

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF EMERGENCY RULEMAKING

The Chief Procurement Officer of the District of Columbia pursuant to authority granted to the Mayor by section 204 of the District of Columbia Procurement Practices Act of 1985 (PPA), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-302.04 (2001)), and Mayor's Order 2002-207, dated December 27, 2002 (49 DCR 11867), hereby gives notice of the intent to adopt the following amendment to Chapter 16 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurement). The rules are intended to implement section 304(e)(1) of the PPA (D.C. Official Code § 2-303.04 (e)(1) (2001)).

Emergency rulemaking action, pursuant to section 6(c) of the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2001)), is justified by the existence of the following circumstances:

The rules authorize prices to be set in the solicitation that are to be paid to contractors who provide services under the District of Columbia Temporary Assistance to Needy Families (TANF) Employment Program (TEP). The District is mandated to provide this program by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 22, 1996 (110 Stat. 2260; 8 U.S.C. § 8-1601 *et seq.*). The new TEP contracts must be awarded by July 28, 2005. Without these emergency rules, the District would be unable to limit the prices in the solicitation to be paid for job placement and retention services to TANF participants, thereby possibly effecting a deficit in capped federal Block Grant funds available for the cost of this program. These rules will ensure that the solicitation and the contracts for mandatory welfare reform services are implemented in a manner that serves fiscally responsible ends both for the District of Columbia and the federal granting agency, and will standardize the prices to be paid to the contractors for their efforts.

Identical emergency rules were approved on October 5, 2004 and published in the *D.C. Register* in a Notice of Emergency and Proposed Rulemaking on November 19, 2004. *See* 51 DCR 10653. As the earlier emergency rules expired on February 1, 2005, action was taken on February 2, 2005 to approve the present rulemaking on an emergency basis effective on that date. The present rules will remain in effect for up to one hundred twenty (120) days from the date of adoption, unless earlier suspended by another rulemaking notice or by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Chief Procurement Officer will submit a Notice of Final Rulemaking to the Council of the District of Columbia for a sixty (60) day period of review pursuant to subsection 205(b) of the PPA (D.C. Official Code § 2-302.05(b) (2001)), and will not take final rulemaking action until completion of the 60-day review or Council approval of the rules by resolution before the end of the review period.

CHAPTER 16

PROCUREMENT BY COMPETITIVE SEALED PROPOSALS

Section 1614 is amended by adding new subparagraph 1614.1(d) to read as follows:

1614 SOURCE SELECTION

1614.1(d) Notwithstanding subparagraphs (a) and (b), above, for services provided under the District of Columbia Temporary Assistance to Needy Families (TANF) Program, implementing the Self-sufficiency Promotion Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-241; 46 DCR 905), the Chief Procurement Officer sets forth the following prices to be paid to Contractors in the solicitation, and no price evaluation factor will be required for procurement of these services:

Employability Assessment Completed and Individual Responsibility Plan (IRP) Developed and Signed:

Customer referred directly by DHS to the vendor	\$400
Customer who volunteers for services without being referred	\$100

Participation Fee - Customer Participates in Employment-Related Activities (limited to six weeks per calendar year):

More than 4 hours and less than the TANF hourly requirement:	\$15/week
TANF Hourly Requirement or More:	\$50/week

Unsubsidized Employment Placement

Customer is placed in Unsubsidized Employment And is expected to work for the TANF minimum number of Required Hours or more:	\$200
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3 Month Retention Fee

Customer Is Still Employed (in an unsubsidized job for the TANF hourly requirement 3 months after initial placement:	\$1,200
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Customer is a single-parent with a child under age six who works an average of at least 20, but less 30 hours over the 3 month period:	\$800
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6 Month Job Retention

Customer worked the TANF hourly requirement over the 6 month period.	\$1,200
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Customer is a single-parent with a child under age six

who works an average of at least 20, but fewer than 30, hours over the 6 month period. \$800

Higher Wage Bonus

Customer earned \$7.50/hour at a 3 month retention point \$300

Home Visiting Recruitment

Contractor conducts a home visit to a customer who has not been participating and the customer subsequently participates in on-site activities with the vendor beyond the orientation and assessment. \$200

For Contractors That Have Agreed to Provide Optional Services to Sanctioned Customers, as defined and described in the solicitation:**Employability Assessment Completed and IRP Developed and Signed:**

Customer sanctioned at time of referral by DHS \$600

Participation Fee for Sanctioned Customers - Customer Participates in Employment-Related Activities (limited to six weeks per calendar year):

More than 4 hours and less than the TANF hourly requirement: \$15/week
TANF Hourly Requirement or More: \$50/week

Initial Placement Fee for Sanctioned Customers

Sanctioned Customer referred by DHS, placed in Unsubsidized employment and expected to work for The TANF minimum number of hours \$500

3 Month Retention Fee for Sanctioned Customers

Customer Is Still Employed (in an unsubsidized job) 3 months after initial placement: \$2,000

6 Month Job Retention Bonus for Sanctioned Customers

Customer worked the TANF hourly requirement over the 6 month period. \$1,200

Customer is a single-parent with a child under age six who works an average of at least 20, but fewer than 30, hours over the 6 month period. \$800

Higher Wage Bonus for Sanctioned Customers

Customer earned \$7.50/hour at a 3 month retention point \$300

Home Visiting Recruitment

Contractor conducts a home visit to a customer who has not been participating and the customer subsequently participates in on-site activities with the vendor beyond the orientation and assessment. \$200

Subparagraph 1617.5(a) is amended to read as follows:

1617 EVALUATION FACTORS OF PROPOSALS

1617.5 (a) Price or cost to the District shall be included as an evaluation factor in each RFP, except as otherwise provided in 1614.1(c) and (d).

