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OFFICE OF THE CHIEF FINANCIAL OFFICER

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NOTICE OF PROPOSED RULEMAKING

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The Office of the Chief Financial Officer ("OCFO"), established pursuant to Section 302 of the District of Columbia Financial Responsibility and Management Assistance Act ("CFO Act") of 1985 (Pub. L. 104-8) has independent procurement authority pursuant to the authority granted to the Chief Financial Officer by Section 424 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Pub. L. 83-198), as amended by Section 302 of the CFO Act, and the Procurement Reform Act of 1996 (D.C. Law 11-259), which exempts the Office of the Chief Financial Officer from the provisions of the Procurement Practices Act, as extended by Section 142 of the District of Columbia Appropriations Act of 1997 (Pub. L. No. 104-184), as further extended by Section 111(c) of the District of Columbia Appropriations Act of 2002 (Pub. L. No. 107-96), Section 409 of the 2002 Supplemental Appropriations Act (Pub. L. No. 107-206), and Section 2302 of the Emergency Wartime Supplemental Appropriations Act of 2003 (Pub. L. No. 108-11, Continuing Resolution dated September 28, 2004 (Pub. L. No. 108-309), and Section 336 of the District of Columbia Appropriations Act for Fiscal Year 2005 (Pub. L. No. 108-335) the following regulations, previously adopted by the District of Columbia Financial Responsibility and Management Assistance Authority, are published.

The District of Columbia, Office of the Chief Financial Officer hereby gives notice of its intent to adopt the following regulations, previously adopted by the District of Columbia Financial Responsibility and Management Assistance Authority, as an amendment to Title 9 of the District of Columbia Municipal Regulations (DCMR) by adding chapters 80-85, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following regulations are the substance of the procurement regulations of the District of Columbia Financial Management Assistance Authority, which were adopted by the Chief Financial Officer pursuant to Financial Management Issuance 97-15 (CFO Order).

As provided in the CFO Order, except for Chapter 80, Section 8000.1 below, all references to the "Authority" in the adopted regulations shall be substituted with the reference to the "Office of the Chief Financial Officer."

All references to the "Executive Director" in the adopted regulations shall be substituted with the reference to the "Chief Financial Officer."

All references to the "General Counsel" in the adopted regulations shall be substituted with the reference to the "General Counsel to the Chief Financial Officer."

All references to the "Chair" and "Vice Chair" shall be substituted with references to "Chief Financial Officer" and the "Director, Mission Support Center," respectively.

**CHAPTER 80****INTRODUCTION****8000 AUTHORITY**

- 8000.1 The District of Columbia Financial Responsibility and Management Assistance Authority ("Authority") was established by Pub. L. 104-8. The Authority is an entity within, but independent from, the government of the District of Columbia ("District"). The Authority is not a department, agency, establishment or instrumentality of the United States government.
- 8000.2 The Authority, through its Executive Director, is empowered to enter into contracts to carry out the Authority's statutory responsibilities.
- 8000.3 The Authority is statutorily exempted from adhering to D.C. Code procurement provisions and, because the Authority is not an agency of the United States government, the Armed Services Procurement Act of 1847 and the Federal Property and Administration Service Act of 1849 do not apply to the Authority's contracting activities. Likewise, neither the Federal Acquisition Regulations nor the District of Columbia procurement regulations apply to the Authority's contracting activities.
- 8000.4 These regulations are for the benefit of the Authority, and do not confer any rights or benefits on third parties. They are intended to permit the Authority to procure property and services efficiently and either at the least cost to, or representing the best value for, the Authority. Because of the nature of its mission, the Authority requires maximum flexibility in its procurement procedures. The Executive Director may at any time in his or her discretion waive applicability of any provision of these regulations with respect to a procurement or proposed procurement by the Authority, except Section 8001.3 of this Chapter 80.
- 8000.5 These regulations may be amended by the Authority at any time.

