conclusion of the discussions and price negotiations, the contracting officer shall request a BAFO from each qualified service provider.

- The BAFO must be clearly marked as "Best and Final Offer," dated and include the solicitation number.
- BAFO's can be submitted by regular mail, e-mail or fax with the appropriate signatures
- The BAFO request must ask each prospective service provider to address any issues raised during the discussions, and to provide the final rates resulting from the price negotiations with the proposed service provider, delineating pricing for each service line item described in the RFQ that the service provider intends to provide to the District,

2.9.8 Award of a Human Care Agreement

A. **Basis of Award.** A human care agreement may be awarded to one or more service providers to satisfy all or part of the District's anticipated requirements, based on:

1. The contracting officer's determination that the contract is in the best interest of the District consideration of the service provider's qualifications;
2. A service provider's capability of providing the service, and
3. Judgment that the price is reasonable.

B. **Required Documents and Format.** Prior to execution of the human care agreement, the contracting officer shall ensure that the final agreement is in the uniform contract format using OCP Form 1901, the Human Care Agreement template, and incorporates the following documentation:

1. Service provider's final rate schedule;
2. Standard Contract Provisions;
3. Current Wage Determination,

4. Compliance documents, and
 5. The language required by D.C. Official Code § 2-354.07(h)(2).
- C. **Determination and Findings.** The contract specialist prepares a D&F reflecting that the price is fair and reasonable.
- D. **Post-Negotiation Memorandum.** The contract specialist prepares post-negotiation memorandum and obtains all necessary approvals in accordance with Business Clearance Review and Approval Procedures.
- E. **Executing the Human Care Agreement.**
1. The contract specialist obtains service provider's signature on proposed Human Care Agreement.
 2. The contract specialist shall assign a number to each human care agreement that is executed.
 3. The contracting officer countersigns.
 4. The contract specialist distributes copies of the fully executed human care agreement to the program manager and service provider.
The original copy of the human care agreement is maintained in a contract file.
 5. The contracting officer shall ensure that the HCA is published in the Contracts Module of PASS and that a notice of award is posted on the OCP website.



If under \$1 million dollars go to Chapter 2, Section 14 of this Manual "Making an Award."



If over \$1 million dollars go to Chapter 2, Section 13 of this Manual "Preparing and Processing a Million Package."

2.9.9 Retention of Qualification Statements

The contracting officer or designee shall retain statements of qualifications for approved service providers and consider those service providers who have been deemed qualified for award of human care agreements for a period of three (3) years, following pre-qualification of the service providers, in accordance with the requirements

2.10 CREATING AN EMERGENCY CONTRACT

2.10.1 Requirements and Limitations on Emergency Contracts

- A. **When an Emergency Contract is Appropriate.** An emergency contract may be awarded:
- (i) When there is an imminent threat to the public health, welfare, property, or safety; or

- (ii) To prevent or minimize serious disruption in agency operations.
- B. Competition.** The contracting officer must conduct the emergency procurement with as much competition as is practicable under the circumstances, based on the judgment determination of the contracting officer.
- C. Advertising.** Emergency procurements are exempt from the advertising requirements of 27 D.C.M.R. § 1301.
- D. Term.** The term of an emergency contract cannot exceed 90 days; however, if the time for development of the good or service exceeds 90 days, the term may be for a period not to exceed 120 days.
- E. Type of Goods or Services.** An emergency procurement should be limited to only those goods or services necessary to meet the emergency.
- F. Modifications.** A contract procured on an emergency basis shall not be modified to expand the scope or extend the time of the procurement unless a limited number of additional goods or services are needed to fill an on-going emergency requirement until regular procurement action procedures can be completed.
- F. Determination & Findings.** In order to use emergency procurement authority, the contracting officer must make a D&F in accordance with the requirements of 27 D.C.M.R. § 1702.2.
- Generally, the D&F to support the emergency must be prepared at the beginning of the process.
 - The contract specialist initially prepares the D&F for the emergency procurement.
 - The contract specialist then forwards the D&F to the contracting officer for review and approval. The contracting officer must ensure that the D&F contains all the required information and the emergency is justified.

2.10.2 Procedures for Creating an Emergency Contract

The procedures for emergency procurements differ based on whether the need occurs during the agency's normal business hours.

- A. During Normal Business Hours.** During normal agency business hours, the program agency director shall notify the contracting officer of the emergency and shall provide the following information:
- The nature of the emergency;
 - The estimated cost of the service or goods required;
 - The vendor recommended to receive the order, or if sufficient time for

limited competition, vendors capable of providing the goods or services; and

- A requisition submitted via PASS.

The requestor shall take special care in ensuring the emergency service is completed promptly and accurately. Any problems should be reported to the contracting officer promptly.

- B. Outside of Normal Business Hours.** If an emergency purchase must be made during other than normal business hours, the program requestor shall contact the agency director who in turn will contact the contracting officer or CPO.

The requestor shall take special care in ensuring the emergency service is completed promptly and accurately. Any problems should be reported to the contracting officer promptly.

2.10.3 Oral Orders

Notwithstanding the above procedures, the contracting officer may issue oral orders or notices to proceed for emergency goods or services, so long as the contracting officer reduces the oral order to writing within three business days after issuance and funding for the goods or services is certified by the appropriate fiscal officer.

2.11 SECURING APPROVAL OF MILLION DOLLAR AND MULTIYEAR CONTRACT COUNCIL PACKAGES

All contract actions exceeding \$1 million, and multiyear contracts funded with annual funds regardless of dollar amount, must receive approval from the Council of the District of Columbia. The procedures outlined below describe tasks for the following agencies to complete:

- OCP;
- Office of the Attorney General (OAG);
- Executive Office of the Mayor (EOM); and
- Office of Policy and Legislative Affairs.

2.11.1 Council Package Templates

The contracting officer shall select the appropriate Council Contract Summary template for the package from among the following templates:

- Standard
- Option Year Exercise (Without Material Change)
- Sole Source
- Letter Contract or Emergency
- Retroactive

The templates are included in Appendix 2-A. The below chart provides guidance on the use of the templates for Council Packages:

OCP Council Summary Template Guidance

Summary Template	Contract Types	Attachments
Standard Contract	• Multiyear • Option Exercise where there are material changes • New contract with one-year base (10-day passive)	• Council Summary • Contract • Clean Hands Certification (dated within 90 days) • Legal Sufficiency • Funding Certification (dated within 90 days) • Legislation (as required) • Transmittal Letter • Agency Approval Request Form
Option Year Exercise (without material change)	• Option Year Exercises	• Council Summary • Transmittal Letter • Funding Certification (dated within 90 days) • Copy of modification that requires approval • Clean Hands Certification (dated within 90 days) • Agency Approval Request Form .

Sole Source	• Sole Source Contracts	• Council Summary • Contract • Clean Hands Certification (dated within 90 days) • Legal Sufficiency • Funding Certification(dated within 90 days) • Legislation (as required) • Transmittal Letter • Agency Approval Request Form
Letter Contract or Emergency Contract	• Letter Contracts • Definitized contracts • Emergency Contracts	• Copy of letter contract • Copy of definitized contract • Council Summary • Clean Hands Certification (dated within 90 days) • Legal Sufficiency • Funding Certification (dated within 90 days) • Legislation (as required) • Agency Approval Request Form
Retroactive	• All retroactive contracts	• Contract • Council Summary • Legal Sufficiency • Legislation • Clean Hands certification (dated within 90 days) • Funding certification (dated within 90 days) • Transmittal Letter • Agency Approval Request Form

2.11.2 Council Submission Process

The contract specialist and contracting officer shall prepare a package in accordance with the following:

Required Contents of Multiyear Contract Council Packages

Official Council Package	Additional Documents For OAG Legal Sufficiency Review (Separate from Official Council Package)
1. Memorandum to Robert Schildkraut from the Chief Procurement Officer (do not date the memo; include a "DATE" line in the heading before the "SUBJECT" line) 2. The Council Contract Summary 3. Clean Hands Certification (dated within 90 days) 4. Funding Certification 5. Transmittal Letter to Council Chairman Phil Mendelson 6. OAG Legal Sufficiency Memo 7. Memo to the file responding to OAG Legal Sufficiency Memo (if needed) 8. Legislation and Emergency Resolution (if the action is retroactive, or multiyear) 9. Proposed contract (signed by the contractor) and modification; or if it is a proposed option exercise, the proposed contract modification	1. Business Clearance Memorandum and attachments/exhibits 2. First Source Agreement 3. Affirmatives Action Program Approval 4. If a new award: • Any incorporated documents and attachments to the proposed contract • Solicitation and amendments • Newspaper advertisements • Proposal and Best and Final Offer of Proposed Awardee • Evaluation documentation 5. If it is an option exercise: • Notice of Intent to Exercise Option • Copy of Option Clause in the contract 6. Excluded Parties List 7. Responsibility Determination and Finding 8. Any other relevant documents

**Note: The Council does not return Contract Packages to OCP
Do not send any originals**

The contracting officer must submit the package to the relevant Chief Contracting Officer (CCO) for review and approval prior to submitting the package to the Deputy Chief Procurement Officer (DCPO) for review and approval.

If approved, the DCPO submits the package to the Procurement Section of the Office of the Attorney General (OAG) for a legal sufficiency review. However, if the package is an option exercise without any material changes, the DCPO submits the option package directly to the FOIA Specialist for entry into the (Intranet Quorum (IQ) system. The FOIA Specialist will request the contracting officer or the contract specialist to provide soft copies of the documents in the Council Contract Package.

The steps for processing of the package and the timeframes are described in the following chart:

**Million Dollar and Multiyear Contract Council
Approval Process and Timelines**

Official Council Package

- OCP approves the contract.
- OCP forwards the approved contract to the Procurement Section of the Office of the Attorney General (OAG) for legal sufficiency review.
- The following documentation is submitted into the Intranet Quorum System (IQ System) that electronically delivers documentation to the Office of the City Administrator (OCA) and Mayor's Office of Policy and Legislative Affairs (OPLA). A hard copy is also provided to the Mayor's Office of Legislative Support:
 1. Agency Approval Request Form
 2. Council Contract Summary
 3. Transmittal letter to Council Chairman
 4. Funding certification
 5. OAG legal sufficiency memo
 6. Clean Hands Certification (dated within 90 days)
 7. Multiyear contracts, tipping contracts, and retroactive approvals require legislation; 10-day passive approval contracts do not require legislation.
- The IQ approval process takes 10 business days.
- The Office of the General Counsel, Office of the Senior Advisor, the relevant Deputy Mayor, Office of Policy and Legislative Affairs, and the Office of the City Administrator all conduct simultaneous reviews.
- The Mayor's Chief of Staff has final approval before OPLA reviews and prepares package for submission to the Office of the Secretary for the Mayor's signature.
- Once the Mayor signs the package, OPLA physically delivers the contract package to the Secretary of the Council (generally on the same day). The Council Secretary's office will time stamp the contract immediately once it is received and then will take 24 to 48 hours to review, log, copy, and circulate to the Members. This process takes longer if there is legislation in the package.
- 10-day passive approval contracts will get logged and begin the 10-day period on the next business day.
- The Council approves or disapproves the contract as follows:
 - *For Multiyear Contracts*— A proposed multiyear contract funded with annual appropriations is deemed disapproved unless the Council adopts a resolution approving the multiyear contract within forty-five (45) business days of receipt by the Secretary of the Council.

- o *For Contracts in Excess of One Million Dollars*— A proposed contract with a value of one million dollars or greater in a 12-month period is deemed approved on the 10th calendar day of review if no notice to disapprove resolution is introduced the contract during those ten (10) days. If a notice to disapprove resolution is introduced, this extends the review period from ten (10) to forty-five (45) calendar days. On the forty-fifth (45th) day of review, the contract is deemed approved if Council has not acted on the disapproval resolution.
- The approval or disapproval letter is prepared by the Council’s Office of the Legislative Services.
- The status of the Council’s actions is available on the Legislative Information Management system (LIMS). The deemed approved date will be posted on LIMS once the contract is uploaded. If a disapproval resolution is filed on a contract, the disapproval resolution and forty-five (45) day deemed approved date will be posted as well.

2.11.3 Active versus Passive Council Approval

The Council Contract Approval Requirements in the below chart, describes each type of proposed contract action and whether the action requires passive or active approval by the Council. Active Council approval only occurs at a Council legislative session.

Council Approval Requirements by Type of Contracting Action

Proposed Contract Action	Active or Passive	Act or Resolution	Deemed Approved or Disapproved; or Enacted	2/3 Vote Required
Base contract over \$1 million approved by Council and subsequent mod(s) plus proposed mod cause change in contract greater than \$1 million	Active	Act	Enacted	No
Capital-funded contract over \$1 million with term up to 5 years	Passive	n/a	10 days – deemed approved or 45-days with resolution	No
Capital-funded contract over \$1 million with a term of more than 5 years	Active	Yes	Enacted	Yes
Proposed Contract Action	Active or Passive	Legislation	Deemed Approved or Disapproved; or Enacted	2/3 Vote Required

Base 1 Year Contract over \$1 million	Passive	No	10 days – deemed approved or 45-days if notice of disapproval resolution is filed	No
Exercise 1 year option over \$1 million	Passive	No	10 days – deemed approved or 45-days if notice of disapproval resolution is filed	No
Exercise remaining option after partial exercise of option	Active	Yes	Enacted	No
Base 1 year Contract with prior Letter Contract	Passive	No	10 days – deemed approved or 45-days if notice of disapproval resolution is filed	No
Multiyear contract only funded w/ annual funds	Active	Yes	45 days - deemed disapproved unless notice of disapproval resolution is filed	No
Multiyear contract with prior Letter Contract	Active	Yes	Enacted	No
Base contract over \$1 million already approved by Council and proposed mod exceeds \$1million (no intervening modifications have increased contract value)	Passive	n/a	10 days – deemed approved or 45-days if notice of disapproval resolution is filed	No

2.12 MAKING AN AWARD

2.12.1 Procurements under the Small Purchase Threshold

If the procurement is under the small purchase threshold, a Purchase Order (PO) is automatically generated when the contracting officer approves the requisition in PASS. PASS will automatically transmit the PO to the supplier, unless the contractor is set-up to receive POs via mail, in which case the contract specialist should mail a copy to the supplier.

2.12.2 Procurements over the Small Purchase Threshold

If the procurement is over the small purchase threshold, the contracting officer executes the contract in addition to the PO (which serves as a funding document only), and the contract specialist:

- A. distributes copies of the executed contract and PO By fax or mail to the successful offeror or bidder;
- B. attaches a copy of the contract to the PO in PASS so that the OCFO and the agency have access to a copy of the contract; and
- C. Prepares and sends notice of award to successful party and notice of non-award to unsuccessful parties

The contracting officer must publish all contracts in the Contracts Module of PASS, regardless of whether the procurement was conducted using the E-Sourcing Module. Notice of award for all procurements over \$100,000 and the contract itself must be posted on the OCP website.

The contracting officer should be prepared to debrief unsuccessful offerors.

Contract files should be arranged in accordance with the prescribed guidelines for contract file preparation guidelines as described in Chapter 5 of this Manual.