D.C. OFFICE OF PERSONNEL**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Acting Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with the District of Columbia Military Retirement Equity Act of 2003 (Act), approved November 22, 2003 (P.L. 108-133; 117 Stat. 1386; D.C. Official Code § 5-704 (h)(2)(A) through (D)) (2004 Supp.), hereby gives notice of the adoption of the following emergency rules. The Act provides that each member or former member of the Metropolitan Police Department (MPD) or Fire and Emergency Medical Services Department (FEMSD) who is eligible to receive monthly old age or survivors' benefits under section 202 of the Social Security Act and who has honorable active military service after December 31, 1956 (post-1956 military service) performed before the date of separation on which the member's or former member's annuity entitlement is based, may elect to retain credit for the military service after he or she attains the age and eligibility for Social Security benefits, by paying a percentage of the amount of basic military pay received. The Act also provides for an "interest-free purchase period," and requires that the Mayor issue rules to explain the process to purchase post-1956 military service. The utilization of emergency rulemaking is the only available means to immediately notify covered employees of the Act and its provisions, and explain the rules for the purchase of post-1956 military service pursuant to the Act. Therefore, to ensure the welfare of the public, action was taken on December 16, 2004 to adopt the following rules on an emergency basis effective December 23, 2004. These emergency rules add a new section 2620 to Chapter 26, Retirement, of Title 6 of the District of Columbia Municipal Regulations, explaining the rules for the purchase of post-1956 military service pursuant to the Act; and update section 2600 of the chapter, Continuation of Retirement Benefits. These rules will remain in effect for up to one hundred twenty (120) days from December 23, 2004, unless superseded earlier by another rulemaking notice.

The Acting Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with the District of Columbia Military Retirement Equity Act of 2003 (Act), effective November 22, 2003 (P.L. 108-133; 117 Stat. 1386; D.C. Official Code § 5-704 (h)(2)(A) through (D)) (2004 Supp.), hereby gives notice of the intent to adopt the following proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Upon adoption, these rules will add a new section 2620 to Chapter 26, Retirement, of Title 6 of the District of Columbia Municipal Regulations, explaining the rules for the purchase of post-1956 military service pursuant to the Act; and update section 2600 of the chapter, Continuation of Retirement Benefits. Upon adoption, these rules will amend Chapter 26, Retirement, of Title 6 of the District of Columbia Municipal Regulations, published at 27 DCR 2223 (May 23, 1980) and amended at 37 DCR 954 (February 2, 1990) and 38 DCR 2130 (April 12, 1991).

CHAPTER 26**RETIREMENT**

Section 2600 is amended to read as follows:

2600 CONTINUATION OF RETIREMENT SYSTEMS

- 2600.1 Section 2602 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-626.02) (2001) provides that the existing retirement systems, which include the Civil Service Retirement System (CSRS) (Chapter 83 of 5 U.S.C.), Teachers' Retirement System, Police and Fire Retirement System, Teachers Insurance and Annuity Association programs, and the Judges' Retirement System, continue to apply to all employees of the District government, except that the CSRS shall not be applicable to individuals first employed by the District government after September 30, 1987.
- 2600.2 The federal regulations in 5 CFR Part 831 and applicable District of Columbia regulations continue to apply to District government employees covered under the CSRS.

A new section 2620 is added to read as follows:

2620 POLICE AND FIRE RETIREMENT SYSTEM – PURCHASE OF MILITARY SERVICE PERFORMED AFTER DECEMBER 31, 1956

- 2620.1 Pursuant to the District of Columbia Military Retirement Equity Act of 2003 (Act), effective November 22, 2003 (117 Stat. 1386; P.L. 108-133; D.C. Official Code § 5-704 (h)(2)(A) through (D)) (2004 Supp.), each member or former member of the Metropolitan Police Department (MPD) or Fire and Emergency Medical Services Department (FEMSD) who is eligible to receive monthly old age or survivors' benefits under section 202 of the Social Security Act (SSA) based on his or her wages and self-employment income and who has honorable active military service after December 31, 1956 (post-1956 military service) performed before the date of separation on which the member's or former member's annuity entitlement is based, may elect to retain credit for the post-1956 military service and avoid a reduction in his or her annuity after the member or former member attains the age and eligibility for monthly old age or survivors' benefits under the SSA (covered member), by paying a percentage of the amount of basic military pay received, as specified in this section, for deposit in the Police and Firefighters' Retirement Fund, or the District of Columbia Federal Pension Fund, as applicable.
- 2620.2 A member or former member who is not eligible to receive monthly old age or survivors' benefits under section 202 of the SSA based on his or her wages

and self-employment income is not eligible to purchase or retain military service pursuant to the Act and section 2620.1 of this section and, for that reason, the provisions of this section are not applicable to such a member or former member.

