

## THE OFFICE OF CONTRACTING AND PROCUREMENT

---

**NOTICE OF FINAL RULEMAKING**

---

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by sections 202 and 204 of the District of Columbia Procurement Practices Act of 1985, as amended, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §§2-302.02 and 2-302.04) ("PPA"), and Mayor's Order 2002-207, dated December 18, 2002, hereby gives notice of the adoption of the following final rules amending Chapter 22 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The rules will amend Chapter 22 to reflect changes necessary to implement the *Debarment Procedures Amendment Act of 2004*, D.C. Law 15-327, effective April 12, 2005 ("Act").

The rules were approved as emergency and proposed rules on July 11, 2005, and published in a Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on July 29, 2005, at 52 DCR 7043. The current emergency rules expire on October 28, 2006. No changes have been made to the rules as proposed.

The Council of the District of Columbia approved these rules on July 16, 2006 by Resolution 16-782, pursuant to subsection 205(b) of the PPA (D.C. Official Code §2-302.05(b) (2001)).

These rules shall become effective upon publication in *D.C. Register*.

**CHAPTER 22****CONTRACTORS**

*Chapter 22 is amended by adding a new section 2218 to read as follows:*

**2218 Debarment and Suspension Panel**

- 2218.1 This section shall apply to any debarment or suspension that is required to be heard by the Debarment and Suspension Panel ("Panel") in accordance with the *Debarment Procedures Amendment Act of 2004*, D.C. Law 15-327, effective April 12, 2005 ("Act").
- 2218.2 For any debarment or suspension that the Panel hears, the Chief Procurement Officer ("CPO") shall transmit to the Panel his debarment or suspension recommendation and any supporting documentation.
- 2218.3 Upon receipt of the documentation specified in section 2218.2 from the CPO, the Chair of the Panel shall convene the Panel to conduct a hearing of the debarment or suspension in accordance with Title 27 *D.C. Municipal Regulations*, sections 2213 through 2217, except as provided in section 2218.4. The term "Director," as it appears in sections 2213 through 2217, shall mean the "Panel."
- 2218.4 For any debarment or suspension that the Panel hears, the period of time provided in section 2214.1(c) shall be shortened to fifteen (15) days after receipt of the notice.
- 2218.5 The Panel shall hear and decide, *de novo*, all debarments and suspensions required to be heard in accordance with this section and the Act.
- 2218.6 The attendance of at least five (5) members of the Panel shall constitute a quorum to hear a debarment or suspension.
- 2218.7 A majority vote of those present and voting shall be necessary and sufficient for any action taken by the Panel. Each Panel member in favor of the debarment or suspension decision of the Panel shall indicate his or her agreement with the decision by signing the decision.
- 2218.8 *Ex parte* communications, as defined in section 2299.1, shall be prohibited. Excluded from *ex parte* communications are those that:
- (a) are specifically authorized by law to be made on an *ex parte* basis;
  - (b) relate to the Panel's administrative functions or procedures; or
  - (c) are matters of public record.

A Panel member or staff member for the Panel who receives an *ex parte* communication prohibited by this section, shall immediately report its receipt to the Chair of the Panel and prepare a memorandum describing in detail the substance of the communication. The memorandum shall be placed in the debarment or suspension file, along with the actual communication if it is in

written form. The Panel shall provide a copy of the memorandum to all parties.

- 2218.9 Panel members shall promptly advise the Chair of the Panel of any conflict of interest, or appearance thereof, relating to any debarment or suspension action under consideration by the Panel. Each member of the Panel shall disqualify himself or herself from acting on matters in which he or she has a conflict of interest, or the appearance thereof, in accordance with Chapter 18 of the District of Columbia Personnel Regulations.
- 2218.10 The Panel shall keep and maintain a case docket of current debarments or suspensions under the Panel's jurisdiction; copies of decisions and final orders of the Panel; and copies of the Panel's rules. The case docket, updated monthly, shall provide the names of the companies or individuals proposed for debarment or suspension, the case number, the date the Panel received the debarment or suspension, and the date of any scheduled hearing on the merits of the debarment or suspension. The case docket, copies of decisions, final orders, and rules shall be available for inspection by the public at the office of the Chair of the Panel.

*Section 2299.1 is amended by adding the following definitions:*

**Debarment and Suspension Panel** – the panel established by the *Debarment Procedures Amendment Act of 2004*, D.C. Law 15-327, effective April 12, 2005 (“Act”), consisting of the Chief Procurement Officer and a representative from the Office of the Chief Financial Officer, the Office of the Deputy Mayor for Planning and Economic Development, the Deputy Mayor for Operations, the Director of the Office of Labor Relations and Collective Bargaining, and from each agency which, in the judgment of the Mayor, would be directly and significantly affected by the proposed debarment.

**Ex parte communications** – any oral or written communication with the Panel, which excludes one or more parties to the case, concerning the merits of the case pending before the Panel, made by any persons directly or indirectly involved in the outcome of the case.

## DEPARTMENT OF HEALTH

**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under § 302 (14) of the District of Columbia Health Occupations Revision Act of 1985 (Act), effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to adopt the following amendments to Title 17 (Business, Occupations & Professions) (May 1990) of the District of Columbia Municipal Regulations (DCMR). The purpose of the amendments is to revise the administrative process utilized by the health licensing boards in dealing with complaints submitted to them on issues related to improper conduct or incompetence. These amendments were first published in the D.C. Register on July 28, 2006 at 53 DCR 6104. No comments were received; no changes were made. This rulemaking will become effective upon publication of this notice in the D.C. Register.