APPENDIX 2-A **COUNCIL SUMMARY TEMPLATES**

The Following Templates are included in Appendix 2–A:

App’x 2.A.1 – Council Summary for the Review of Standard or Multiyear Contracts

App’x 2.A.2 – Council Summary for the Review of an Exercise of an Options Year

App’x 2.A.3 – Council Summary for the Review of Sole Source Contracts

App’x 2.A.4 – Council Summary for the Review of Letter Contracts or Emergency Contracts

App’x 2.A.5 – Council Summary for the Review of Retroactive Contract Actions

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



Pursuant to section 202(c) of the Procurement Practices Reform Act of 2010, as amended, D.C. Official Code § 2-352.02(c), the following contract summary is provided:

COUNCIL CONTRACT SUMMARY
(STANDARD AND MULTIYEAR)

(A) Contract Number:

Proposed Contractor:

Contract Amount: \$

Unit and Method of Compensation:

Term of Contract:

Type of Contract:

Source Selection Method:

(B) For a contract containing option periods, the contract amount for the base period and for each option period. If the contract amount for one or more of the option periods differs from the amount for the base period, provide an explanation of the reason for the difference:

Base Period Amount: \$

Option Period 1 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 2 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 3 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 4 Amount: \$

Explanation of difference from base period (if applicable):

- (C) The goods or services to be provided, the methods of delivering goods or services, and any significant program changes reflected in the proposed contract:**
- (D) The selection process, including the number of offerors, the evaluation criteria, and the evaluation results, including price, technical or quality, and past performance components:**
- (E) A description of any bid protest related to the award of the contract, including whether the protest was resolved through litigation, withdrawal of the protest by the protestor, or voluntary corrective action by the District. Include the identity of the protestor, the grounds alleged in the protest, and any deficiencies identified by the District as a result of the protest:**
- (F) The background and qualifications of the proposed contractor, including its organization, financial stability, personnel, and performance on past or current government or private sector contracts with requirements similar to those of the proposed contract:**
- (G) A summary of the subcontracting plan required under section 2346 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.* (“Act”), including a certification that the subcontracting plan meets the minimum requirements of the Act and the dollar volume of the portion of the contract to be subcontracted, expressed both in total dollars and as a percentage of the total contract amount:**
- (H) Performance standards and the expected outcome of the proposed contract:**
- (I) The amount and date of any expenditure of funds by the District pursuant to the contract prior to its submission to the Council for approval:**
- (J) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02:**
- (K) A certification that the contract is legally sufficient, including whether the proposed contractor has any pending legal claims against the District:**
- (L) A certification that Citywide Clean Hands database indicates that the proposed contractor is current with its District taxes. If the Citywide Clean Hands Database indicates that the proposed contractor is not current with its District taxes, either: (1) a certification that the contractor has worked out and is current with a payment schedule approved by the District; or (2) a certification that the contractor will be current with its District taxes after the District recovers any outstanding debt as provided under D.C. Official Code § 2-353.01(b):**
- (M) A certification from the proposed contractor that it is current with its federal taxes, or has worked out and is current with a payment schedule approved by the federal government:**

- (N) The status of the proposed contractor as a certified local, small, or disadvantaged business enterprise as defined in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended; D.C. Official Code § 2-218.01 *et seq.*:**
- (O) Other aspects of the proposed contract that the Chief Procurement Officer considers significant:**
- (P) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and the reasons for debarment:**
- (Q) Any determination and findings issues relating to the contract's formation, including any determination and findings made under D.C. Official Code § 2-352.05 (privatization contracts):**
- (R) Where the contract, and any amendments or modifications, if executed, will be made available online:**
- (S) Where the original solicitation, and any amendments or modifications, will be made available online:**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement**



Pursuant to section 202(c-3) of the Procurement Practices Reform Act of 2010, as amended, D.C. Official Code § 2-352.02(c-3), the following contract summary is provided:

COUNCIL CONTRACT SUMMARY
(Options)

(A) Contract Number:

Proposed Contractor:

Contract Amount (Option Amount): \$

Term of Contract:

Type of Contract:

- (B) Identifying number of the underlying contract, including the identifiers assigned to the underlying contract by the Council for the base period and any subsequent option periods:**
- (C) A statement that Citywide Clean Hands database indicates that the proposed contractor is current with its District taxes. If the Citywide Clean Hands Database indicates that the proposed contractor is not current with its District taxes, either: (1) a certification that the contractor has worked out and is current with a payment schedule approved by the District; or (2) a certification that the contractor will be current with its District taxes after the District recovers any outstanding debt as provided under D.C. Official Code § 2-353.01(b):**
- (D) A statement that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02:**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



Pursuant to section 202(c) of the Procurement Practices Reform Act of 2010, as amended, D.C. Official Code § 2-352.02(c), the following contract summary is provided:

COUNCIL CONTRACT SUMMARY
(Sole Source)

(A) Contract Number:

Proposed Contractor:

Contract Amount: \$

Unit and Method of Compensation:

Term of Contract:

Type of Contract:

Source Selection Method: Sole Source

(B) For a contract containing option periods, the contract amount for the base period and for each option period. If the contract amount for one or more of the option periods differs from the amount for the base period, provide an explanation of the reason for the difference:

Base Period Amount: \$

Option Period 1 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 2 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 3 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 4 Amount: \$

Explanation of difference from base period (if applicable):

- (C) The goods or services to be provided, the methods of delivering goods or services, and any significant program changes reflected in the proposed contract:**
- (D) The date on which a competitive procurement for these goods or services was last conducted, the date of the resulting award, and a detailed explanation of why a competitive procurement is not feasible:**
- (E) A description of any bid protest related to the award of the contract, including whether the protest was resolved through litigation, withdrawal of the protest by the protestor, or voluntary corrective action by the District. Include the identity of the protestor, the grounds alleged in the protest, and any deficiencies identified by the District as a result of the protest:**
- (F) The background and qualifications of the proposed contractor, including its organization, financial stability, personnel, and performance on past or current government or private sector contracts with requirements similar to those of the proposed contract:**
- (G) A summary of the subcontracting plan required under section 2346 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.* (“Act”), including a certification that the subcontracting plan meets the minimum requirements of the Act and the dollar volume of the portion of the contract to be subcontracted, expressed both in total dollars and as a percentage of the total contract amount:**
- (H) Performance standards and the expected outcome of the proposed contract:**
- (I) The amount and date of any expenditure of funds by the District pursuant to the contract prior to its submission to the Council for approval:**
- (J) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02:**
- (K) A certification that the contract is legally sufficient, including whether the proposed contractor has any pending legal claims against the District:**
- (L) A certification that Citywide Clean Hands database indicates that the proposed contractor is current with its District taxes. If the Citywide Clean Hands Database indicates that the proposed contractor is not current with its District taxes, either: (1) a certification that the contractor has worked out and is current with a payment schedule approved by the District; or (2) a certification that the contractor will be current with its District taxes after the District recovers any outstanding debt as provided under D.C. Official Code § 2-353.01(b):**

- (M) A certification from the proposed contractor that it is current with its federal taxes, or has worked out and is current with a payment schedule approved by the federal government:**
- (N) The status of the proposed contractor as a certified local, small, or disadvantaged business enterprise as defined in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.*:**
- (O) Other aspects of the proposed contract that the Chief Procurement Officer considers significant:**
- (P) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and the reasons for debarment:**
- (Q) Any determination and findings issues relating to the contract's formation, including any determination and findings made under D.C. Official Code § 2-352.05 (privatization contracts):**
- (R) Where the contract, and any amendments or modifications, if executed, will be made available online:**
- (S) Where the original solicitation, and any amendments or modifications, will be made available online:**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



Pursuant to section 202(c) of the Procurement Practices Reform Act of 2010, as amended, D.C. Official Code § 2-352.02(c), the following contract summary is provided:

COUNCIL CONTRACT SUMMARY
(Letter Contract or Emergency Contract)

(A) Contract Number:

Proposed Contractor:

Contract Amount: \$

Unit and Method of Compensation:

Term of Contract:

Type of Contract:

Source Selection Method:

(B) For a contract containing option periods, the contract amount for the base period and for each option period. If the contract amount for one or more of the option periods differs from the amount for the base period, provide an explanation of the reason for the difference:

Base Period Amount: \$

Option Period 1 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 2 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 3 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 4 Amount: \$

Explanation of difference from base period (if applicable):

- (C) The date on which the letter contract or emergency contract was executed:**
- (D) The number of times the letter contract or emergency contract has been extended:**
- (E) The value of the goods and services provided to date under the letter contract or emergency contract, including under each extension of the letter contract or emergency contract:**
- (F) The goods or services to be provided, the methods of delivering goods or services, and any significant program changes reflected in the proposed contract:**
- (G) The selection process, including the number of offerors, the evaluation criteria, and the evaluation results, including price, technical or quality, and past performance components:**
- (H) A description of any bid protest related to the award of the contract, including whether the protest was resolved through litigation, withdrawal of the protest by the protestor, or voluntary corrective action by the District. Include the identity of the protestor, the grounds alleged in the protest, and any deficiencies identified by the District as a result of the protest:**
- (I) The background and qualifications of the proposed contractor, including its organization, financial stability, personnel, and performance on past or current government or private sector contracts with requirements similar to those of the proposed contract:**
- (J) A summary of the subcontracting plan required under section 2346 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.* (“Act”), including a certification that the subcontracting plan meets the minimum requirements of the Act and the dollar volume of the portion of the contract to be subcontracted, expressed both in total dollars and as a percentage of the total contract amount:**
- (K) Performance standards and the expected outcome of the proposed contract:**
- (L) The amount and date of any expenditure of funds by the District pursuant to the contract prior to its submission to the Council for approval:**
- (M) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02:**
- (N) A certification that the contract is legally sufficient, including whether the proposed contractor has any pending legal claims against the District:**
- (O) A certification that Citywide Clean Hands database indicates that the proposed contractor is current with its District taxes. If the Citywide Clean Hands Database indicates that the proposed contractor is not current with its District taxes, either: (1) a certification that the**

contractor has worked out and is current with a payment schedule approved by the District; or (2) a certification that the contractor will be current with its District taxes after the District recovers any outstanding debt as provided under D.C. Official Code § 2-353.01(b):

- (P) A certification from the proposed contractor that it is current with its federal taxes, or has worked out and is current with a payment schedule approved by the federal government:**
- (Q) The status of the proposed contractor as a certified local, small, or disadvantaged business enterprise as defined in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.*:**
- (R) Other aspects of the proposed contract that the Chief Procurement Officer considers significant:**
- (S) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and the reasons for debarment:**
- (T) Any determination and findings issues relating to the contract's formation, including any determination and findings made under D.C. Official Code § 2-352.05 (privatization contracts):**
- (U) Where the contract, and any amendments or modifications, if executed, will be made available online:**
- (V) Where the original solicitation, and any amendments or modifications, will be made available online:**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



Pursuant to section 202(c-1) of the Procurement Practices Reform Act of 2010, as amended, D.C. Official Code § 2-352.02(c-1), the following contract summary is provided:

COUNCIL CONTRACT SUMMARY
(Retroactive)

(A) Contract Number:

Proposed Contractor:

Contract Amount: \$

Unit and Method of Compensation:

Term of Contract:

Type of Contract:

Source Selection Method:

(B) For a contract containing option periods, the contract amount for the base period and for each option period. If the contract amount for one or more of the option periods differs from the amount for the base period, provide an explanation of the reason for the difference:

Base Period Amount: \$

Option Period 1 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 2 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 3 Amount: \$

Explanation of difference from base period (if applicable):

Option Period 4 Amount: \$

Explanation of difference from base period (if applicable):

- (C) The goods or services to be provided, the methods of delivering goods or services, and any significant program changes reflected in the proposed contract:**
- (D) The selection process, including the number of offerors, the evaluation criteria, and the evaluation results, including price, technical or quality, and past performance components:**
- (E) A description of any bid protest related to the award of the contract, including whether the protest was resolved through litigation, withdrawal of the protest by the protestor, or voluntary corrective action by the District. Include the identity of the protestor, the grounds alleged in the protest, and any deficiencies identified by the District as a result of the protest:**
- (F) The background and qualifications of the proposed contractor, including its organization, financial stability, personnel, and performance on past or current government or private sector contracts with requirements similar to those of the proposed contract:**
- (G) The period of performance associated with the proposed change, including date as of which the proposed change is to be made effective:**
- (H) The value of any work or services performed pursuant to a proposed change for which the Council has not provided approval, disaggregated by each proposed change if more than one proposed change has been aggregated for Council review:**
- (I) The aggregate dollar value of the proposed changes as compared with the amount of the contract as awarded:**
- (J) The date on which the contracting officer was notified of the proposed change:**
- (K) The reason why the proposed change was sent to Council for approval after it is intended to take effect:**
- (L) The reason for the proposed change:**
- (M) The legal, regulatory, or contractual authority for the proposed change:**
- (N) A summary of the subcontracting plan required under section 2346 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.* (“Act”), including a certification that the subcontracting plan meets the minimum requirements of the Act**

and the dollar volume of the portion of the contract to be subcontracted, expressed both in total dollars and as a percentage of the total contract amount:

- (O) Performance standards and the expected outcome of the proposed contract:**
- (P) The amount and date of any expenditure of funds by the District pursuant to the contract prior to its submission to the Council for approval:**
- (Q) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02:**
- (R) A certification that the contract is legally sufficient, including whether the proposed contractor has any pending legal claims against the District:**
- (S) A certification that Citywide Clean Hands database indicates that the proposed contractor is current with its District taxes. If the Citywide Clean Hands Database indicates that the proposed contractor is not current with its District taxes, either: (1) a certification that the contractor has worked out and is current with a payment schedule approved by the District; or (2) a certification that the contractor will be current with its District taxes after the District recovers any outstanding debt as provided under D.C. Official Code § 2-353.01(b):**
- (T) A certification from the proposed contractor that it is current with its federal taxes, or has worked out and is current with a payment schedule approved by the federal government:**
- (U) The status of the proposed contractor as a certified local, small, or disadvantaged business enterprise as defined in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.*:**
- (V) Other aspects of the proposed contract that the Chief Procurement Officer considers significant:**
- (W) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and the reasons for debarment:**
- (X) Any determination and findings issues relating to the contract's formation, including any determination and findings made under D.C. Official Code § 2-352.05 (privatization contracts):**

- (Y) Where the contract, and any amendments or modifications, if executed, will be made available online:**

- (Z) Where the original solicitation, and any amendments or modifications, will be made available online:**

APPENDIX 2-B

OVERVIEW OF CHANGES TO THE COUNCIL

SUMMARY TEMPLATES

The Procurement Integrity, Transparency, and Accountability Amendment Act of 2015, effective October 8, 2016 (D.C. Law 21-158; D.C. Official Code § 2-351 *et seq.*) (PITAAA) changed the information that is required to be contained in Council Package Summaries. The following provides an overview on the changes broken down by contract type.

Template	Changes by Section
Standard Contract Summary Template	<u>NEW in Section A: General information about the contract</u> - Source Selection Method should be one of the following: IFB, RFP, Sole Source, or Cooperative Agreement, GSA Schedule, Competition Exemption, Human Care Agreement, Architect-Engineer <u>NEW Section B: Contract Amounts</u> - Should be clear and concise explanation (<i>e.g.</i>, increase for cost of living) <u>NEW in Section D: Selection process</u> - Past Performance Components should be brief but comprehensive <u>NEW Section E: Describe any protest related to the award of the contract</u> - Brief but comprehensive. For any pending protests, include only the protestor's name, protest number, and a general statement of the grounds of the protest, <i>e.g.</i>, the protest challenges the evaluation process. <u>NEW Section F: Background and qualifications of proposed contractor</u> - Should describe similar contracts where the contractor has satisfactory performance, in addition to the other information requested <u>NEW Section G: Summary of the subcontracting plan</u> - Simple, straightforward statement. NO DETAILS - The contracting officer determined that the

	company has a subcontracting plan that meets the 35% requirement; OR - o There is a subcontracting waiver in place - o State the dollar volume of the portion of the contract to be subcontracted in total dollars and as a percentage of the total contract amount <u>NEW Section I: Expenditure of funds by the District</u> <u>NEW Section L: Tax Certification (District)</u> • Printout from Clean Hands Database dated within 90 days <u>NEW Section M: Tax Certification (Federal)</u> • Develop a statement based on the information included in the Bidder-Offeror Certification Form <u>NEW Section Q: D and Fs</u> • List of Determinations and Findings and date issued. Do not attach the actual D&F.
Option Year Council Summary Template	<u>NEW Section B:</u> • Should include the CA number found on http://lims.dccouncil.us/ • Should list the modifications that were issued since the last time the contract was reviewed by Council
Letter Contract or Emergency Contract Summary Template	<u>NEW Section C: Date letter or emergency contract was executed</u> <u>NEW Section D: Number of times the letter or emergency contract was extended</u> <u>NEW Section E: Value of goods or services provided under the letter contract or emergency contract</u>
Sole Source Contract Summary Template	<u>NEW Section D: The date on which last competitive procurement was conducted</u> • Should list the date on which a competitive procurement was last conducted and when the resulting award was made • Should explain briefly, but thoroughly why a competitive procurement is not possible. Should NOT copy the justification in the Sole Source D&F.

