

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted 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 18, 2002), hereby gives notice of the adoption of the following emergency rules and of the intent to adopt final rulemaking to amend Chapter 20 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The proposed rules are intended to amend a section of Chapter 20 concerning special contracting methods which would allow the District to extend an existing contract for more than five (5) years on recurring and continuing services requirements.

These rules will supersede a Notice of Emergency Rulemaking adopted on March 11, 2005, and a Notice of Emergency and Proposed Rulemaking adopted on March 30, 2005, each authorizing the extension of some but not all of these contracts. Actions have been taken pursuant to these emergency rules which are pending publication in the *D. C. Register*.

Action was taken on April 29, 2005 to adopt the following rules on an emergency basis effective on that date. Without these emergency rules, the Office of Contracting and Procurement will not be able to extend options on several city-wide contracts that are critical to the needs of District residents. These contracts include services for janitorial maintenance; trash and recyclable materials collection services; and food, medical and mental health services for inmates at the Department of Corrections. These contracts provide services that impact the environment, health and safety of District residents. Additionally, contracts for evidenced traffic violations systems, and for ticket processing, entered into on behalf of the Metropolitan Police Department and the Department of Motor Vehicles, if not extended will expire on May 6, 2005.

Adoption of these emergency rules to amend Chapter 20 is thus necessary for the immediate preservation of the public peace, health, safety, or welfare, in accordance with the District law as codified at D.C. Official Code §2-505(c)(2001). These emergency rules will remain in effect up to one hundred twenty (120) days from date of adoption, unless earlier superseded by another rulemaking notice or by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Chief Procurement Officer also gives notice of intent to take final rulemaking action in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The Chief Procurement Officer will submit the rules to the Council of the District of Columbia for a sixty (60) day period of review pursuant to subsection 205(a) of the PPA (D.C. Official Code §2-302.05(a)), and will not take final rulemaking action until completion of the 60-day review period or Council approval of the rules by resolution before the end of the review period.

CHAPTER 20

SPECIAL CONTRACTING METHODS

Section 2005.6 is amended to read as follows:

2005 USE OF OPTIONS

2005.6 The basic period in a contract for services or supplies shall not exceed one (1) year, unless the contract is funded from an appropriation that is available for more than one (1) year. The total of the basic and option periods in a contract for services or supplies shall not exceed five (5) years except as follows:

- (a) a contract for city-wide telecommunications systems may exceed five years but shall not exceed ten years;
- (b) a contract for evidenced traffic violations systems provided to the Metropolitan Police Department may exceed five years but shall not exceed seven years and two months;
- (c) a contract for ticket processing provided to the Department of Motor Vehicles may exceed five years but shall not exceed seven years;
- (d) a contract for medical and mental health services provided to the Department of Corrections may exceed five years but shall not exceed six years; and
- (e) a contract for any supplies or services may exceed five years where awards for recurring or continuing supply or service requirements may be delayed but shall not exceed five years and six months.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, no later than thirty (30) days after the date of publication of this notice in the *D. C. Register*. Hand-delivered comments should be delivered, and mailed comments should be postmarked, no later than thirty (30) days after publication of this notice in the *D. C. Register*. Comments should be delivered or mailed to Herbert R. Tillery, Deputy Mayor for Operations and Interim Chief Procurement Officer, Office of Contracting and Procurement, 441 fourth Street, N.E., Suite 700 South, Washington, D. C. 20001. Copies of the proposed rules may be obtained from the above address.

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF EMERGENCY RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by section 202 and 204 of the District of Columbia Procurement Practices Act of 1985, as amended, ("PPA"), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §§2-302.02 and 2-302.04), and Mayor's Order 2002-207, dated December 18, 2002, hereby gives notice of its intent to adopt the following new Chapter 47 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The proposed rules are intended to establish a new Chapter 47 of Title 27 *D.C. Municipal Regulations*, which concerns supply management.

Action was taken on April 7, 2005 to adopt the following rules on an emergency basis effective on that date. Without these emergency rules, the Office of Contracting and Procurement will not be able to donate immediately surplus property to assist children of Ethiopia as part of a socially responsible humanitarian initiative to enhance the quality of life for citizens of less developed countries. To provide assistance to poor children who struggle daily to survive in conflict and post-conflict areas, the Global Forum, USA, a nonprofit organization, has created a We Are the Future (WAF) Child Center in Addis Ababa, Ethiopia, which the District is sponsoring. Donation of the surplus personal property will enable the WAF to meet one of the most profound needs of the children, that is, the need for basic school supplies so that the children may obtain an education. Adoption of these emergency rules to establish a new Chapter 47 is thus necessary for the immediate preservation of the public welfare, in accordance with the District law as codified at D.C. Official Code §2-505(c)(2001). These emergency rules will remain in effect up to one hundred twenty (120) days from date of adoption, unless earlier superseded by another rulemaking notice or by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Title 27 DCMR is amended by adding a new Chapter 47, Supply Management, to read as follows:

CHAPTER 47**SUPPLY MANAGEMENT****4700 SUPPLY MANAGEMENT RULES**

- 4700.1 The provisions of this chapter shall apply to the donation of surplus supplies to nonprofit organizations.