2620.3 Sections 2620.4 through 2620.16 of this section contain the rules for the purchase of retention of credit for post-1956 military service.

2620.4 For the purposes of this section, the following terms have the meaning ascribed:

Basic military pay – total earnings received for military service (i.e., basic military pay under 37 U.S.C. § 204) based on the grade of the covered member when the military service was performed.

Interest – any interest required on payments to purchase post-1956 military service in accordance with D.C. Official Code § 5-704 (e)(2) (2004 Supp.).

Military service – honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

Post-1956 military service – honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States performed after December 31, 1956, excluding military service covered by military leave with pay from a civilian position.

2620.5 Post-1956 military service contributions will be calculated at a rate equal to seven percent (7%) of the amount of basic military pay under the Pay and Allowances of the Uniformed Services Act (37 U.S.C. § 204) paid to the covered member for each period of military service performed on or before November 10, 1996.

2620.6 Post-1956 military service contributions will be calculated at a rate equal to eight percent (8%) of the total basic military pay for periods of military service performed after November 10, 1996.

2620.7 Active covered members are required to submit appropriate documentation, to be determined by the personnel authority, as proof of the amount of basic military pay received.

2620.8 If sufficient evidence is not provided to determine the basic military pay for post-1956 military service, such payment shall be based upon estimates obtained from the U.S. Secretary of Defense, Secretary of the U.S. Department of Transportation, Secretary of the U.S. Department of Commerce, or Secretary of the U.S. Department of Health and Human Services.

- 2620.9 All purchases of post-1956 military service retention credit must be completed prior to the later of October 1, 2006 or the covered member's date of retirement, in order for the covered member to retain credit for the military service.
- 2620.10 An active covered member hired on or before October 1, 2004 must purchase retention of credit for post-1956 military service on or before October 1, 2006 without accruing interest. All post-1956 military service purchased by such a covered member after October 1, 2006 will accrue interest.
- 2620.11 A covered member hired after October 1, 2004 will have two (2) years after the date of hire to purchase retention of credit for post-1956 military service without interest being charged. All post-1956 military service purchased by such a member after the end of the two-year (2-year) period will accrue interest.
- 2620.12 The interest-free payment periods specified in sections 2620.10 and 2620.11 of this section are considered grace periods. The rate applicable in computing interest for post-1956 military service after the end of either of the grace periods shall be based on the total amount of the covered member's basic military pay, and shall cover the time period from the end of either grace period.
- 2620.13 Covered members may elect to purchase retention of credit for post-1956 military service by paying a lump sum or through payroll deductions.
- 2620.14 A covered member who elects to purchase retention of credit for post-1956 military service must purchase all of the service that covers a specified continuous period of post-1956 military service.
- 2620.15 Pursuant to D.C. Official Code § 5-706 (b)(2) (2004 Supp.), a covered member with less than five (5) years of uniformed police or fire service with the MPD or FEMSD who is separated, except for retirement, shall be refunded the amount of any lump sum payment made or payroll deductions taken for the purchase of retention credit for post-1956 military service. Receipt of such a refund shall void all annuity rights, except that such a covered member, if subsequently reappointed to a uniformed position with the MPD or FEMSD, may elect, at the time of reappointment, to redeposit the amount refunded plus interest. Such redeposit may be made, at the election of the covered member, in a lump sum or in not to exceed sixty (60) installments, except that if such covered member dies before depositing the full amount due, the requirements shall be deemed to have been met.
- 2620.16 Pursuant to D.C. Official Code § 5-717 (b)(1) (2004 Supp.), a covered member who completes five (5) years of uniformed police or fire service with the MPD or FEMSD who is thereafter separated, other than a member who

retires, may elect, at the time of separation, to receive a refund of the amount of any lump sum payment made or payroll deduction taken for the purchase of retention credit for post-1956 military service; or leave the amount of any payment made or payroll deduction taken for the purchase of retention credit for post-1956 military service in his or her account as a deferred annuity. The receipt of a refund shall void all deferred annuity rights.

2620.17 The Director, D.C. Office of Personnel (or his or her designee), shall develop procedures to implement the provisions of the Act, and publish the procedures in the District Personnel Manual (or any other procedural manuals developed). The Chief, MPD, may develop procedures to implement the provisions of the Act applicable to members and officers of the MPD. At a minimum, the procedures shall provide guidance concerning:

- (a) Which members and officers are eligible to purchase and retain post-1956 military service;
- (b) Instructions for the payment of post-1956 military service; and
- (c) Any forms to be completed, and documentation to be submitted, as proof of post-1956 military service.

Comments on these proposed regulations should be submitted, in writing, to Ms. Lisa R. Marin, SPHR, Acting Director of Personnel, 441 4th Street, N.W., Suite 300 South, Washington, D.C. 20001, within thirty (30) days of the date of the publication of this notice in the *D.C. Register*. Additional copies of these proposed rules are available from the above address.