Retroactive Contract Summary Template	<u>NEW Section G: Period of Performance for the Retroactive Actions</u> - List the period of performance for any modifications or actions for which Council approval is being sought <u>NEW Section H: Value of Work or Services Performed</u> - List the amounts of any contract modifications or actions for which approval is being sought - If there are multiple modifications or actions, list the amounts separately for each modification or action <u>NEW Section I: Aggregate Dollar Value of the Modifications or Changes</u> - List both the total amount of the modifications or actions for which approval is being sought, along with the total amount of the contract as awarded <u>NEW Section J: Date on which contracting officer notified of the modifications or actions</u> - Include dates on which contracting officer became aware of the need for the modifications or actions <u>NEW Section K: Reason modifications or actions sent to Council as retroactive</u> - State the reasons why the modifications or actions are sent for retroactive approval <u>NEW Section L: Reasons for Modifications or Actions</u> - State the reasons why the modifications or changes are needed <u>NEW Section M: Authority for the Modifications or Actions</u> - State the legal, regulatory, or contract authority for the modifications or actions. For example, the changes clause, the options clause, a relevant section of 27 D.C.M.R.
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APPENDIX 2-C

COUNCIL SUMMARY FINAL REVIEW CHECKLIST

Overall

- Do the contract numbers match throughout the documents?
- Do the periods of performance match in all of the documents?
- Does the name of the contractor appear the same in all of the documents?
- Does the contract amount match throughout all of the documents?
- Are the documents the most up-to-date and in the proper format?

Council Summary

- Did you use the appropriate template?
- Did you complete all of the sections with accurate, thorough, and clear information?
- Did you remove the names of the unsuccessful offerors in section D?

Funding and Clean Hands Certifications

- Is the certification dated within 90 days?
- Is the proper contractor named in each of the documents?
 - If there are other names, are they reflected consistently?
- Does the funding certification fully fund the contract for the entire period of performance?
- Does the period of performance (Month, date and year) match the period of performance listed in the Council Summary?

Transmittal Letter

- Does the letter address “The Honorable Phil Mendelson” and “Dear Chairman Mendelson?”
- Is the letter signature block from Mayor Bowser?
- If the contract requires legislation, does the transmittal letter include the title of the legislation that requires Council approval?

Documents to be submitted to the FOIA Specialist (Linda Givens)

1. Agency Approval Form for Contract (Word)
2. Funding Certification
3. Chairman letter (Word)
4. Clean Hands
5. Council contract summary
6. Legislation, if required (Word)
7. Legal sufficiency

PROTESTS, DEBARMENTS, & SUSPENSIONS

3.1 THE CONTRACT APPEALS BOARD AND ITS JURISDICTION

The CAB is an independent agency created pursuant to the Procurement Practices Reform Act of 2010 (PPRA), D.C. Official Code § 2-360.08 *et seq.* to provide an impartial, expeditious, inexpensive, and knowledgeable forum for hearing and resolving contractual disputes and protests involving the District and its contracting communities. The CAB is composed of a Chief Administrative Judge and two Associate Administrative Judges, all of whom are appointed to four-year terms by the Mayor subject to confirmation by the Council. In FY16, twenty-nine new protests and four new disputes cases were filed with the CAB.

Under D.C. Official Code §§ 2-221.04(a)(1), 2-359.07(f), and 2-360.03(a), the CAB has the exclusive jurisdiction over the following matters, which it reviews *de novo* (i.e., without deference to previous legal conclusions):

- A. ***Protests of a Solicitation or Award*** – any protest of a solicitation or award of a contract addressed to the Board by any actual or prospective bidder or offeror, or the contractor who is aggrieved in connection with the solicitation or award of a contract;
- B. ***Appeal of a Contracting Officer's Final Decision*** – Any appeal by a contractor from a final decision by the contracting officer on a claim by a contractor, when such claim arises under or relates to a contract (including appeals of a contracting officer's decision regarding interest penalties under the Quick Payment Act);
- C. ***Claims by the District*** – any claim by the District against a contractor, when such claim arises under or relates to a contract;
- D. ***Appeals of Debarments and Suspensions*** – any appeal by a contractor of a debarment or suspension actions taken by the CPO; and

3.2 MANAGING A PROTEST

3.2.1 Basis of a Protest

The primary type of case considered by the CAB is a “protest,” defined as “[a] written objection by an aggrieved party to a solicitation for bids or proposals or a written objection to a proposed or actual contract award. a written objection to a solicitation or award.” 27 D.C.M.R. § 100.2(n). In order to have standing to file a protest with the CAB, a person must be “aggrieved” in connection with the issuance of a solicitation or the award of a contract may. An “aggrieved person” is defined under CAB Rule 100.2(a), 27 D.C.M.R. § 100.2(a), as:

An actual or prospective bidder or offeror:

- (i) *whose direct economic interest would be affected by the award of a contract or by the failure to award a contract, or*
- (ii) *who is aggrieved in connection with the solicitation of a contract.*

A protest may be filed based upon alleged improprieties in the solicitation or other request by an agency for offers for a contract for a procurement that were apparent prior to bid opening or at the time set for receipt of initial proposals. A protest may also be filed on other issues surrounding the solicitation or solicitation process, such as the cancellation of the solicitation or other request.

A protest may also allege an impropriety in the award or proposed award of the contract of a contract. For instance, a protest may rest on, among other things, allegations of improper evaluation of offers, or the improper termination or cancellation of an award.

3.2.2 Filing Timeline

A protest based on issues regarding the solicitation must be filed with the CAB prior to bid opening or by the date set for receipt of proposals. For a protest based on other issues, the protest must be filed with the CAB within 10 business days after the basis of the protest is known or should have been known, whichever is earlier. A protest must be filed with the CAB and served on the contracting officer.

3.2.3 Notice

The CAB sends formal notice that a protest has been filed to the OAG Procurement Section and the contracting officer. If the aggrieved party sends the protest to the contracting officer only, it considered a misdirected protest and the contracting officer must forward the protest to the CAB within 1 business day after its receipt.

In the case of a protest alleging solicitation improprieties, the contracting officer must give immediate notice of the protest to prospective bidders or offerors who can reasonably be ascertained.

In protests other than those alleging solicitation improprieties, if a contract has not been awarded, the contracting officer must give immediate notice of the protest to all bidders or offerors who appear to have a reasonable prospect of receiving an award. If a contract has been awarded, the contracting officer must give immediate notice of the protest to the contract awardee and all other bidders or offerors who appear to have a reasonable prospect of receiving an award if the protest is sustained.

3.2.4 Automatic Stay of the Procurement

- A. **Automatic Stay.** Once the contracting officer receives formal notice that a protest has been filed, the contracting officer is prohibited from awarding that contract while the protest is pending. This is called an “automatic stay.” If the contract has already been awarded and the contracting officer receives notice of the protest within eleven (11) business days after contract award, the contracting officer must send a written notice to the contractor to stop performance under the contract while the protest is pending.
- B. **Proceeding while a Protest is Pending.** The only way a contract can be awarded despite a protest being filed is if the CPO makes a determination, supported by substantial evidence, that the contract award may proceed due to the compelling and urgent nature of circumstances that significantly affect the District’s interests and will not permit waiting for the CAB’s decision. Under this scenario, the contracting officer prepares a D&F to Proceed While the Protest is Pending, secures appropriate signatures, and provides a copy to the OAG Procurement Section attorney assigned to the protest within 1 business day after its issuance. The attorney will file the D&F with the CAB.
- C. **Challenge to D&F.** The protester may challenge this D&F before the CAB within five (5) business days of receipt of a copy of the Director's determination. The District shall file a written response with the Board (with same day service on the protester) within two (2) business days of receipt of the protester's motion. The protester may file a reply within one (1) business day of receipt of the District's response. The Board shall issue a decision on the protester's motion within ten (10) business days after the date the written motion is filed by the protester.

3.2.5 The Protest Adjudication Process

The OAG will provide the contracting officer with written instructions of her or his responsibilities during the protest process. **It is important to maintain all documentation related to the protest and to work with the OAG attorney assigned to the protest.**

The CAB's adjudication of a protest consists of the following components:

- A. **Motions.** OAG may file various motions to have the protest dismissed. OAG will provide copies of those documents to the protester and all interested parties. Those parties have 7 days after receipt of a motion to file comments with the CAB. If a dispositive motion is denied by the CAB, OAG will then file the Agency Report.
- B. **Agency Report.** After consultation with the contracting officer, contract specialist, and program personnel, the OAG files an Agency Report with the CAB, usually within 20 business days after receipt of the CAB acknowledgement of the protest. OAG may request a time extension for filing the agency report. The Agency Report consists of the following:
- The procurement solicitation;
 - The bid or proposal submitted by the protester;
 - The bid or proposal which is being considered for award, or which has resulted in an award, if any;
 - Bid tabulation sheets or proposal selection reports and evaluation reports, work papers, and scoring sheets;
 - The contracting agency position and defense for each ground of the protest, including the facts, legal principles, and precedents supporting its position; and
 - Any other documents and exhibits that are relevant to the protest.
- C. **Discovery.** The CAB may grant any party discovery. The CAB also has subpoena power.
- D. **Conference.** The CAB may order a conference on the protest. The purpose of this conference is to clarify or seek agreement on various issues so that the CAB can proceed with making a decision.
- E. **Evidentiary Hearing.** The CAB may order an evidentiary hearing if the CAB determines that the protest cannot be decided on the written record. The contracting officer or contracting agency staff may be asked to attend, testify under oath, and provide additional documents. At the conclusion of the hearing the CAB may order or permit additional filings.

KEEP ALL DOCUMENTS!

The CAB may treat any factual allegations as conceded if the District fails to file an Agency Report or does not challenge a factual allegation.

- F. **Decision.** The CAB issues a written decision of the protest to the parties within 60 business days from the date on which the protest was filed. If the CAB sustains a contractor's protest, it can order the District to take remedial action such as:
- Terminate the contract for convenience;
 - Refrain from exercising any options under the contract;
 - Recompete the contract;
 - Issue a new solicitation; or
 - Award a contract consistent with the law and regulations.
- G. **Motion for Reconsideration.** All parties may file a motion for reconsideration with the CAB. This motion must be filed within 15 business days after receipt of the CAB's decision and a motion in opposition to reconsideration must be filed within 7 business days. Should this motion be denied, OCP or the protester may appeal a decision of the CAB to the D.C. Superior Court pursuant to D.C. Official Code § 2-360.05(a); 27 D.C.M.R. § 312.

3.3 DEBARMENT, SUSPENSION & INELIGIBILITY

Contracting officers may not solicit proposals from, award contracts to, or consent to subcontracts with debarred, suspended, or ineligible persons. A "person" is any business, individual, corporation, partnership, association, or legal entity, however organized.

Contracting officers and other District agencies are obligated to obtain and review the OCP and GSA Excluded Parties Lists before making a contract award in order to exclude debarred or suspended persons from performing any part of a District contract.

3.3.1 Excluded Parties Lists

- A. **District Excluded Parties List.** The CPO will establish, maintain, and post on OCP's web site a list of persons debarred or suspended by OCP.
- B. **GSA Excluded Parties List.** The General Services Administration (GSA) compiles and maintains a consolidated list of all persons and entities debarred, suspended, proposed for debarment, or declared ineligible by federal agencies or the [Government Accountability Office](#).
- C. **Effect of Exclusion.** Persons on the OCP or GSA list are excluded from receiving contracts and subcontracts with District contractors, and contracting officers may not solicit proposals or quotations from, award contracts to, or, when a contract provides for such consent, consent to subcontracts with such persons, unless the CPO

determines that there is a compelling reason for the award. Persons on the OCP or GSA list may not provide goods or services to the District government.

The debarment, suspension, or ineligibility of a person does not, of itself, affect the rights and obligations of the parties to any valid, pre-existing contract. OCP may terminate for default a contract with a contractor that is debarred, suspended, or determined to be ineligible. Contracting officers may not add new work to the contract by supplemental agreement, by exercise of an option, or otherwise, except with the approval of the CPO.

3.3.2 Causes for Debarment

The CPO may debar a person, including its affiliates, for cause such as:

- (a) A conviction for the commission of a criminal offense incident to obtaining, or attempting to obtain, a public or private contract or subcontract or in the performance of the contract or subcontract;
- (b) A conviction under the PPRA or under any other District, federal, or state law for fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity which currently affects the contractor's responsibility as a District government contractor;
- (c) A conviction under District, federal, or state antitrust laws arising out of the submission of bids or proposals;
- (d) A judicial determination of a violation of D.C. Official Code §§ 2-381.01–.09;
- (e) A false assertion of certified business enterprise status or eligibility;
- (f) A violation of contract provisions of a character sufficiently serious to justify debarment action, including:
 - (i) Willful failure, without good cause, to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (ii) A history record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be the basis for debarment.
- (g) A violation of D.C. Official Code § 32-1331.01 *et seq.*;
- (h) Submission of a bid or proposal to contract with the District by a person debarred or suspended pursuant to a conviction described in sections (a)–(c) of this subsection;
- (i) Willful failure to cooperate in a Council or Council committee investigation;
- (j) Willful failure to cooperate in a District of Columbia Auditor audit or to produce books or records pursuant to an audit;

- (k) Willful failure to cooperate in an Inspector General audit, inspection or investigation, or to produce books or records pursuant to an audit, inspection or investigation;
- (l) Any other cause of a serious or compelling nature that affects the present responsibility of the contractor or subcontractor, or
- (m) A cause set forth in other applicable statutes, regulations, or final decision.

Anyone, including OCP employees, should report to the CPO all information that they believe would be a cause for debarment of a District contractor.

3.3.3 Imputing Conduct to Affiliates

The criminal, fraudulent, or improper conduct of an individual may be imputed to the firm with which he or she was connected when an impropriety was committed. Likewise, when a firm is involved in criminal, fraudulent, or other improper conduct, any person who participated in, knew of, or had reason to know of the impropriety may be debarred.

The fraudulent, criminal, or other improper conduct of one person participating in a joint venture or similar arrangement may be imputed to other participating persons if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of the person. Acceptance of the benefits derived from the conduct will be evidence of such knowledge, approval, or acquiescence.

3.3.4 Mitigating Factors

The existence of any cause for debarment does not necessarily require that a person be debarred. The decision to debar is within the discretion of the CPO, and must be made in the best interest of the District. The existence or nonexistence of mitigating factors or remedial measures is not determinative whether or not a person should be debarred. If a cause for debarment exists, the person possesses the burden to demonstrate, to the satisfaction of the CPO, that debarment is not warranted or necessary.