**8001 CONTRACTING OVERVIEW**

- 8001.1 The Authority is permitted "to accept, use and dispose of gifts, bequests and devises of services or property, both real and personal," in furtherance of its responsibilities. The Authority's procurement solicitations shall note the Authority's legal right to receive such donations.
- 8001.2 The Authority's procurement will generally fall into one of the following categories:
- a. The Authority may contract for accounting, legal, financial, management, economic, and other professional, expert, and/or consulting services to support the Authority's statutory mission. The Authority may also from time to time contract for such services on behalf of District agencies when time or other circumstances make a procurement by an agency infeasible or a procurement by the Authority preferable.

- b. The Authority may contract for services and property in support of its day-to-day operations, such as office space, office equipment, office supplies, library and printing services, general operations such as mail and messenger services, education and training services, temporary staff services, investigative services, banking services, data processing services, personnel services and administration, and insurance.
- 8001.3 The Authority's contracting is, by statute, vested in the Executive Director, who may from time to time delegate specific contracting and procurement responsibility and authority to various members of the Authority's staff. When authority is delegated to a staff member to serve as Contracting Officer for a particular contract or category of procurement, the delegation shall be in writing. All references herein to the Executive Director shall be deemed to include any such delegations.
- 8001.4 To accomplish its missions effectively, it is the Authority's intention to (a) proceed as expeditiously as possible with contractor selection and contract award; (b) ensure that contractors have no conflicts of interest that might hinder or appear to cause a bias in business judgment and advice to the Authority; and (c) monitor contractor performance and certify satisfactory performance prior to payment of any contractor invoice.
- 8001.5 In selecting sources for its contracts, the Authority may, when consistent with obtaining the best value, give preferences to entities that (a) are based in or employ residents of the District of Columbia, (3) qualify as disadvantaged businesses. When written solicitation procedures are employed, any such preferences shall be clearly defined.

**8002                    AVOIDANCE OF CONFLICTS OR IMPROPRIETY AND THE  
                             APPEARANCE OF CONFLICTS OR IMPROPRIETY**

- 8002.1 The Authority intends to avoid even the appearance of conflict of interest or impropriety in connection with procurement. It therefore requires that any Member, Officer or other employee of the Authority immediately report to the Executive Director or the General Counsel any significant connection which he or she may have to a potential or actual contractor when he or she becomes aware of that connection or the possible or actual contract. A "significant connection" includes any interest or relationship covered by DC Code Section 1-1461 or the Authority's Rules and Regulations Pertaining to Ethics and Conflicts of Interest, but also includes such relationships with extended family, close friends, former clients, former employers or employees and others as could create the appearance of conflicts of interest or impropriety.
- 8002.2 In determining whether a relationship or connection is "significant" for this purpose and should be reported, a Member, Officer, or other employee should resolve any uncertainty or ambiguity in favor of disclosure. Disclosure cannot harm either the Authority's mission or reputation for ethical standards; failure to disclose can harm both, as well as the reputation of the individual.
- 8002.3 When any such significant connection is reported, the Authority shall take appropriate steps to ensure that the connection cannot and does not taint the procurement process. These may include resoliciting a proposed procurement to add additional offerors, recusing the

individual Authority-related person from any role in the procurement process, or disqualifying the contractor or potential contractor.