4701 DONATION OF SURPLUS SUPPLIES TO NONPROFIT ORGANIZATIONS

4701.1 Notwithstanding section 2632 of the Materiel Management Manual, effective July 1, 1974, the Chief Procurement Officer or his designee may donate surplus supplies to the We Are the Future Child Center, in Addis Ababa, Ethiopia, established by Glocal Forum, USA, a nonprofit organization.

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

The 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 sections 951 through 958 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 § 1-609.51 *et seq.*) (2001), hereby gives notice of the adoption of the following emergency rules. These emergency rules amend section 3811 of Chapter 38, Management Supervisory Service, of Title 6 of the District of Columbia Municipal Regulations, to delete the language concerning Performance Improvement Plans from that section, and make other modifications to the section. Management Supervisory Service employees are no longer subject to Performance Improvement Plans; however, due to an oversight, the language on Performance Improvement Plans in section 3811 of the chapter was not deleted from that section when final rules were adopted on January 25, 2005 (52 DCR 1913, February 25, 2005 – Errata Notice). Among other changes, the final rules adopted under that notice deleted the language concerning Performance Improvement Plans from section 3816 of the chapter. The utilization of emergency rulemaking is the only available means to immediately correct the oversight and avoid any confusion that might be caused by it. Therefore, to ensure the welfare of the public, action was taken on April 21, 2005 to adopt the following rules on an emergency basis effective April 21, 2005. These emergency rules will remain in effect for up to one hundred twenty (120) days from April 21, 2005, unless superseded earlier by another rulemaking notice.

The 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 sections 951 through 958 of the CMPA, hereby gives notice of the intent to adopt the following rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. These rules would amend section 3811 of Chapter 38, Management Supervisory Service, of Title 6 of the District of Columbia Municipal Regulations, to delete the language concerning Performance Improvement Plans. Management Supervisory Service employees are no longer subject to Performance Improvement Plans; however, due to an oversight, the language on Performance Improvement Plans in section 3811 of the chapter was not deleted from that section when final rules were adopted on January 25, 2005 (52 DCR 1913, February 25, 2005 – Errata Notice). Among other changes, the final rules adopted under that notice deleted the language concerning Performance Improvement Plans from section 3816 of the chapter. Upon adoption, these rules will amend Chapter 38, Management Supervisory Service, of Title 6 of the District of Columbia Municipal Regulations, published at 48 DCR 2812 (March 30, 2001) and amended at 50 DCR 7747 (September 12, 2003), 51 DCR 9707 (October 15, 2004), 52 DCR 1314 (February 11, 2005), and 52 DCR 1913 (February 25, 2005 – Errata Notice).

CHAPTER 38**MANAGEMENT SUPERVISORY SERVICE**

Section 3811 is amended to read as follows:

3811 PLACEMENT BY REASSIGNMENT OR DEMOTION

- 3811.1 A personnel authority may fill a vacancy within the Management Supervisory Service by reassignment of a Management Supervisory Service employee to another position of the same grade, either competitively or non-competitively, as provided in this section.
- 3811.2 When, as a result of attrition, reductions in force, reorganizations, or approved realignments within an agency, a Management Supervisory Service employee ceases to perform managerial or supervisory functions or duties, the employing agency may reassign or demote the employee to a vacant Management Supervisory Service position for which he or she qualifies; provided that there is no reduction in the benefits of the employee, and the position has no greater promotion potential than the position previously held.
- 3811.3 An agency may determine that it is necessary to reassign or demote a Management Supervisory Service employee to a vacant Management Supervisory Service position for which he or she qualifies, for reasons other than those listed in section 3811.2 of this section; provided that there is no reduction in the benefits of the employee, and the position has no greater promotion potential than the position previously held.
- 3811.4 A time-limited reassignment may be made for a period not to exceed one (1) year.
- 3812.5 A time-limited reassignment exceeding one hundred twenty (120) days to a position with established promotion potential higher than the currently held position will be effected competitively.
- 3811.6 Any reassignment or demotion under the circumstances described in sections 3811.2 or 3811.3 of this section will be effected non-competitively.
- 3811.7 An employee may voluntarily accept a reassignment or demotion pursuant to sections 3811.2 or 3811.3 of this section, or be terminated as specified in section 3818 of this chapter.

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