3.3.5 Debarment Procedures

The CPO initiates debarment proceedings by notifying the person and any affiliates by certified mail, return receipt requested, of the following:

- Reasons for the proposed debarment in sufficient detail to put the person on notice of the conduct or transaction(s) upon which the proposed debarment is based;
- Cause(s) for the proposed debarment;
- The person may submit information or written facts in opposition to the proposed debarment within fifteen (15) calendar days;
- The District's procedures governing debarment decision-making;

- The effect of the proposed debarment;
- That a fact-finding proceeding may be conducted; and
- That the District will not solicit offers from, award contracts to renew, extend contracts with, or consent to subcontracts with the person pending a debarment decision.

3.3.6 Debarment Decision

The CPO shall issue a written decision whether or not to debar the person. A debarment decision shall:

- State the relevant facts and the reasons for the action taken;
- Describe the present responsibility of the person;
- Describe whether the debarment is in the best interest of the District;
- State the period of debarment, including effective dates;
- Inform the debarred person of its rights to judicial or administrative review and applicable District statutes; and
- Be sent to the person via certified email or delivered in person with receipt return requested.

3.3.7 Period of Debarment

A debarment shall not be for a period of more than 5 years. However, a person that has been debarred twice by the District may be banned permanently from contracting with the District.

3.3.8 Causes for Suspension

The CPO may suspend any person, including any of its affiliates:

- For any of the causes listed in 3.2.2(a)–(g), (l), and (m) above; and
- If the person is charged with the commission of an offense described in 3.3.2(a)–(g), (l), and (m) above.

3.3.9 Period of Suspension

Suspension shall be for a temporary period pending the completion of an investigation and any resulting judicial or administrative proceeding, unless terminated sooner by the CPO. If judicial or administrative proceedings are not initiated within one year after the date of the suspension notice, the suspension shall be terminated unless the CPO determines that it is in the best interest of the District to extend the suspension, in which case it may be extended for not more than an additional 6 months.

3.3.10 Procedural Requirements for Suspension

The CPO will follow the same procedure as described in sections 3.3.5 and 3.3.6.

3.3.11 Appeals to the CAB

The decision of the CPO shall be final and conclusive, unless fraudulent, or unless the debarred or suspended person appeals to the CAB within 60 days of receipt of the CPO's decision.

3.4 OTHER TYPES OF DISPUTES

3.4.1 Claims against the District

All claims by a contractor against the District government arising under or relating to a contract shall be in writing and shall be submitted to the contracting officer for a decision, which must be made in writing within 120 days of receipt of the claim. Failure to issue a decision on a contract claim within the required time period shall be deemed to be a denial of the claim. A contracting officer's written decision must do the following:

- Provide a description of the claim or dispute;
- Refer to the pertinent contract terms;
- State the factual areas of agreement and disagreement; and
- State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding.

The CAB has jurisdiction to hear any appeal by a contractor from a final decision by a contracting officer on a claim by a contractor (including claims under the Quick Payment Act), when such claim arises under or relates to a contract, such as claims for equitable adjustment due to unreasonable delay of work by the District. A contractor must file an appeal of a contracting officer's final decision within 90 days

3.4.2 Claims by the District

All claims by the District against a contractor arising under or relating to a contract shall be decided by the contracting officer in writing, and set forth:

- The description of the claim or dispute;
- The pertinent contract terms;

- The reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
- The factual areas of agreement and disagreement;
- Notice that the written document is the contracting officer's final decision; and
- The contractor of the right to seek review by the CAB.

The CAB has jurisdiction to hear any appeal by a contractor from a final decision by a contracting officer on a claim against the contractor filed by the District, when such claim arises under or relates to a contract. The appeal must be filed with the CAB within 90 days of the decision.

CONTRACT ADMINISTRATION

Chapter

4

This section outlines the following procurement actions:

- Managing a Contract
- Paying the Vendor
- e-Val General Instructions
- Authorizing Payment for Goods and Services Received without a Valid Written Contract
- Executing Unilateral Contract Modifications
- Executing Bilateral Modifications – Extension of Completion Date
- Executing Bilateral Modifications – Revise Scope or Other Terms
- Executing Change Orders
- Exercising an Option.

4.1 ROLES AND RESPONSIBILITIES



Roles and Responsibilities in the Contract Administration Phase

Contracting Officer	Agency Staff
Keep Informed of Performance	Monitor and Evaluate Performance
Audit Invoice Approvals	Review and Approve Invoices
Negotiate and Process Modifications	Recommend Modifications
Exercise Options	Recommend Option Exercises
Assist with Resolving Conflicts	Discuss and Document Conflicts
Closeout	Assist with Closeout

4.1.1 Appointing the Contract Administrator

The contracting officer shall appoint a contract administrator for every contract that exceeds \$100,000. The contracting officer must ensure that:

1. The proposed contract administrator is a District employee; and
2. The proposed contract administrator has successfully completed the contract administrator training or is scheduled to complete the training within 60 days of contract award.

Once selected, the contract specialist is responsible for preparing the contract administrator's appointment letter for the contracting officer's signature.

4.1.2 Program Kick-Off Conference

The contracting officer should meet with the proposed contract administrator to discuss contract administrator responsibilities. Once a contracting officer is confident that the proposed contract administrator understands his or her duties and responsibilities, the contract officer can present the appointment letter for contract administrator signature.

- A. **Agenda.** The contract specialist and contracting officer will work the contract administrator to prepare the agenda for the kick-off conference, which shall include the following items:
 - Roles and responsibilities;
 - Review of Scope of Work (SOW) or specifications;
 - Work plan or project schedule;
 - Reporting requirements;
 - Guidelines for submitting invoices;
 - Channels of communication; and
 - Contact information for key personnel in the program agency, OCP, the vendor and other relevant stakeholders.
- B. **Participants.** The kick-off conference shall include the vendor, the contracting officer, contract specialist, contract administrator, and other agency or District personnel as the contracting officer may deem appropriate.

4.1.3 Contract Administrator Responsibilities

The contract administrator has the primary responsibility to monitor the performance of the vendor during the period of performance. However, it is critical that the contracting officer and contract specialist be apprised of all developments, copied on status reports, and invited to key

meetings as OCP plays a more active role to ensure work is adequately performed and that prime vendors are appropriately using subcontractors and meeting utilization goals.

The contracting officer may delegate to the contract administrator the following aspects of contract administration:

- Drafting a clear and concise statement of work;
- Providing recommendations regarding suspension or disapproval of costs;
- Approving or rejecting vendor invoices;
- Reviewing, approving, or rejecting a vendor's requests for progress payments or performance-based payment;
- Taking action to recover overpayments from the vendor;
- Providing production support, oversight, and status reporting, including timely reporting of potential and actual slippages in contract delivery schedules;
- Advising the contracting officer of any actual or potential labor disputes;
- Ensuring vendor compliance with contractual quality assurance requirements;
- Ensuring vendor compliance with contractual safety requirements;
- Performing surveillance to assess compliance with contractual terms for schedule, cost, and technical performance in the areas of design, development and production;
- Reporting to the contracting officer any inadequacies noted in the specifications;
- Ensuring timely submission of required reports;
- Monitoring vendor compliance with specifications or other contractual requirements; and
- Preparing evaluations of vendor performance.

Specific instructions regarding this work should be provided by the contracting officer. A contract administrator may not be delegated the responsibility to issue directives to a vendor that alter or modify the terms, conditions, or pricing as agreed to in the contract areas the contract.

FILE PREPARATION & CONTRACT CLOSEOUT

5.1 CONTRACT FILE PREPARATION GUIDELINES

5.1.1 General Rule

Section 5.1 pertains to hard copy files. Any contracting officer maintaining files in PASS is not required to create a separate hard copy file. Each contract file shall include all relevant contract documents and shall be maintained for a contract exceeding the small purchase threshold. All contracts should be contained in a six-part contract file folder. For transactions with values under than the small purchase threshold, the contract file documents shall be maintained in single or 2-part contract file folders.

All 6-part contract file folders shall contain the following:

- Contract File Cover Sheet;
- Contract File Index; and
- All relevant documents listed in the Contract File Index.

All single or 2-part contract file folders shall contain the Small Purchase Index. All contract files shall be maintained in a safe, confidential, and secure manner.

5.1.2 Instructions for Completing the 6-Part Contract File Cover Sheet Label

The contracting officer shall ensure that the Contract File Cover Sheet label will be:

- Filled out by identifying all applicable information;
- Completed for each folder if more than one folder is used;
- Printed on an adhesive laser printer label; and
- Affixed to the front of each contract file folder.

5.1.3 Instructions for Completing the Single or 2-Part Contract File

The small purchase cover sheet may contain optional information at the discretion of the contracting officer. This information should also be captured within the contents of the small purchase contract file.

5.1.4 Instructions for Using the Contract File and Small Purchase Index

For transactions greater than \$100,000, contract file documents are maintained in a 6-part contract file folder as referenced in Parts I through VI of the Contract File Index (see Appendix 5–C). For transactions of \$100,000 or less, the contract file documents are maintained in a single- or 2-part contract file folder as noted in the Small Purchase Index (see Appendix 5–A). Each Contract File Index sheet is affixed, in numerical ascending order (i.e., 1, 2, 3, and so on), to the front of each contract file section.

5.1.5 Instructions for Completing the Contract File and Small Purchase Index

The contracting officer shall ensure that the Index is filled out completely. The assigned contract specialist will validate the information by dating and initialing each entry.

If a document is not required to be included in the contract file folder, a notation of “n/a” (i.e., not applicable) shall be placed at the right side, (under the date column), of the Index Sheet. The assigned contract specialist will validate the information by dating and initialing the “n/a” entry.

5.2 CLOSEOUT OF CONTRACT FILES

5.2.1 General Rule

The contract closeout phase begins once the contractor has completed the required deliveries and the District has inspected and accepted the supplies or services or the District terminated the contract. This section outlines the components of the contract closeout phase.

The contract closeout process consists of the following activities:

1. Verification of contract completion;
2. Obtaining all requisite forms, reports, and clearances;
3. Resolving outstanding issues, if any;
4. Initiating final payment (or collection for an overpayment);
5. De-obligation of excess funds;

6. Preparing the contract completion statement; and
7. Disposing of contract file.

Files for contracts using simplified acquisition procedures should be considered closed when the contracting officer receives evidence of receipt of property and final payment, unless otherwise specified by agency regulations.

All other contract files shall be closed as soon as practicable after the contracting officer receives a contract completion statement from the Contract Administrator of compliance with the requirements of Section 5.2.3. The contracting officer shall ensure that all contractual actions required have been completed and shall prepare a statement to that effect. This statement is authority to close the contract file and shall be made a part of the official contract file.

A. Timelines of Closures:

- ***Files for firm-fixed-price contracts*** – other than those using simplified acquisition procedures, these should be closed within 6 months after the date on which the contracting officer receives evidence of physical completion.
- ***Files for contracts requiring settlement of indirect cost rates*** – these should be closed within 36 months of the month in which the contracting officer receives evidence of physical completion.
- ***Files for all other contracts*** – should be closed within 20 months of the month in which the contracting officer receives evidence of physical completion.

B. A Contract File Shall not be Closed if:

- The contract is in litigation or under appeal; or
- In the case of a termination, all termination actions have not been completed.

5.2.2 Physically Completed Contracts

A contract is physically completed when either:

A. The following elements are satisfied:

- (1) The contractor has completed the required deliveries and the District has inspected and accepted the supplies;
- (2) The contractor has performed all services and the District has accepted these services; and
- (3) All option provisions, if any, have expired; or

B. The District has given the contractor a notice of complete contract termination.

Rental, use, and storage agreements are considered to be physically completed when:

- A. The District has given the contractor a notice of complete contract termination; or
- B. The contract period has expired.

5.2.3 Procedures for Closing-Out Contract Files

The Contract Administrator is responsible for initiating administrative closeout of the contract after receiving evidence of its physical completion. At the outset of this process, the Contract Administrator must review the contract funds status and notify the contracting officer of any excess funds the contract administrator might de-obligate. When complete, the administrative closeout procedures must ensure that:

- Final reports are received and accepted;
- There is no outstanding value engineering change proposal;
- Contractor has vacated government-provided space and left the space in acceptable condition;
- Government-furnished property has been returned;
- All interim or disallowed costs are settled;
- Price revision is completed;
- Subcontracts are settled by the prime contractor;
- Contractor evaluation is completed;
- Contractor's final invoice has been submitted; and
- Contract funds review is completed and excess funds de-obligated.

5.2.4 Post-Verification

When the actions above in Section 5.2.3 have been verified, the contracting officer must ensure that a contract completion statement (see Appendix 6-D), containing the following information, is prepared:

- Contract number;
- Last purchase order number and date;
- Last modification date and number;
- Contractor name and address;
- Contract completion date;
- Verification that all invoices have been paid;
- A statement of the status of the contract (*e.g.*, active, closed, and the like.);

- A statement of any pending claims or litigation;
- Name and signature of the contracting officer; and
- Date.

5.2.5 Completion of Statement

When the contract completion statement is completed, the contracting officer must ensure that:

- The signed original is placed in the official; and
- A signed copy is provided to the contract administrator.

5.2.6 Transfer of Closed Files to OCP Headquarters

The contracting officer shall transfer any closed files to the Records Management Unit at OCP Headquarters, to be held until disposal. The contract completion statement shall be included in any closed file prior to transfer. The contracting officer should contact the Records Management Unit at ocprecordsmgmt@dc.gov to arrange for transfer of files.

APPENDIX 5-A: CONTRACT FILE CHECKLIST FOR SMALL PURCHASES

OCP FILE CHECKLIST FOR SMALL PURCHASES

Where applicable, all documents listed below are required for this procurement method. Please check "IN FILE" or specify "N/A."

<i>Solicitation No.:</i>	<i>Contract Specialist:</i>
<i>Contract/P.O. No.:</i>	<i>Contract Specialist's Telephone No.:</i>
<i>Caption:</i>	<i>Agency:</i>
	<i>COTR Name:</i>
<i>Contractor:</i>	
<i>Contractor POC:</i>	<i>COTR Telephone No.:</i>
<i>Contractor POC Telephone No.:</i>	<i>Market Type:</i>

DOCUMENT	IN FILE
1. Requisition/ Statement of Work/Specifications	
2. Source Mailing List	
3. Contracting Officer's Request for Quotation, Amendments; CPO Letter of November 23, 2007	
4. Vendors Quotes	
Telephone	
e-Mail	
Postal Mail	
5. Abstract	
6. Sole Source Determination	
7. Determination of Responsibility	
8. Price Reasonableness D & F	
9. Purchase Order	
10. Modifications	
11. Other	

Contracting Officer: _____

Date: _____

APPENDIX 5-B: CONTRACT FILE CHECKLIST FOR COMPETITIVE SEALED PROPOSALS

OCP FILE CHECKLIST FOR COMPETITIVE SEALED PROPOSALS (CSP)

Where applicable, all documents listed below are required for this procurement method.
Please check "IN FILE" or specify "N/A."