## CHAPTER 81

### COMPETITION POLICY, SOURCE DEVELOPMENT, CONTRACTING METHODS, SOURCE SELECTION COMPLAINTS

#### 8100 COMPETITION

- 8100.1 The Authority prefers competition among potential vendors to ensure fair and reasonable prices and the best value for the Authority. To obtain adequate competition, and to treat vendors fairly and consistently, the Authority shall solicit and consider a sufficient number of offerors appropriate for the type and value of the particular procurement.
- 8100.2 Although the Authority prefers competitive procurement, circumstances do occur when the use of noncompetitive procedures makes good business sense or promotes the Authority's missions. Such circumstances include some or all of the following:
- a. When competitive procurement is not cost effective;
  - b. When there is insufficient time to solicit competitive proposals;
  - c. For interim contracts to meet the Authority's needs in advance of a competitive procurement;
  - d. When an existing contractor offers benefits of historical expertise, and hence other contractors cannot perform as cost-effectively or as timely as the current contractor;
  - e. When, after investigation, only one firm is considered capable of meeting the Authority's requirements, such as when the services are so specialized that they demand an individual or firm with unusual or unique capabilities or experience.
- 8100.3 Each such procurement shall be accompanied by a written justification of the use of noncompetitive procedures.
- 8100.4 A noncompetitive contract exceeding \$100,000 on an annual basis shall be approved by the Chair or in his/her absence the Vice Chair.
- 8100.5 The Authority shall endeavor to use generic descriptions for commercial products rather than describing a specific product, or a particular feature of a product, peculiar to one manufacturer. Items can be identified by using the brand name followed by the words "or equal."
- 8100.6 When the contract being solicited by the Authority exceeds \$10,000 in value, each offeror shall certify that its offer has been arrived at independently, without any consultation, communication, or agreement with any other offeror or competitor for the purpose of restricting competition.

## DISTRICT OF COLUMBIA REGISTER

**8101 DEVELOPMENT OF POTENTIAL SOURCES****8101.1 Objectives.**

- a. To achieve the benefits of competition, the Authority shall endeavor to identify private sector firms with the qualifications needed by the Authority that are or may be interested in contracting with the Authority.
- b. The Authority encourages private sector firms to make their capabilities and qualifications known to the Authority either for unspecified future solicitations or in response to a specific solicitation.

**8101.2 The Authority shall publicize contracting opportunities when consistent with contracting goals and the time available.**

- a. The Authority's goal in publishing its contracting opportunities is to make potential qualified sources aware of the Authority's requirements, to promote adequate competition, to maintain lists of potential sources for supplies and services, and to treat private sector firms fairly and consistently.
- b. In deciding the extent to which the Authority's contracting opportunities shall be publicized, the Executive Director shall consider the cost in both administrative time and actual dollars against potential effectiveness.
- c. Paid announcements of contracting opportunities may be placed in newspapers, trade journals, magazines, or other appropriate national or local media, the D.C. Procurement Digest and the Commerce Business Daily.
- d. Any such advertisement shall state the Authority's requirements and the minimum qualifications required, and request sufficient information from respondents to determine whether a firm is generally qualified to receive the solicitation. Responding firms meeting the minimum qualification requirements shall be placed on the solicitation list.

**8101.3 Members of the Authority and its staff are encouraged to share with the Executive Director information concerning any qualified potential competitors for the Authority's contracts.****8101.4 As needed, the Executive Director may research additional sources using such tools as association directories and industry publications, or by contacting other entities which purchase similar products or services.****8102 CONTRACTING METHODS****8102.1 The Authority shall procure property and services in accordance with the following procedures:**

- a. Chapter 81 sets forth procedures for noncompetitive contracting.
- b. Chapter 83 sets forth procedures to be used when placing orders under GSA Schedules.

**8102.2 Simplified Contracting.**

- a. Simplified contracting procedures may be used when appropriate to the nature of the goods or services to be provided and/or the value of the procurement is not expected to exceed \$100,000:
- b. For contracts under \$25,000, a minimum of three qualified sources shall be solicited if available; and
- c. For contracts between \$25,000 and \$100,000, a minimum of five qualified sources shall be solicited if available.

8102.3 Procedures. Chapter 83 sets forth the procedures for simplified contracting.

8102.4 Formal Contracting.

- a. In formal contracting, firms having the ability to provide the required services or goods are solicited for comprehensive proposals. Technical proposals are evaluated by a Technical Evaluation Panel ("TEP"). Cost proposals are evaluated by the Executive Director. Subsequent to these evaluations, negotiations may be conducted with one or more firms to ensure that the Authority and the firm have a mutual understanding of what is required and what is being proposed. Award is made to the firm offering the Authority the best value, with regard to technical and price goals.
- b. Chapter 84 sets forth procedures that shall be used for formal contracting.