Chapter 41 (HEALTH OCCUPATIONS: ADMINISTRATIVE PROCEDURES) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended as follows:

**Section 4101.4 is amended to read as follows:**

4101.4 Upon receiving a complaint, a board may, in its discretion, order that the health professional complained of answer the complaint within ten (10) days of receipt of the complaint. The board shall attach a copy of the complaint to an order to answer or shall describe the acts alleged in the complaint. The health professional shall respond to an order to answer either personally or through his or her attorney. An answer shall address the substantive allegations set forth in the complaint or order.

**Section 4101.6 is amended to read as follows:**

4101.6 Upon receipt of a health professional's answer or at any point during the course of the investigation or inquiry into the complaint, the board may determine that there is not and will not be sufficient evidence to warrant further proceedings or that the complaint fails to allege incompetence or misconduct for which a health professional may be sanctioned by the board. In such event, the board shall dismiss the complaint.

**Section 4101.7 is amended to read as follows:**

4101.7 For purposes of a hearing on the substance of the complaint in accordance with § 4102 should a hearing occur, a board may draw an adverse inference from a respondent's failure to respond to an order to answer the complaint and shall weigh that inference together with all other evidence in determining whether or not a matter has been proved.

**Add a new section 4101.8 is amended to read as follows:**

4101.8 If a health professional violates the board's order and fails to answer within the ten (10) day period or if the board determines that there is otherwise reason to believe that the acts alleged occurred and constitute a violation pursuant to D.C. Official Code § 3-1205.14, the board may take one (1) of the following actions:

- (a) Refer the complaint to the Director for investigation;
- (b) Set the matter for a hearing in accordance with § 4102 on the substance of the complaint or on the health professional's violation of the board's order to answer; or
- (c) Request that the licensee or respondent attend a settlement conference in accordance with § 4108.

**Add a new section 4101.9 to read as follows:**

4101.9 If a board dismisses a complaint, it shall give the complainant notice in writing, sent first class mail, of the dismissal of the complaint within ten (10) days of the action.

**Section 4102.2 is amended to read as follows:**

4102.2 If a board proposes to take an action of the type set forth in § 4102.1, it shall give written notice to the respondent in accordance with § 4105. The notice shall contain:

- (a) One of the following statements:
  - (1) A statement that the board has sufficient evidence, which, if proven to be true, establishes that the respondent has failed to answer the complaint when ordered to do so by a board pursuant to § 4101.4; or
  - (2) A statement that the board has sufficient evidence in support of the complaint, which, if proven to be true, justifies taking the proposed action, and setting forth the nature of the evidence that serves as the basis for the underlying complaint;
- (b) One of the following statements:
  - (1) That the board may take the proposed action, unless the applicant

requests a hearing before the board by a letter addressed to the board, sent by certified mail or delivered in person, within twenty (20) days after service of the notice, and that the board may take the proposed action if the respondent fails to appear at a scheduled hearing; or

(2) That the board has scheduled a hearing on the proposed action, setting forth the date, time and place of the hearing, and that the board may take the proposed action if the respondent fails to appear at the hearing; and

(c) A description of the rights of the respondent at a hearing as specified in § 4109.3.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005

NOTICE OF FINAL RULEMAKING

GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT  
COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS  
TARIFF, P.S.C.-D.C. No. 3

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,<sup>1</sup> of its final rulemaking action taken in the above-captioned proceeding. On August 28, 2006, the Commission released Order No. 14028, approving Washington Gas Light Company's ("WGL")<sup>2</sup> Application for an updated Rights-of-Way Surcharge Rider ("ROW").

2. Pursuant to D.C. Code Section 10-1141.6,<sup>3</sup> WGL filed with the Commission an updated ROW on May 24, 2006.<sup>4</sup> In the Surcharge Filing, WGL shows the process to be used to recover from its customers the D.C. Public ROW fees paid by WGL to the District Columbia Government. Specifically, WGL proposes to amend the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3  
Section 22  
2<sup>nd</sup> Revised Page 56

3. WGL states that this Surcharge Filing allows for the annual reconciliation of the District of Columbia ROW fee.<sup>5</sup> WGL asserts that the ROW surcharge factor will become effective with the June 2006 billing cycle.

<sup>1</sup> D. C. Code § 2-505 (2005 Supp.).

<sup>2</sup> *GT00-2, In The Matter Of Washington Gas Light Company's Rights-Of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3, ("GT00-2")*, Surcharge Filing of Washington Gas Light Company, ("Surcharge Filing"), filed May 24, 2006.

<sup>3</sup> D.C. Code, 2001 Ed. § 10-1141.06, states that "Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

<sup>4</sup> *GT00-2, Surcharge Filing* at 1.

<sup>5</sup> *Id.*

4. A Notice of Proposed Rulemaking was published in the *D.C. Register* on July 7, 2006.<sup>6</sup> No comments were filed in response to the filing. Subsequently, the Commission approved WGL's surcharge filing by Order No. 14028. WGL's Rights-of-Way Surcharge Rider will become effective upon the date of publication of this Notice of Final Rulemaking in the *D.C. Register*.

---

<sup>6</sup> 53 *D.C. Reg.* 5530-5531 (July 7, 2006).