<i>Solicitation No.:</i>	<i>Contract Specialist:</i>
<i>Contract/P.O. No.:</i>	<i>Contract Specialist's Telephone No.:</i>
<i>Caption:</i>	<i>Agency:</i>
<i>Contractor:</i>	<i>COTR Name:</i>
<i>Contractor POC:</i>	<i>COTR Telephone No.:</i>
<i>Contractor POC Telephone No:</i>	<i>Market Type:</i>

DOCUMENT	IN FILE	DOCUMENT	IN FILE
PART 1 - POST AWARD		PART 2 - AWARD	
1. Post Award Conference		1. Notice of Award	
2. Unsuccessful Offeror Letters		2. Certificate of Insurance	
3. Contract Close-Out		3. COTR Designation Letter	
4. Final e-Val		4. Orders	
5. Other		5. Contract	
		6. Option Letter of Intent 1	
		7. Option Letter of Intent 2	
PART 3 - APPROVAL	IN FILE	8. Option Letter of Intent 3	
1. DOES Unemployment Compliance		9. Option Letter of Intent 4	
2. DOES First Source Agreement		10. Modification 1 (27 D.C.M.R. 3600)	
3. Office of Tax/Revenue Compliance		11. Modification 2	
4. Affirmative Action Approval		12. Modification 3	
5. Determination of Responsibility		13. Change Orders 3	
6. Screen Print Out of Debarred, Suspended and Ineligible List		14. Other e.g., Novation and Change of Name Agreements	

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7. Price Reasonableness Determination			
8. Memorandum to OAG for Legal Sufficiency Determination			
9. Contract Summary			
10. Other			
PART 4 - NEGOTIATIONS	IN FILE	PART 6 - PRE-SOLICITATION/	IN FILE
1. Pre-Negotiation, Price and Post Negotiation Objective Memoranda BCM		1. Requisition / SOW/Specs	
2. Subcontracting Plan		2. Government Cost Estimate	
3. Review and acceptance of Subcontracting Plans		3. DSLBD Waiver if Applicable	
4. Other (e.g. Best and Final Offer)		4. Priorities for Use of Government Supply Sources	
		5. Solicitation Mailing List	
		6. Procurement Plan; Market Research & Analysis	
		7. Solicitation/RFP/RFQ/HCA	
PART 5 - EVALUATION	IN FILE	8. Determinations and Findings e.g. RFP, Multi- Year, HCA	
1. Receipt of Quotes/ Proposals and Accompanying Delivery Verification		9. PRC/Legal Review	
2. List of Proposals		10. Notice of Proposed Solicitation	
3. Disclosure and Use of Information Before Award		11. Pre-Proposal Conference	
4. Technical/Cost Evaluation		12. COTR Recommendation by Agency	
5. Cost and Pricing Data		13. Solicitation Cancellation Determination	
6. Contractor Past Performance		14. Screen Print Out of Debarred, Suspended and Ineligible List	
7. D&F for Competitive Range		15. Other e.g. OCTO Approval; Evaluation Criteria for Acquiring Computer Systems	
8. Conduct of Discussions with Offerors			
9. Discussions with Offerors and Documentation			
10. Documentation relating to Mistakes Before Award			
11. Other			

Contracting Officer_____

Date:_____

APPENDIX 5-C: CONTRACT FILE CHECKLIST FOR COMPETITIVE SEALED BIDS

OCP FILE CHECKLIST FOR COMPETITIVE SEALED BIDS (CSB)

**Where applicable, all documents listed below are required for this procurement method.
Please Initial "IN FILE" or specify "N/A."**

Solicitation No.:	Contract Specialist:
Contract/P.O. No.:	Contract Specialist's Telephone No.:
Caption:	Agency:
Contractor:	COTR Name:
Contractor POC:	COTR Telephone No.:
Contractor POC Telephone No.:	Market Type:

DOCUMENT	IN FILE	DOCUMENT	IN FILE
PART 1 – POST AWARD		PART 2 - AWARD	
1. Post Award Conference		1. Notice of Award	
2. Unsuccessful Bidder Letters		2. Certificate of Insurance	
3. Contract Close-Out		3. COTR Designation Letter	
4. Documentation relating to Mistakes After Award		4. Orders (2	
5. Final e-Val		5. Contract	
6. Other		6. Option Letter of Intent 1	
		7. Option Letter of Intent 2	
PART 3 – APPROVAL	IN FILE	8. Option Letter of Intent 3	
1. DOES Unemployment Compliance		9. Option Letter of Intent 4	
2. DOES First Source Agreement		10. Modification 1	
3. Office of Tax/Revenue Compliance		11. Modification 2	
4. Affirmative Action Approval		12. Modification 3	
5. Determination of Responsibility		13. Change Orders	
6. Screen Print Out of Debarred, Suspended and Ineligible List		14. Other e.g., Novation and Change of Name Agreements	

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7. Price Reasonableness Determination			
8. Memorandum to OAG for Legal Sufficiency Determination			
9. Mayoral Approval of Contract			
10. City Council Approval			
11. Contract Summary			
12. Other			
PART 4 – NEGOTIATIONS	IN FILE	PART 6 – PRE- SOLICITATION	IN FILE
1. Pre-Negotiation, Price and Post Negotiation Objective Memoranda		1. Requisition /SOW/Specs 2501)	
2. Subcontracting Plan		2. Government Cost Estimate	
3. Review and acceptance of Subcontracting Plans		3. DSLBD Waiver if Applicable	
4. Other		4. Priorities for Use of Government Supply Sources	
		5. Solicitation Mailing List	
		6. Procurement Plan; Market Research & Analysis	
PART 5 – EVALUATION	IN FILE	7. Solicitation/and Amendment	
1. Receipt of Quotes/ Bids and Accompanying Delivery Verification		8. Determinations and Findings e.g. , Multi- Year	
2. List of Bids /Abstract		9. PRC/Legal Review	
3. Bid Evaluation		10. Notice of Proposed Solicitation	
4. Contractor Past Performance		11. Pre-Bid Conference	
5. Documentation relating to Mistakes Before Award		12. COTR Recommendation by Agency	
6. Other		13. Solicitation Cancellation Determination	
		14. Screen Print Out of Debarred, Suspended and Ineligible List	
		15. Other e.g. OCTO Approval (PIF)	

Contracting Officer _____ Date: _____

APPENDIX 5-D:
CONTRACT CLOSEOUT ATTESTATION &
RETENTION FORM

Office of Contracting and Procurement
Contract Closeout Attestation & Retention

Contract Number: _____

Last Modification: _____

Contractor's Name and Address: _____

Contract Completion Date: _____

Last Purchase Order Number: _____

Purchase Order Date: _____

As the current contracting officer for this agency, please state to the best of your knowledge, the current status of the above stated contract (Active, Closed, etc.) and indicate if you are aware of any pending claims or litigation (please describe).

Please provide information of the last Purchase Order requested for this file and verification that all invoices have been paid.

Contracting Officer (Printed Name): _____ Date: _____

Contracting Officer (Signature): _____

RMU Clerk (Printed Name): _____ Date: _____

RMU Clerk (Signature): _____

CONTRACT FILE MANAGEMENT

6.1 RECORDS MANAGEMENT CONTRACT FILE PREPARATION GUIDELINES

6.1.1 General Policy Statement

The Office of Contracting and Procurement (OCP) is committed to establishing and maintaining records management practices that meet its business needs, accountability requirements and stakeholder expectations. The benefits of compliance with this policy will be trusted information and records that are well described, stored in known locations and accessible to staff and stakeholders when needed.

6.1.2 Definitions

- A. **Records Management Unit** – OCP’s Records Management Unit (RMU) is located at OCP Headquarters. The RMU collects, monitors, stores and coordinates contract files for procurement staff located at OCP Headquarters. The RMU houses closed contracts for all agencies under the purview of the Chief Procurement Officer (CPO), and files are retained until disposal. Disposal of all scheduled contract files are handled by RMU.
- B. **Records Manager** – The OCP Records Manager (RM) is the OCP official responsible for monitoring all contract files from receipt to disposal. The RM, in conjunction with the Office of Public Records in the Office of the Secretary, ensures that all regulations relating to contract files are implemented.
- C. **Records Administrator** – A Records Administrator (RA) is the OCP official chosen by the contracting officer to monitor file creation, storage and management at each deployed agency.
- D. **Closed Contract File** – A file for a contract, including all option periods, which has expired or been terminated.

6.2 FILE ROOM PROCEDURES

6.2.1 Creation and Maintenance of Information and Records

- A. **Systematic Asset Management.** The RM's primary records management system is OCP's radio frequency identification system, known as Systematic Asset Management (SAM). Contract files shall be created as outlined in Chapter 5 of this manual. The contracting officer shall submit all contract files to the RMU or the RA, within five days of contract award.
- B. **PASS.** Contract documents must be maintained in the procurement system of record (i.e., PASS).
- C. **Prohibition.** Email folders, shared folders, personal drives or external storage media shall not be utilized to maintain official contract documents as they lack the functionality and security necessary to protect District business information and records over time.

6.2.2 Access to Information and Records

Contract files are an OCP resource to which all OCP staff may have access. Procedures for checking-in and checking-out contract files are delineated below:

- A. **Checking-in/Checking-out Files from Records Management.** Hours of Operation: The RMU is open, Monday -Friday, 9:00am – 5:30pm, unless other arrangements are made in advance. Access to the file room is restricted to OCP personnel.
 - Agency staff shall not enter the OCP File Room unless accompanied by the RM or a member of the Business Resource Division.
 - All files must be handled with care and returned in the same condition and order that they were received. If staff discovers misfiled documents or needs to add additional documents, notify the RM at ocprecordsmgmt@dc.gov.
- B. **Procedures for Checking-in/Checking-out for Headquarters Staff.** For files located at OCP Headquarters, staff shall send an email to ocprecordsmgmt@dc.gov. The email must contain the contract number for the requested file.
 - RMU will send a status email to the requester, which will either confirm that the requested file can be retrieved from the file room or state that the requested file is not available.
 - If the file is available, the requester must retrieve the file within one (1) business day of receiving the confirmation email. If the requester fails to retrieve the file, the file will be re-shelved and a new request must be sent to RMU.
 - After the requester retrieves the contract file, RMU will email a receipt

acknowledging that the file has been checked-out.

- The requester must return the checked-out file within one week of receiving it. If an extension is needed, the requester must notify RMU.
- When the file is returned, the RMU will email the requester a confirmation.

C. **Procedures for Check-in/Checking-out at Deployed Agencies.** Staff located at deployed agencies will utilize RM's System of Record, SAM, to obtain the location of contract files. If the file is available, a request is made to the RA to obtain the file.

- The requester must retrieve the file within one (1) business day of receiving the confirmation email. If the requester fails to retrieve the file, the file will be re-shelved and a new request must be sent to RA.
- The requester must return the checked-out file within one week of receiving it. If an extension is needed, the requester must notify RA.
- When the file is returned, the RA will email the requester a confirmation.

6.3 **TRANSFER OF FILES**

Contract files checked out in OCP's system of record, SAM, which are transferred between OCP staff or to another agency must be reported to RMU prior to transfer. If notification is not made, the holder of record in SAM will be held responsible for the file.

When responsibility for contract activity is transferred from one contracting officer to another contracting officer, the transferring contracting officer shall complete a contract modification, notify the RM and place a copy in the file and in the PASS contract workspace.

6.3.1 **Procedures for Transfer of Files upon Resignation**

A. **Contracting Officers.** Upon resignation, the contracting officer shall:

1. Prepare an inventory of all contracts on which he or she is designated as contracting officer. The inventory must contain the following information:
 - a. Contract Number;
 - b. User Agency;
 - c. Description;
 - d. Status of Contract;
 - e. Total Number of Contract Files; and
 - f. Vendor Name.
2. Send the inventory list to the RMU.

3. Provide the list and the contract files to the contracting officer's supervisor who shall retain the contract files until the files have been properly transferred to a new contracting officer or the RMU.

B. Contract Specialists. Upon resignation, the contract specialist shall:

1. Prepare an inventory of all contracts on which he or she is designated as contract specialist. The inventory list should include the following information:
 - a. Contract Number
 - b. User Agency
 - c. Description
 - d. Status of Contract
 - e. Total Number of Contract Files
 - f. Vendor Name
2. Ensure all contract files are uploaded into Contracts Compliance Module (CCM).
3. Provide the inventory list and the contract specialist's contract files to the designated contracting officer.

C. Retention Responsibility. The contracting officer shall retain the contract specialist's contract files until the files have been properly transferred to either a new contract specialist or the RMU.

6.3.2 Procedures for Transfer of Files upon Termination

A. Contracting Officers. Upon termination of a contracting officer, the RMU shall:

1. Take possession of the contracting officer's contract files and prepare an inventor. The inventory must contain the following information:
 - a. Contract Number;
 - b. User Agency;
 - c. Description;
 - d. Status of Contract;
 - e. Total Number of Contract Files; and
 - f. Vendor Name.
2. Retain all contract files until the files have been properly transferred to a new contracting officer or contract specialist.

B. Contract Specialist. Upon termination of a contract specialist, the contracting officer shall:

1. Take possession of the contract specialist's contract files and prepare an inventory. The inventory must contain the following information:
 - a. Contract Number;
 - b. User Agency;
 - c. Description;
 - d. Status of Contract;
 - e. Total Number of Contract Files; and
 - f. Vendor Name.
 2. Ensure all contract files are uploaded into Contracts Compliance Module (CCM).
 3. Provide the inventory list and the contract specialist's contract files to the designated contracting officer.
- C. **Retention Responsibility.** The contracting officer shall retain the contract specialist's contract files until the files have been properly transferred to either a new contract specialist or the RMU.

6.4 RETENTION AND DESTRUCTION

All information pertaining to records retention and archiving for OCP is contained in OPR, General Records Schedule 3 ("GRS(3)"). Retention periods in the GRS take into account all business, legal and government requirements for the records. OCP uses a number of general and agency-specific authorities to determine retention, destruction and transfer actions for contract files. General Records Schedule 3 can be accessed at the following link: [General Records Schedule 3](#).

Working documents of a short-term, facilitative or transitory value may be destroyed as a 'normal administrative practice'. Examples of such records include rough working notes, drafts not needed for future use or copies of records held for reference. Staff must utilize secure shredding bins.

OCP staff are responsible for closing out all contracts in accordance with the procedures set forth in Chapter 5 and transferring all closed contract files to the RMU located at OCP Headquarters, to be held until disposal.

ETHICS

7.1 OCP CODE OF ETHICS

Public employment is a public trust—each District government employee has a responsibility to the District of Columbia and its citizens to place loyalty to the laws and ethical principles above private gain. Good ethical behavior and adherence to ethical standards of conduct increases the public's confidence in the integrity of the government. OCP is committed to the values of government fairness, transparency, and impartiality. Accordingly, all OCP employees must adhere to the following OCP Code of Ethics:

WE ADHERE to these principles and precepts. As public procurement officials and other officials engaged in the procurement process, we:

Believe in the dignity and worth of service rendered by OCP, and the societal responsibilities assumed as a trusted servant;

Are governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served;

Believe that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable;

Will identify and eliminate participation of any individual in situations where conflicts of interest may be involved;

Believe that members of OCP should, at no time and under no circumstances, accept, directly or indirectly, any gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions;

Will keep OCP informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of facts;

Resist encroachment on control of personnel in order to preserve integrity as a professional manager;

Will handle all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on any basis; and

Shall seek or dispense no personal favors, and handle each administrative problem objectively and empathetically, without discrimination.