8102.5 Task Order Agreements.

- a. The Authority may establish task order agreements to facilitate ordering common, recurring services or property when the exact quantity or timing of the need for those services is not known at the time the agreement is entered into. Task order agreements are written instruments of understanding that contain terms and conditions applying to future task orders.
- b. Chapter 85 sets forth the procedures governing task order agreements.

### **8103 ISSUE RESOLUTION**

8103.1 At his or her discretion, the General Counsel of the Authority may review source selection decisions or any other issue associated with a procurement undertaken by the Authority, at the request of the Executive Director, the Authority, any competitor for the procurement, or any party interested in the procurement.

8103.2 The Authority's Executive Director may reconsider a source selection decision or any other issue associated with a procurement upon consultation with the General Counsel when an issue is raised to the General Counsel. The decision of the Executive Director with respect to any issue associated with an Authority procurement shall be final and not subject to protest or review.

**CHAPTER 82**  
**GENERAL PROCEDURES FOR DEVELOPING A PROCUREMENT**

**8200 REQUESTING INITIATION OF CONTRACT ACTION**

A member of the Authority's staff, or a duly authorized official of a District office or agency who has identified a need to procure supplies or services, may propose that the Executive Director initiate a procurement action. The proposal need not be in writing, but shall be sufficiently detailed to enable the Executive Director to determine (1) whether the procurement is appropriate to the Authority's missions and (2) whether sufficient unobligated appropriated funds are available to support the procurement. Such information may include:

8200.1 A description of the services or supplies required, the required delivery or performance date(s), and any special contract terms needed such as unusual payment procedures.

8200.2 Listings of both minimum and desirable qualifications or features of the supplies or services.

8200.3 An estimate of the range of expected prices for the services or supplies being requested.

8200.4 A description of suggested sources such as prequalified companies or availability from the GSA Schedules.

8200.5 For consulting or other services, identification of the individuals within the Authority who would monitor and evaluate the performance of the contractor.

8200.6 Where applicable, suggested evaluation criteria for written proposal evaluation.

**8201 PREPARING STATEMENTS OF WORK AND OTHER PROCUREMENT DOCUMENTS**

8201.1 The Executive Director shall designate one or more members of the Authority's staff, or request the applicable District office or agency, to prepare a statement of work (SOW) for the requirement and other appropriate procurement documents. The Executive Director may require the SOW to be prepared prior to or after the decision to initiate a procurement action.

8201.2 The SOW establishes the scope of services that a contractor shall provide, and also provides a basis for the contractor's preparation of technical and cost proposals where written proposals are required. In the awarded contract, the SOW also operates as the standard for measuring the contractor's performance and effectiveness.

8201.3 A SOW shall include a thorough description of the required services and expected results, including the minimum standards that shall be met, company and individual qualification necessary to perform the work, deliverable times and a schedule for delivery, and standards by which the contractor's performance shall be measured.

8201.4 Upon receipt of all necessary information, the Executive Director may initiate an appropriate procurement.

8201.5 All procurement documents, including contract terms and conditions, shall be approved by the General Counsel.

## **CHAPTER 83**

### **SIMPLIFIED CONTRACTING PROCEDURES**

#### **8300 OVERVIEW**

8300.1 These procedures are designed to permit prompt and simplified contract award and purchases consistent with the principles of adequate competition and fair and consistent treatment of offerors.

8300.2 The procedures set forth in this Chapter shall be used when: (a) the Requirement for supplies or services is appropriate for these procedures and/or is not expected to exceed a total value of \$100,000; or (b) purchases are to be made from a GSA Schedule.

8300.3 The Executive Director shall determine whether a particular request for supplies or services is of the type appropriate for the use of the simplified procedures set forth herein.

#### **8301 COMPETITION**

8301.1 Competition shall be obtained to the maximum extent practicable given the nature of the procurement, the required time for delivery of the supplies or services, and the number of readily available sources. In order to maximize competition for simplified procurements, the Authority shall use relevant standard commercial publications, including but not limited to trade publications, telephone directories, and/or newspaper advertisements, that can assist in identifying companies which may be able to provide the types of supplies or services needed by the Authority.

8301.2 Where necessary due to time constraints or other considerations, competition may be restricted to (1) sources listed on a solicitation list maintained by the Authority, or (2) sources that have existing task order agreements under the procedures outlined in Chapter 85. Where appropriate, a negative evaluation of a company's past performance may be considered in restricting sources for a particular category of goods or services under these procedures. Noncompetitive contract awards shall not be made unless authorized in accordance with the procedures set forth in Chapter 81.

8301.3 On a semi-annual basis, the Executive Director shall review all purchases and awards made in accordance with these simplified contracting procedures to ensure that selection of sources is unbiased and has provided opportunity for a reasonable number of qualified firms to participate in the Authority's procurements.

#### **8302 METHODS FOR SOLICITATION**

The Executive Director may use any of the following methods to solicit sources for participation in a particular procurement:



8302.1 Verbal quotations may be solicited by telephone or electronic communication for procurement of supplies or services under \$10,000, if the award will be made solely on the basis of price and if at least three sources will be solicited. When this solicitation method is used, the solicitor shall record the name and telephone number of each company solicited and the name of the individual contacted, the date of the telephone or electronic communication contact, and all information provided in response to the solicitation (price, delivery schedule, particular features of supplies, etc.). A brief rationale for source selection shall be included.

8302.2 Written solicitations shall be used for all procurements for which verbal quotations are deemed to be inappropriate. The solicitation may be sent to offerors via electronic communications when available. All written solicitations may be advertised in publications appropriate to obtain maximum practicable competition. Written solicitations shall include, at a minimum:

- a. A functional description of the supplies or services sought, including, where necessary, a statement of work describing the scope of the work to be performed;
- b. A description of the overall proposal submission requirements including page limitations, and the due date, time, and place (including provisions for submission of proposals via electronic communication);
- c. A delivery schedule for the supplies or services;
- d. A description of required proposal contents, such as an offeror's experience, management, and financial resources, key personnel qualifications, and ability to comply with schedule and technical requirements; and
- e. A brief explanation of the evaluation criteria and basis for award.

8302.3 A comparison of published information available through trade publications, catalogs, or other market research tools. Verbal or written confirmation of price, availability, and quality shall be made prior to execution of the contract, and records shall be kept of information consulted and comparisons made.

8302.4 Use of existing task order agreements in accordance with the procedures described in Chapter 85.

### **8303 EVALUATION AND AWARD**

8303.1 Evaluation of verbal offers and source selection shall be made by the Executive Director.

8303.2 When written proposals are submitted, they shall be evaluated by two or more individuals designated by the Executive Director as the Evaluation Team. The Evaluation Team shall document the basis for its initial recommendation for award, including a brief description or how the selected proposal fulfilled the evaluation criteria stated in the solicitation, the reasonableness of the proposed price, and why the recommended proposal offers the best value of all proposals received. The Executive Director shall review the recommendation and make the final determination for award.

8303.3 Prior to award, informal negotiations may be conducted with the selected potential contractor where needed to clarify or verify information contained in the proposal or in published information such as catalogs.

8303.4 Prior to award, the Executive Director shall conduct a business reference check concerning the potential contractor's business and financial status and shall otherwise determine the responsibility of the potential contractor.

8303.5 After obtaining approvals as required, the Executive Director shall notify the successful offeror that it has been selected for award and shall execute all contract documentation. The Executive Director shall promptly notify unsuccessful offerors of the award decision.

## **CHAPTER 84 FORMAL CONTRACTING**

### **8400 OVERVIEW**

8400.1 This chapter addresses the competitive contracting process to be used for services or property where the size or the nature of the procurement requires complex evaluation procedures.

#### **8400.2 Applicability**

- a. The procedures set forth in this chapter are mandatory for contracting actions that can be expected to result in the Authority's expenditure of \$500,000 or more on an annual basis.
- b. These procedures may also be used for competitive contracting actions estimated at less than \$500,000, and as an alternative to the simplified procedures set forth in Chapter 83, when complex evaluation procedures are considered appropriate.