7.2 APPLICABLE CODE OF CONDUCT

The Code of Conduct applicable to District employees means those provisions contained in the following:

- A. **The Code of Official Conduct of the Council of the District of Columbia**, as adopted by the Council;
- B. **The District of Columbia Government Comprehensive Merit Personnel Act of 1978, §§ 1801–1804**, effective March 3, 1979 (D.C. Law 1-118; D.C. Official Code § 1-618.01-.04);
- C. **The Official Correspondence Regulations**, effective April 7, 1977 (D.C. Law 1-118; D.C. Official Code § 2-701 *et seq.*);
- D. **The Procurement Practices Reform Act of 2010, § 416**, effective April 8, 2010 (D.C. Law 18-371; D.C. Official Code § 2-354.16);
- E. **District of Columbia Municipal Regulations, Title 6B, Chapter 18** (Employee Conduct”), 6D D.C.M.R. § 1800.01 *et seq.*;
- F. **The Government Ethics Act of 2011, §§ 223–232**, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.23–.32);
- G. **Prohibition on Government Employee Engagement in Political Activity Act of 2010** (“Local Hatch Act), D.C. Official Code § 1-1171.01 *et seq.*; and
- H. **The District of Columbia Appropriations Act of 2003, § 115** (“Donations Act”), approved February 20, 2003 (Pub. L. 108-7; D.C. Official Code § 1-329.01); **Mayor’s Memorandum 2015-001, Rules of Conduct Governing Donations and Honorary Gifts to the District of Columbia Government** (August 21, 2015); **Mayor’s Order 2011-170, Establishment of the Office of Partnerships and Grants Management** (October 5, 2011).

Many of the District’s ethics provisions also have federal counterparts applicable to District employees, and the federal provisions carry criminal penalties.

7.3 GENERAL ETHICAL STANDARDS

District law provides that “[e]ach employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or

participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.” D.C. Official Code § 1-618.01(a).

Procurement professionals must especially adhere to ethical standards, as transactions involving taxpayer dollars require the highest degree of public trust and standards of conduct. Accordingly, a government employee may not:

- Hold financial interests that conflict with performance of duty;
- Use nonpublic information improperly;
- Make unauthorized commitments;
- Use public office for private gain;
- Act impartially or give preferential treatment;
- Use government property for other than authorized activities;
- Engage in outside activities that conflict with official duties;
- Seek or negotiate for employment that conflicts with official duties; and
- Take actions creating an appearance that the employee is violating the law or these ethical standards.

Additionally, employees involved in the procurement lifecycle should:

- Maintain a level of behavior and performance that promotes efficiency of the District’s services and conforms to ethical principles;
- Refrain from divulging any official government information to any unauthorized person(s) or otherwise make use of or permit others to make use of information not available to the general public;
- Refrain from engaging in financial transactions using nonpublic government information or allow the improper use of such information to further any private interest; and
- Never solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee’s agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

7.4 CONFLICTS OF INTEREST

There are two types of conflicts of interest OCP employees should avoid: actual conflicts and apparent conflicts, each of which are discussed below.

7.4.1 Actual Conflicts of Interest

An employee may not use his or her official position, title, or in the performance of official duties, personally and substantially participate in or attempt to influence any particular matter the employee knows is likely to have a direct and predictable effect on the employee's financial interests or those of a person closely affiliated with the employee.

See D.C. Official Code § 1-1162.23(a).

7.4.2 Apparent Conflicts of Interest

Apparent conflicts are examined under the “impartiality rule.” An apparent conflict of interest arises when a reasonable person with knowledge of the relevant facts could question an employee's impartiality in working for the government on a particular matter involving:

- Members of an employee's household, relatives, or friends;
- People with whom the employee does business
- Organizations in which the employee is an officer or an active participant
- Family members' employers, or
- The employee's former employer, if the employee is new to the government.

7.4.3 Disclosure and Remedial Steps

An employee should immediately disclose any conflict of interest, or apparent conflict of interest, to his or her supervisor and to OCP's ethics advisor. Appropriate remedial steps may include:

- Recusal of the employee from the matter;
- Reassignment; or
- Divestment.

7.5 CONFIDENTIAL INFORMATION

The laws and regulations of the District of Columbia prohibit disclosure of a bidder or offeror's confidential or proprietary information to any person other than a District employee who needs access to the information in connection with the procurement process. Examples of confidential information are:

- Cost or price estimates
- Source selection plans
- Company's proprietary information

- Competitive range determinations
- Rankings

7.6 DUTY TO REPORT

7.6.1 Reporting Obligations

District employees shall immediately and directly report credible violations of the District's Code of Conduct to the District of Columbia Office of Government Ethics within BEGA, the District of Columbia Office of the Inspector General ("OIG"), or both.

Contact information for BEGA is:

Board of Ethics and Government Accountability
441 4th Street, NW, Suite 830S
Washington, DC 20001
E-mail: bega@dc.gov
Hotline: (202) 535-1002

Contact information for OIG is:

Office of the Inspector General
717 14th Street, NW, 5th Floor
Washington, DC 20005
E-mail: hotline.oig@dc.gov
Hotline: (800) 521-1639 or (202) 724-8477

Failure to report such conduct could result in disciplinary actions, including possible termination.

7.6.2 Protection against Retaliation

A supervisor may not retaliate or threaten to retaliate against an employee because of the employee's protected disclosure or because of an employee's refusal to comply with an illegal order. D.C. Official Code § 1-615.53. Employees who feel they have been retaliated against may appeal their discipline to the D.C. Superior Court. D.C. Official Code § 1-615.54. If an employee is covered by the Comprehensive Merit Personnel and the negative job action falls within the jurisdiction of the Office of Employee Appeals, the employee may appeal to the OEA; or, if the employee is a union member, he or she may appeal the job action under the terms of his or her collective bargaining agreement.

Additionally, the District's whistleblower statute provides a complete defense for any prohibited personnel actions if improper retaliation is found. D.C. Official Code § 1-615.54(c). A

supervisor or manager found to have improperly retaliated against a whistleblower may be fined and/or subject to disciplinary action, including dismissal.

7.6.3 Financial Disclosures

Financial disclosures are required annually from employees who advise, make decisions or participate substantially in the areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, policy-making, regulation or auditing, or act in areas of responsibility that may create a conflict of interest of appearance of a conflict of interest. The Chief Procurement Office designates which OCP employees must file either a public or confidential financial disclosure statement

7.7 GIFTS

Pursuant to 6B D.C.M.R. §§ 1803.2, 1803.4(b), employees shall not, directly or indirectly, solicit or accept a gift: from a prohibited source, which is any person or entity who:

- Is seeking official action by the employee's agency;
- Does business or seeks to do business with the employee's agency;
- Conducts activities regulated by the employee's agency;
- Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or
- Is an organization in which the majority of its members are described in the items above.

Employees shall not, directly or indirectly, solicit or accept a gift from anyone (prohibited source or otherwise) that is given because of the employee's official title or duties. That is, a gift is considered to be given because of the employee's position if it is from a person other than an employee and would not have been solicited, offered, or given had the employee held the status, authority or duties associated with his position. This prohibition includes gifts accepted or solicited indirectly:

- With the employee's knowledge or acquiescence to a family member because of that person's relationship to the employee; or
- To another person or entity, such as a charity, on the basis of designation, recommendation, or other specification by the employee.

It is a federal crime to accept any compensation from a source other than the District government for performing your job or providing services as a District government employee

You, therefore, are prohibited from accepting money, a gift (i.e., tickets to a sporting event, jewelry, perfume, etc.), stocks or bonds, promise of a future job, or anything else of value (whether or not a prohibited source). See 18 U.S.C. § 209

7.8 UNAUTHORIZED COMMITMENTS

No District employee shall authorize payment for the value of goods or services received without a valid written contract. This provision shall not apply to a payment required by court order, a final decision of the Contract Appeals Board, a settlement, or ratification approved by the CPO.

- Any District employee entering in to an oral agreement with a vendor without a valid written contract is subject to termination.
- If any supervisor directs a District employee to enter into an oral agreement without a valid written contract, the supervisor shall be terminated.

See D.C. Official Code § 2-359.01.

7.9 POLITICAL ACTIVITIES (“LOCAL HATCH ACT”)

Participation by District employees in political activity is government by the Local Hatch Act. “Political activity” is an activity that is directed toward the success or failure of a political party, candidate for partisan political office, partisan political group, ballot initiative or referendum.

When engaging in District campaigns or elections, D.C. government employees cannot knowingly solicit, accept, or receive a political contribution from any person (except if the employee has filed as a candidate for political office). D.C. Official Code § 1-1171.02

All D.C. government employees are prohibited from engaging in any political activity while:

- On duty;
- In any room or building occupied in the discharge of official duties in the D.C. government, including any agency or instrumentality thereof;
- Wearing a uniform or official insignia identifying the office or position of the employee; or
- Using any vehicle owned or leased by the District, including an agency or instrumentality thereof.

See D.C. Official Code § 1-1171.03(a).

Important Note:

The fundraising restriction applies in the social media world as well. You cannot fundraise through Twitter, Facebook, or other personal social media pages, for a candidate in a District regulated campaign or election. This includes providing links to the contribution pages of any of those entities’ websites.

D.C. Government employees may always:

- Take an active part in political management or in political campaigns (***but DON'T fundraise for District campaigns***)
- Contribute financially to any political activity
- Attend any political event, rally, or other activity; and
- Voice support for or endorse a candidate, but only in your private capacity (First Amendment).

See D.C. Official Code § 1-1171.02(a)

7.10 POST-EMPLOYMENT ETHICAL OBLIGATIONS

7.10.1 **Permanent Prohibition—Personally and Substantially Participation**

A former government employee who participated personally and substantially in a particular government matter involving a specific party:

- Shall be permanently prohibited from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency, and
- Shall be permanently prohibited from making any oral or written communication to an agency with the intent to influence that agency on behalf of another person.

See 6B D.C.M.R. §§ 1811.3, 1811.4, 1811.8, and 1811.9

7.10.2 **Two-Year Prohibition—Official Responsibility**

A former government employee who previously had official responsibility for a matter shall be prohibited for two years from knowingly acting as an attorney, agent, or representative in any formal or informal matter before an agency.

- A matter for which the former government employee had official responsibility is any matter that was actually pending under the former employee's responsibility within a period of one (1) year before the termination of such responsibility.
- The two-year period shall be measured from the date when the former employee's responsibility for a particular matter ends

See 6B D.C.M.R. §§ 1811.5, 1811.6, and 1811.7

7.10.3 One-Year Prohibition—Transactions with Former Agency

A former government employee is prohibited for one year from having any transactions with the former agency intended to influence the agency, in connection with any particular government matter pending before the agency as to a particular matter pending before the agency or in which it has a direct and substantial interest, whether or not such matter involves a specific party. This restriction shall apply without regard to whether the former employee had participated in, or had responsibility for, the particular matter, and shall include matters that first arise after the employee leaves government service.

See 6B D.C.M.R. §§ 1811.10, 1811.11, and 1811.1; 18 U.S.C. § 207

CERTIFIED BUSINESS ENTERPRISE PROGRAMS

8.1 ECONOMIC DEVELOPMENT PROGRAMS IN THE DISTRICT

The District government has enacted laws to stimulate and foster local economic growth and develop development of certified business enterprises (CBEs) and small business enterprises (SBEs). With regard to District procurements and contracts, the law identifies three requirements to which every agency must adhere.

CBE Requirements in District Procurements

Expendable Budget Goals	Mandatory Set Asides	Subcontracting Requirements
Each agency is required to procure or contract 50% of its expendable annual budget with qualified SBEs or, if there are not at least 2 qualified SBEs, then with qualified CBEs.	Contracts of \$250,000 or less must be set aside to qualified SBEs or, if there are not at least 2 qualified SBEs, to qualified CBEs. <i>See Section 8.3</i>	All contracts greater than \$250,000 shall include a requirement that 35% of the total dollar amount of the contract be subcontracted to qualified SBEs or, if there are insufficient qualified SBEs, to qualified CBEs. <i>See Section 8.4</i>

Applicable Law: Small and Certified Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code §§ 2-218.01 *et seq*

8.2 CERTIFIED BUSINESS ENTERPRISE CATEGORIES

The Department of Small and Local Business Development (DSLBD) has identified eight categories of CBEs. In addition to mandatory set-asides, these enterprises are eligible to receive bid and proposal preferences, up to a maximum of 12 percent or 12 points in the evaluation of

their bids or proposals. In order to receive preferences, offerors and bidders must be certified when they submit their proposals or bids. The preferences are shown below.

Certified Business Enterprise Categories	Preferences for Proposals	Preferences for Bids
Small Business Enterprise	3 points	3 percent
Resident-owned Business	5 points	5 percent
Longtime Resident Business	5 points	10 percent
Local Business Enterprise	2 points	2 percent
Local Business Enterprise with Principal Office in Enterprise Zone	2 points	2 percent
Disadvantaged Business Enterprise	2 points	2 percent
Veteran-owned Business Enterprise	2 points	2 percent
Local Manufacturing Business Enterprise	2 points	2 percent

8.3 ANNUAL ACQUISITION PLANNING

During annual acquisition planning, OCP staff should assist agencies in identifying any procurements that can be performed by CBEs.

8.4 MANDATORY SET ASIDES (CONTRACTS OR PROCUREMENTS OF \$250,000 OR LESS)

All contracts and procurements of \$250,000 or less are designated for (that is, “set aside”) for SBEs or, if there are not at least 2 qualified SBEs, for CBEs in the following manner:

- A. If there are at least 2 qualified SBEs on the District of Columbia Supply Schedule (DCSS) that can provide the goods or services, the contracting officer *shall* award contracts of \$250,000 or less to a qualified SBE on the DCSS.
- B. If there are not at least 2 qualified SBEs on the DCSS that can provide the goods or services, the contracting officer *shall* award contracts of \$250,000 or less to a qualified CBE on the DCSS.

Note: The contracting officer must provide a completed copy of the form in Appendix 8.A to DSLBD via [QuickBase](#) (DSLBD does not need to approve the form).

- C. If the price offered by the SBE or CBE on the DCSS is believed to be 12 percent or more above the likely price that the District could obtain for the good or service in the open market, the contracting officer *may* decline to award a contract to a DCSS vendor, and may issue the solicitation in the set-aside market.

Note: The contracting officer must provide a completed copy of the form in Appendix 8.A to DSLBD via [QuickBase](#) (DSLBD does not need to approve the form).

8.5 SOLICITATIONS FOR MORE THAN \$250,000 IN THE SET-ASIDE MARKET

A contracting officer may restrict a solicitation valued at more than \$250,000 to the small business set-aside market if the contracting officer determines that there is a reasonable expectation that there are at least 2 qualified SBEs which (1) can provide the goods or services, and (2) that an award will be made at reasonable prices.

8.6 MANDATORY SUBCONTRACTING WITH CBEs

All contracts and procurements over \$250,000 (in the base period or in any individual option period) shall require the contractor to subcontract at least 35 percent of the contract amount for that specific base or specific option period (not the cumulative total), to qualified SBEs, and if there are insufficient qualified SBEs, then the requirement may be satisfied with qualified CBEs.

- A. **Exceptions to the CBE Requirement.** The 35 percent CBE requirement does not adhere to a particular procurement if:
- (1) A full or partial waiver is granted by DSLBD (discussed in Section 8.6); or
 - (2) Special Procurement types (discussed in Section 8.7)
- B. **CBE Prime Contractors.** A CBE prime contractor is not required to subcontract 35 percent of the contract amount for the base or option periods. However, if any portion of the contract is subcontracted, the CBE prime contractor is required to subcontract at least 35 percent to CBEs.
- C. **Certified Joint Venture.** A prime contractor that is a certified joint venture (CJV) is not required to subcontract 35% of the contract amount for the base or option periods. However, if the CJV subcontracts any portion of the contract, the CVJ is required subcontract 35 percent to CBEs.

8.7 SUBCONTRACTING WAIVER AND APPROVAL PROCESS

8.7.1. Overview of the CBE Waiver Process

- A. **Initial Determination of Qualified SBEs/CBEs.** Prior to issuing a solicitation, the contracting officer must work with the agency and DSLBD to determine whether there are at least 2 qualified SBEs or CBEs available to whom at least 35% of the contract amount can be subcontracted.
- B. **Request for Waiver.** If there are not at least 2 qualified SBEs or CBEs, the contracting officer may submit a Subcontracting Waiver Request to DSLBD (the process is detailed below)
- C. **Scope of Waiver.** Waiver requests may be full (*i.e.*, the request make ask that the entire 35 percent subcontracting requirement be waived) or partial (*i.e.*, a small percentage be for the full 35% or for a smaller percentage).
- D. **Amending the Solicitation.** The contracting officer should amend the solicitation to either remove or modify the subcontracting requirements depending on whether DSLBD has approved a full or partial waiver. The approval process may take up to 25 days to complete (*i.e.*, when DSLBD has issued a final decision) so plan accordingly.

• • **IMPORTANT NOTE** • •

Currently, DSLBD treats a contract's base period and each option period as separate contracts, meaning that if a waiver is required, an application must be submitted prior to the exercise of each option period.

If an option period is greater than \$1 million, a waiver must be obtained prior to submitting the option to the D.C. Council for approval.

8.7.2. Submitting a CBE Waiver Application

Only the Director of DSLBD can waive subcontracting requirements. The contracting officer must submit requests for a waiver of subcontracting requirements via [QuickBase](#). Requests must address the following elements:

- A. **The number of SBEs and CBEs qualified to perform the elements of the work.** If no SBEs or CBEs are qualified, the contracting officer must submit details as to what disqualifies the SBEs or CBEs. An example may be that available SBE or CBEs lack a specific certification (which must be included in the selection criteria), or cannot obtain the required certification in a reasonable amount of time thereby unduly delaying the procurement.

- B. A summary of the market research or the outreach made to analyze the market.** This summary must detail the “primary” and “secondary” research done (including sources of information) and the quantitative and qualitative information used to determine that the SBE or CBE is not qualified.

- “Primary” research is information that comes directly from the vendors.
- “Secondary” research is that which is already compiled, organized and includes information gathered from reports and studies by government agencies, trade associations, or businesses within the target industry or market.

- C. Alternative methods considered for acquiring the goods and services that would use SBEs and CBEs.** Provide documentation demonstrating the consideration(s) given. An example may be that the contract calls for certain tasks which can be divided out to a qualified SBE or CBE.

NOTE: In addition to the above information, the contracting officer must fully answer all the questions on the QuickBase site. A response of “not applicable” or “N/A” may delay processing of the waiver request. Give a brief narrative as to why something is not applicable.

8.7.3. Public Posting and Reassessing CBE Capability

The assigned DSLBD compliance officer will post the waiver request on the DSLBD website for 10 days allowing for public review and input.

If an SBE or CBE contacts the contracting officer indicating the SBE or CBE has the capability to provide the goods or services:.

- The contracting officer shall instruct the SBE or CBE to provide the contracting officer with written evidence demonstrating its capability with copy to DSLBD (ronnie.edwards2@dc.gov) and the OCP Ombudsman (william.teague2@dc.gov);
- Upon receipt of the capability notice the contracting officer will present the evidence to the program agency for assistance in determining if there is agreement on the SBE or CBE’s capability;
- If the program agency determines that the SBE or CBE does not have the capability to provide the goods or services, the contracting officer shall within 36 hours of receipt of the capability evidence, send written notice of the decision to the SBE or CBE (with copy to the DSLBD and the OCP Ombudsman), listing the specific reason(s) for the decision; and
- If the program agency determines that the SBE or CBE has the capability to provide the goods or services, the contracting officer shall notify DSLBD and withdraw the waiver request, and request the SBE or CBE respond to the solicitation.

- In cases where no SBE or CBE provides a notice of capability, DSLBD will either respond in writing with an approved waiver; partial waiver, or a denial of the request. If a waiver request is denied, DSLBD will provide written justification for the denial to the contracting officer.

8.8 SPECIAL PROCUREMENT TYPES

The second type of dispensation of the 35 percent subcontracting requirement involve special types of procurements. Requests for waivers of mandatory subcontracting requirements are not necessary for the types of procurements listed below.

- **Cooperative Agreements.** Provide the authorization to enter into or participate in a cooperative agreement. For procurements of \$250,000 or less, provide a completed copy of the attached form (Attachment 1) that the procurement cannot be completed as a mandatory set-aside under section 8.3.
- **Federal Supply Schedules.** For procurements of \$250,000 or less, provide a completed copy of the attached form (Attachment 1) that the procurement cannot be completed as a mandatory set-aside under section 8.3.
- **Emergency Procurements.** A determination and finding for the emergency procurement must be provided in accordance with the requirements of 27 D.C.M.R. § 1702.
- **Funding precluding local preferences.** Contracts that are funded by funding sources that clearly preclude the use of local preferences. Provide a copy of the funding document or regulation.

However, within 10 business days of award, the contracting officer must provide documentation to DSLBD via [QuickBase](#) at to document the award. There is no need to address the waiver questions in Quickbase.

8.9 SUBCONTRACTING PLANS

Any contractor subject to the mandatory subcontracting requirement that 35 percent of the contract amount be subcontracted to SBEs must submit as part of its bid or proposal a subcontracting plan that contains the following information:

1. The name and address of each subcontractor;
2. A current certification number of the small or certified business enterprise;
3. The scope of work to be performed by each subcontractor; and
4. The price to be paid by the prime contractor to each subcontractor.

- **Invitation for Bids.** Bids shall be considered nonresponsive and rejected if a required subcontracting plan is not submitted with the bid or if the plan does not include the information listed above.
- **Request for Proposals.** If the subcontracting plan submitted with a proposal is not acceptable, the plan may be corrected through negotiations. The offeror must submit an acceptable subcontracting plan no later than the date for submission of its best and final offer.
- **Design-Build Contracts.** The prime contractor in a design-build contract is not required to identify specific subcontractors prior to performing preconstruction services; however, the prime contractor must submit a detailed subcontracting plan before entering into a guaranteed maximum price or such other contractual action authorizing the contractor to begin construction.

IMPORTANT NOTE

After award, the prime contractor cannot amend an approved subcontracting plan without the consent of the Director of DSLBD

NOTE: The contracting officer must approve a subcontracting plan prior to award.

8.10 RENEWALS OR OPTIONS

If a contract is awarded to an SBE or CBE, its follow-on or renewal must be set aside for SBEs or CBEs. Prior to exercising an option period, the contracting officer will ensure the option period has an approved subcontracting plan if one is required. If, prior to exercising an option period, the contracting officer finds that there is no required subcontracting plan in place, the contracting officer will either obtain a subcontracting plan from the contractor, or follow the processes outlined in section 8.6 to ensure a subcontracting waiver is received from DSLBD before exercising the option. Options not in compliance will be considered void.

The contracting officer may not renew or extend a contract that is not in compliance with the subcontracting requirements.

8.11 UPON AWARD OF A CONTRACT OVER \$250,000

Upon award of a contract over \$250,000, the contracting officer will submit the contract and any approved subcontracting plan to DSLBD via QuickBase.

8.12 PERFORMANCE REQUIREMENTS IN AN AWARDED CONTRACT

- A. A CBE prime contractor must perform at least 35 percent of the contracting effort with its own organization and resources, and if it subcontracts, 35 percent of the subcontracted effort must be with CBEs.
- B. For contracts valued at \$1 million or less, a CBE prime contractor must perform at least 50% of the on-site work with its workforce.
- C. For a certified joint venture, the CBE must perform at least 50 percent of the contracting effort with its own organization and resources, and if it subcontracts, 35 percent of the subcontracted effort must be with CBEs
- D. Any CBE that has been utilized to meet the mandatory subcontracting requirements must perform at least 35 percent of the subcontract with its own organization and resources.

8.13 PRIME CONTRACTOR REPORTING REQUIREMENTS

The prime contractor is required to provide executed copies of all subcontracts and quarterly reports for each subcontract identified in its subcontracting plan to the contracting officer, project manager, DC Auditor and DSLBD. The contracting officer is responsible for maintaining copies of all subcontracts.

8.14 MONITORING COMPLIANCE WITH CBE REQUIREMENTS

Contracting officers are responsible for monitoring a contractor's compliance with CBE requirements. The contracting officer may rely on the contract administrator for assistance; however, it is the contracting officer's responsibility to monitor compliance.

Contracting officers are responsible for ensuring timely reporting from contractors. If a contractor does not provide timely reports, the contracting officer must contact the contractor in writing.

If the contractor has an ongoing failure to provide the required reports in a timely fashion, the contracting officer should send a certified notice to cure, and warn the contractor that failure to provide the reports, or failure to comply with the plan (unless approved by DSLBD), may result in contract termination, monetary penalties being assessed by DSLBD, and may also result in preventing the exercise of option periods.

APPENDIX 8–A

DETERMINATION FOR NON-USE OF DCSS OR SBE SET-ASIDE MARKET

DETERMINATION FOR NON-USE OF DCSS OR SBE SET-ASIDE MARKET

Agency: _____

Purchase Card Transaction # or PO: _____

Vendor: _____

1. **Authority:** DC Official Code §§ 2-218.44; 2-218.45

2. **Good or Service Purchased:** _____

3. **Awarded Amount:** _____

4. **Evidence of Good Faith Effort:**

- ☐ A pre-solicitation or pre-bid conference was conducted to inform certified business enterprises of contracting and subcontracting opportunities.

Attach the attendee list, date and location

- ☐ Certified business enterprises were invited to participate in the solicitation.

Briefly describe how this invitation was issued and when

- ☐ No SBE/CBE response to a Request for Information (RFI) was issued on ____ .

- ☐ DSLBD was contacted to assist in identifying or recruiting qualified and responsible certified business enterprises however none were identified.

- ☐ Market research was conducted to identify qualified certified business enterprises.

Provide a brief narrative outlining the research and results

5. **Justification to Not Use DCSS or Award to a SBE or CBE:**

- ☐ Good or Service not available on DCSS.

- ☐ No qualified SBE or CBE identified that can provide required good/service.

Attach an explanation of why the qualified SBEs or CBEs could not provide

- ☐ No qualified SBE or CBE responded to solicitation.

☐ Bids submitted by SBE or CBE were more than 12% price on open market.

Please provide the price(s) quoted by the SBE or CBE

☐ After preference points applied, the SBE or CBE was not the successful bidder/offeror

DETERMINATION

Based on the information above, the agency has determined that the DCSS or the set-aside market could not be used for this procurement.

Date

Contracting Officer or Contract Specialist

Glossary

of Procurement Terms

Acceptance

The act of accepting any offer. To be binding, acceptance must be:

1. Definite;
2. Communicated; and
3. Unconditional (acceptance that is conditional upon a change in the offer is actually a counteroffer, in which case acceptance to the original offer is not binding).

Acquisition Plan

The acquisition plan is an administrative tool in which agency program offices report their upcoming formal contract actions. It is designed to assist the program and procurement offices in planning effective and efficient accomplishments of an assigned procurement.

Acquisition Planning

The process by which the efforts of all personnel responsible for procurement are coordinated and integrated through a comprehensive plan for fulfilling an agency's need in a timely manner and at a reasonable price. It includes developing an overall acquisition strategy for managing the acquisition plan.

Actual Costs

Amounts determined on the basis of costs incurred, as distinguished from forecasted costs. Actual costs include standard costs properly adjusted for applicable variances.

Advance Payments

Payments made prior to performance of services or delivery of supplies.

Agency Head

The director or chief official, regardless of actual title, of any District agency, office, department, or other entity of the District.

Allowable Costs

Costs determined to be permissible based on reasonableness, allocability, and generally accepted accounting principles and practices appropriate to the particular circumstances.

Amendment	Any change to a solicitation issued by a contracting officer.
Assignment of Contract Payments	The transfer by a contractor to a financial institution of the contractor's right to receive payments under the contract.
Award Information	Information regarding the name of the contractor and the amount of the contract award.
Bid Bond	A form of security assuring that the bidder will not withdraw a bid within the period specified for acceptance and will execute a written contract within the time specified in the bid.
Bid Samples	A sample to be furnished by a bidder to show the characteristics of the product offered in a bid.
Bid Security	A form of guarantee assuring that the bidder will not withdraw a bid within the period specified for acceptance and will execute a written contract and furnish required bonds or other security, including any necessary coinsurance agreements, within the time specified in the solicitation, unless a longer time is allowed, after receipt of the specified forms.
Bilateral Modification	A contract modification that is signed by the contractor and the contracting officer.
Blanket Purchase	A pre-contractual agreement with a vendor which allows an agency to make small purchases by issuing a purchase order for each individual purchase.
Board	The Contract Appeals Board.
Bond	A written instrument executed by a contractor (the principal), and a second party (the surety or sureties), to assure fulfillment of the principal's obligations to a third party (the obligee or District), identified in the bond. If the principal's obligations are not met, the bond assures payment, to the extent stipulated, of any loss sustained by the obligee.
Brand Name Description	A purchase description that identifies a product by its brand name and model, part number, or other appropriate nomenclature by which the product is offered for sale.

Certified Business Enterprises (CBE)

Vendors who have been certified by the DC Department of Small and Local Business Development.

Change-of-Name Agreement

A legal instrument executed by the contractor and the District that recognizes the legal change of name of the contractor without disturbing the original contractual rights and obligations of the parties.

Change Order

A written order signed by the contracting officer directing the contractor to make a change that the contracting officer is authorized to order without the contractor's consent pursuant to the contract.

Claim

A written demand or written assertion by the District or a contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract.

Clarification

Communication with an offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal. It is achieved by explanation or substantiation, either in response to District inquiry or as initiated by the offeror.

Commercial Off The-Shelf (COTS)

An item produced and placed in stock by a contractor, or stocked by a distributor, before receiving orders or contracts for its sale. COTS items require no unique District modification to meet the needs of the District.

Competition

A procurement strategy where more than one contractor that is capable of performing the contract is solicited to submit an offer for supplies and services. The successful offeror is selected on the basis of criteria established by the agency's contracting office and the program office for which the work is to be performed.

Competitive Sealed Bidding (IFB)

A method of contracting that, through an "Invitation for Bids", solicits the submission of competitive bids, followed by a public opening of the bids. A contract is then awarded to the responsible bidder who submitted the lowest priced responsive bid.

Competitive Sealed(Proposals (RFP)

A process which includes the submission of written technical and price proposals from one or more offerors and a written evaluation of each proposal in accordance with evaluation criteria set forth in the Request for Proposals. These criteria consider price, quality of the items, past performance, and other relevant factors.

Competitive Range	The contracting officer determines the competitive range on the basis of cost or price and other factors, in accordance with the evaluation criteria stated in the RFP, and shall include all of the most highly rated proposals. If all of the offerors have been notified in the solicitation of the possibility that the competitive range can be limited for purposes of efficiency, the contracting officer may determine to limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.
Contract	A mutually binding agreement between the District and a contractor, which must be in writing unless otherwise authorized by the PPRA, including agreements in which a party other than the District is obligated to pay the contractor. Contracts do not include grants.
Contractor	A person that enters into a contract with the District. The person may take the form of a corporation, a partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.
Contract Administration	All services associated with the oversight of the contractor's performance.
Contract Award	Occurs when the contracting officer and the contractor have signed the contract.
Correction	The elimination of a defect.
Cost	The amount paid or charged for something. Cost does not include the contractor's profit.
Cost or Pricing Data	All facts as of the time of price agreement that prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental, and are therefore verifiable. While they do not indicate the accuracy of the prospective contractor's judgment about estimated future costs or projects, they do include the data forming the accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred. They also include factors such as vendor quotations; nonrecurring costs; information on changes in production methods or purchasing volume; data supporting projections of business prospects and objectives and

related operational costs; and unit cost trends, such as those associated with labor efficiency, make-or-buy decisions, estimated resources to attain business goals, and information on management decisions that could have a significance bearing on cost.

Cost-Plus-Award-Fee Contract

A cost-reimbursement type contract which provides for a fee consisting of an amount fixed at the beginning of the contract and potential award of additional fee amounts based upon a judgmental evaluation by the contracting officer, sufficient to provide motivation for excellence in contract performance.

Cost-Plus-Fixed-Fee Contract

A cost-reimbursement type contract which provides for the payment of a fixed fee to the contractor. The fixed fee, once negotiated, does not vary with actual cost, but may be adjusted as a result of any subsequent changes in the work or services to be performed under the contract.

Cost-Plus-Incentive-Fee Contract

A type of contract that specifies a target cost, a target fee, minimum and maximum fees, and a fee adjustment formula.

Cost-Reimbursement Contract

A contract under which the District reimburses the contractor for those contract costs, within a stated ceiling, which are recognized as allowable and allocated in accordance with cost principles, and a fee, if any.

Council

The Council of the District of Columbia.

Cure Notice

A notice in writing in which the contracting officer specifies a contractor's failure to perform some provision of the contract or failure to make sufficient progress on contract performance so as to endanger performance of the contract. The notice includes a period of time in which the contractor will be allowed to cure the failure.

Debarment

Action taken by the Director to exclude a contractor from District contracting and District-approved subcontracting for a reasonable, specified period. A contractor so excluded is debarred.

Deficiency

A material failure of a proposal to meet a District requirement or a combination of significant weaknesses in a proposal that increase the risk of unsuccessful contract performance to an unacceptable level.

Definite-Quantity Contract	A contract that provides for delivery of a definite quantity of specific supplies or services for a fixed period, with deliveries to be scheduled at designated locations.
Definitive Contract	The contract executed pursuant to letter contract commitment.
Deliverable	A report or product that must be delivered to the District by the contractor to satisfy contractual requirements.
Descriptive Literature	Information (such as cuts, illustrations, drawings and brochures) which shows the characteristics or construction of a product or explains its operation.
Destination	The point designated in the contract at which the end product is received.
Determination and Findings (D&F)	A special form of written approval by an authorized official that is required by statute or regulation as a prerequisite to taking certain contracting actions. The determination is a conclusion or decision supported by the findings. The findings are statements of fact or the rationale essential to support the determination and cover each applicable requirement of the statute or regulation.
Direct Cost	Any cost that can be identified specifically with a particular final cost objective or is incurred directly for a particular contract.
Direct Labor	Labor required to complete a product or service. This includes fabrication, assembly, inspection and test for constructing an end product.
Direct Materials	Includes raw materials, purchase parts and subcontracted items required to manufacture and assemble completed products. A direct material cost is the cost of material used in making the product.
Discussion	Any oral or written communication between the District and an offeror (other than communications conducted for the purpose of minor clarification) whether or not initiated by the District, that involves information essential for determining the acceptability of a proposal, or provides the offeror an opportunity to revise or modify its proposal.

Dispute	A disagreement between the contractor and contracting officer regarding the rights of the parties under a contract.
District of Columbia Supply Schedule(DCSS)	A series of schedules and identified vendors compiled by the Office of Contracting and Procurement (OCP) commonly used for goods and services available to District government agencies at specified negotiated prices on single and multiple awards.
Effective Date of Termination	The date on which the notice of termination requires the contractor to stop performance under the contract. If the termination notice is received by the contractor subsequent to the date fixed for termination, then the effective date of termination is the date the notice is received by the contractor.
Emergency Procurement	A procurement action initiated and processed when there is an imminent threat to the public health, welfare, property or safety, or to prevent or minimize serious disruption in agency operations.
Encumbrance	The reserving of funds for obligation at the time the contract was signed by a warranted contracting officer.
Estimating Costs	The process of forecasting a future result in terms of cost, based upon information available at the time.
Excluded Parties List	A list compiled, maintained, and distributed by the OCP which contains the names of persons debarred or suspended by the District, as well as contractors declared ineligible under other statutory or regulatory authority.
Executed	Agreed to and signed by the parties to a transaction.
Free on board	a contractual term specifying at what point a seller is no longer responsible for shipping cost or point at which the buyer takes title to a good.
Free on board Destination	A contractual Term that specifies that buyer takes title or assumes costs of goods being shipped to it by a supplier once the goods arrive at the destination shipping dock.
Free on Board Shipping Point	A contractual Term that specifies that buyer takes title or assumes costs of goods being shipped to it by a supplier once the goods leave the supplier's shipping dock.

Firm-Fixed Price Contract

A contract where the price is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. This type of contract places maximum risk and full responsibility for all costs and resulting profit or loss upon the contractor, and provides maximum incentive for the contractor to control cost and perform effectively.

Fiscal Year

The accounting period for which annual financial statements are regularly prepared.

Fixed-Price Contract with Economic Price Adjustment

A fixed-price type contract that provides for the upward and downward revision of the stated contract price upon the occurrence of certain contingencies that are specifically defined in the contract.

Fixed-Price Incentive Contract

A fixed-price type contract that provides for adjusting profit, and subject to a ceiling, establishes the final contract price by a formula based on the relationship of final negotiated price to total target cost. After performance of the contract, the final cost is negotiated and the final contract price is then established in accordance with the formula.

Fringe Benefits

Allowances and services provided by the contractor to its employees as compensation in addition to regular wages and salaries.

Government Furnished Property

Equipment and facilities furnished by the District to a contractor, or acquired by a contractor at the District's expense for use during the performance of a contract.

Human Care Agreement

A written agreement for the procurement of education, special education, health, human, or social services to be provided directly to individuals who have disabilities or are disadvantaged, displaced, elderly, indigent, mentally ill, physically ill, unemployed, or minors in the custody of the District.

Incentive Contract

A fixed-price or cost-reimbursement type contract which provides for relating the amount of profit or fee payable under the contract with the contractor's performance in order to obtain specific procurement objectives.

Indefinite-Quantity Contract

A contract that provides for an indefinite quantity, within written stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor. The contract requires the District to order and the contractor to furnish at least a stated minimum of supplies or services.

Indirect Cost Rate

The percentage of dollar factor that expresses the ratio of indirect expense incurred in a given period to direct labor cost, manufacturing cost, or another appropriate base for the same period.

Indirect Costs

Any cost not directly identified with a single contract, but identified with two (2) or more final cost objectives or an intermediate cost objective.

Inspection

Examining and testing supplies, services, or construction to determine whether they conform to contract requirements. This includes, when appropriate, examination and testing of raw materials, components, and intermediate assemblies.

Insurance

A contract which provides that, for a stipulated consideration, the insurer undertakes to indemnify the insured party against risk of loss, damage, or liability arising from an unknown or contingent event

Interested Party

An actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract, or who is aggrieved in connection with the solicitation of a contract.

Invitation for Bids (IFBs)

A solicitation used to request price offers for goods, services and construction under competitive sealed bidding procedures.

Letter Contract

A written preliminary contractual instrument that authorizes the contractor to begin immediately manufacturing or delivering supplies or performing services. A letter contract is always associated with a definitive contract, and a letter contract by itself cannot be the sole document used for a complete procurement.

Lowest Evaluated Bid Price

The lowest bid price after considering all price related factors.

Market Analysis	The process of analyzing prices and trends in the competitive marketplace to compare product availability and offered prices with market alternatives and establishes the reasonableness of offered prices. The market analysis is one of the elements of the price analysis.
Market Survey	A testing of the marketplace to ascertain whether other qualified sources capable of satisfying the District's requirement exist. It may range from written or telephone contacts with knowledgeable experts regarding similar or duplicate requirements, and the results of any market test recently undertaken, to the more formal sources-sought announcements in pertinent publications (such as technical or scientific journals or the Commerce Business Daily) or solicitations for information or planning purposes.
Maximum Order Limitation	The dollar amount or unit quantity above which a contracting officer may not submit orders and a contractor may not accept orders. The limitation is generally specified in the contract.
Minimum Order	The dollar amount or unit quantity below which a contracting officer may not submit orders and a contractor is not obligated to accept orders. It is generally specified in each contract. Orders below established minimums are generally subject to the contractor's acceptance
Minor Informality or Irregularity	Some immaterial defect in a bid or variation of a bid from the exact requirements of the IFB that can be corrected or waived without being prejudicial to other bidders. The defect or variation is immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the requirement.
Multiple Award Schedule	A contract made with more than one (1) supplier for comparable supplies and services at varying prices for delivery within the same geographic area.
Multi-Year Contract	A contract for a period longer than twelve months.
Notice of Intent to Award	A written notice to the apparent awardee advising of intent to award the contract contingent upon the execution of any required bonds and the formal contract, and obtaining all necessary approvals.

Novation Agreement	A legal instrument executed by a contractor (transferor), the successor in interest (transferee), and the District by which, among other things, the District recognizes the transfer of the rights and obligations of a contractor under a contract to a new contractor.
Option	A unilateral right in a contract under which, for a specified time, the District may elect to purchase additional quantities or services called for by the contract, or may elect to extend the term of the contract.
Organizational Conflict of Interest	When the nature of the work to be performed under a proposed District contract might, without some restraint on future activities, result in an unfair competitive advantage to a contractor or impair a contractor's objectivity in performing contract work.
Partial Payment	The reduction of any debt or demand for payment of a sum less than the whole amount originally due to the contractor.
Partial Termination	The termination of a part, but not all, of the work that has not been completed and accepted under a contract.
Payment Bond	A bond to assure payment to all persons supplying labor or material in the performance of the work provided for in the contract.
Performance Bond	A bond that secures performance and fulfillment of the contractor's obligations under the contract.
Post-Execution	After signature by the contracting officer on a contract, change order, or modification.
Postmark	A printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. or Canadian Postal Service.
Pre-Award Survey	A detailed review (sometimes on-site) of contractor to ascertain information sufficient to make a determination regarding responsibility.
Price	Cost plus any fee or profit applicable to the contract type.

Price Analysis	The process of examining and evaluating a proposed price by comparing it with other offered prices, or prices previously paid for similar goods or services without evaluating its separate cost elements and proposed profit.
Price Ceiling	An amount established during negotiations or at the discretion of the contracting officer which constitutes the maximum that may be paid to the contractor for performance of a contract.
Procurement	Buying, purchasing, renting, leasing, or otherwise acquiring goods, services, or construction.
Procurement Practices Reform Act (PPRA)	The procurement law applicable to all subordinate the agencies, instrumentalities, and employees of the District government, independent agencies, boards, and commissions, except as provided in the Act or other statute.
Profit	The amount realized by a contractor after the cost of performance (both direct and indirect) is deducted from the amount to be paid under the terms of the contract.
Progress Payment	A payment made on the basis of services completed or supplies delivered.
Proposal	Any offer or other submission used as a basis for pricing a contract, contract modification, or termination settlement or for securing payments thereunder.
Proprietary Information	Information, including trade secrets, data, formulas, patterns, compilations, programs, devices, methods, techniques, or processes, which have the following characteristics: It derives independent economic value, actual or potential, from not being generally known to, and not being readily 1. ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; or 2. It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
Prospective Price Determination	A contract type which provides for a firm-fixed-price for an initial period of contract deliveries or performance and for a redetermination of the price or subsequent period of performance at a stated time or times during performance

Protest	A complaint about a solicitation of a contract brought by an actual or prospective bidder or offeror who is aggrieved in connection with the solicitation or award.
Purchase Order	An offer by the District to buy certain supplies, services, or other items from commercial sources, upon specified terms and conditions.
Request for Information (RFI)	A request for information is used when the District does not presently intend to award a contract, but needs to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to requests for information notices are not offers and cannot be accepted by the District to form a binding contract.
Request for Quotation (RFQ)	A solicitation document used in simplified acquisitions to communicate District requirements to prospective contractors.
Request for Proposal (RFP)	A solicitation document used in a competitive sealed proposal method of procurement, to communicate the District's requirements to prospective offerors, when the use of competitive sealed bidding is not practical, and the award will be based on both price and non-price evaluation factors specified in the solicitation.
Responsive Bidder	A bidder, who has submitted a bid that conforms in all material respects to the invitation for bids.
Show Cause Notice	A notice in which the contracting officer notifies the contractor in writing of the possibility of a termination for default. The notice calls the contractor's attention to the contractual liabilities if the contract is terminated for default, and request the contractor to show cause why the contract should not be terminated for default.
Single Award Schedule	A contract made with one (1) supplier at a stated price for specific items and for delivery to a geographic area defined in the schedule.
Small Purchase	A procurement of supplies, services, or other items in an aggregate amount not exceeding the small purchase authority limitations.
Surety	A party legally liable for the debt, default, or failure of a principal to satisfy a contractual obligation.

Subcontract	A contract between a prime contractor (or, in some instances, a subcontractor) and a subcontractor to furnish supplies or services for performance of a part of a prime contract or another subcontract.
Subcontracting Plan	A written plan submitted by a prime contractor and approved by a contracting officer, that describes goals and actions the contractor plans to take to use small and other certified business enterprises in performing the contract.
Subcontractor	A person that furnishes supplies or services to or for a prime contractor or another subcontractor.
Supplemental Agreement	A bilateral contract modification.
Suspension	Action taken by the Director to disqualify a contractor temporarily from contracting with the District and subcontracting with District contractors. A contractor so disqualified is suspended.
Target Price	An amount established by the contracting officer during negotiations to encourage the contractor to control contract costs. The contractor's final profit varies inversely with the final cost of the contract.
Technical Evaluation Analysis	The examination and evaluation by personnel having specialized knowledge, skills, experience, or capability in engineering, science, or management of proposed quantities and kinds of material, labor, processes, special tooling, facilities, and associated factors set forth in a proposal.
Term Contract	A requirements contract or an indefinite-quantity contract
Terminated Portion of the Contract	The portion of a terminated contract that relates to work or end items not completed and accepted before the effective date of termination and is that portion of the contract which the contractor is not to continue to perform. For construction contracts that have been completely terminated for convenience, it means the entire contract, notwithstanding the completion of or payment for individual items of work before termination.

Termination for Default	The exercise of the District’s contractual right to terminate, completely or partially a contract because of the contractor’s actual or anticipated failure to perform its contractual obligations.
Testing	The element of inspection that determines the properties or elements, including functional operation of supplies or other components, by the application of established scientific principles and procedures.
Title 27, District of Columbia Municipal Regulations	The District’s regulations relating to contracts and procurement.
Time-and-Materials Contract	A type of contract that provides for the procurement of supplies or services on the basis of direct labor hours at specified fixed hourly rates (which include wages, overhead, general and administrative expenses, and profit) and material at cost.
Trade Discount	A price allowance or deduction, usually as a percentage, allowed to different classes of customers.
Two-Step Sealed Bidding	A method of contracting designed to obtain the benefits of competitive sealed bidding when adequate specifications are not available at the beginning of the solicitation process.
Unallowable Cost	Any cost which, under the provisions of any pertinent law, regulation, or contract, cannot be included in prices, cost-reimbursements, or settlements under a District contract to which it is allocable.
Unauthorized Commitment	The placing of an order orally or in writing for supplies or services by a District employee who does not have a contracting officer warrant authorizing them to enter into a contract on behalf of the District. Unauthorized commitments also include orders placed by contracting officers which exceed their authorized purchasing limit.
Underwriting Limitation	The maximum amount for which a surety can be liable under a bond or other security.
Unilateral Modification	A contract modification that is signed only by the contracting officer which effects a contract change directed by the District.

Unsolicited Proposal

A written proposal that is submitted to an agency on the initiative of the submitter for the purpose of obtaining a contract with the District and that is not in response to a solicitation

Warranty

A promise or affirmation given by a contractor to the District regarding the nature, usefulness, or condition of the supplies, services, or construction furnished under a contract.