#### **8400.3 Best- Value Determination**

- a. The procedures set forth in this chapter are aimed at ensuring that the Authority obtains the best value for the services or goods it acquires. In seeking the best value, the Authority aims to obtain the most favorable combination of:
  - (1) Features and characteristics of the offered services or goods;
  - (2) Acceptable contractor capabilities;
  - (3) Delivery or performance terms and conditions; and
  - (4) The cost to the Authority.
- b. Determining best value is a two-step process. The first step involves establishing, prior to solicitation, the evaluation structure for technical, cost, and other factors that will identify the firm that offers the best value for the requirement. The second step involves comparing the competing proposals to determine how well or how poorly each proposal measures up to these criteria.
- c. When a quality level consistent with a standard industry practice is acceptable, cost may be the controlling factor. However, some Authority requirements will be better satisfied by improved quality of service or product performance. In these cases, cost may be given less weight than technical considerations.

**8401 PRE-SOLICITATION ACTIVITIES****8401.1 Evaluation Structure**

- a. The Executive Director shall develop evaluation criteria which are consistent with SOW requirements and the Authority's goals with respect to the particular procurement. General ground rules for developing evaluation criteria follow:
- b. The relative ranking of estimated costs or price to technical shall be described either by narrative description (i.e., cost is less important than technical) or by formulas assigning weights to cost and technical scores.
- c. Evaluation criteria shall be developed for the specific requirements of each contract, to predict which of the offerors is most qualified to perform under the contract. Therefore, criteria shall be chosen that will require the offeror to provide evidence of ability to perform. These criteria shall address the following topics:
  - (1) Understanding of the requirements;
  - (2) Management ability;
  - (3) Commitment to quality;
  - (4) Key personnel (qualifications and experience);
  - (5) Resources and facilities; and
  - (6) Similar prior experience.
- d. An offeror's price or estimated cost can appropriately be considered in a technical evaluation. For example, the makeup of a cost proposal can provide added insight into the evaluation of an offeror's understanding of the requirements. If an offeror's total proposed cost falls far short of the probable cost of essential elements of the Authority requirement, the offeror's understanding of what the Authority is seeking is called into question.

**8401.2 Standards**

- a. For each variable criterion, quantitative standards shall be established prior to solicitation that enable evaluators to determine the degree to which an offeror possesses the attributes called for by the criterion. Standards provide uniformity to the evaluation process. They enable evaluators to determine to what degree an offer meets a criterion and therefore how the offeror's proposal shall be scored.
- b. Standards shall be expressed as a numerical range; The lowest standard in the range represents the minimum acceptable compliance; any offeror not meeting the minimum standard receives no points for that particular criterion. Successively higher standards shall be established as appropriate. For example, for a variable criterion to be used in evaluating the key personnel proposed by firms whose professional members are not normally certified by a committee of peers, three years experience might be established as a minimum standard for all key personnel. Additional points might be awarded if a given number or proportion of the key personnel possess ten years experience or more.

## 8401.3 The Scoring System

- a. The relative importance of each of the individual technical evaluation criteria shall be analyzed and each criterion given a rank and weight.
  - (1) Rank each criterion shall be assigned one of the following ranks:
    - (a) Most important;
    - (b) More important; or
    - (c) Important
  - (2) Weight. A numerical weighting system, indicating the relative weight to be accorded each rank shall be established.
- b. During the evaluation process, each technical criterion shall be assessed and assigned a score based on the evaluator's assessment of the proposal's promise of meeting the evaluation criteria.

## 8401.4 Developing the Solicitation List

- a. The Executive Director shall determine whether to use a source list or advertising to obtain competition, based on the time available for procurement and the services or goods provided.
- b. Normally a minimum of five sources shall be selected from a solicitation list to ensure adequate competition and fair and consistent treatment of offerors. Selection shall be based on the following criteria:
  - (1) Each firm solicited is believed to have the specific qualifications to reasonably carry out the services requested; and
  - (2) The same firms shall not repeatedly compete against one another.

## 8401.5 Source Selection Plan

- a. A source selection plan shall be developed for each projected contract award over \$1,000,000 employing competitive procedures when price and price-related factors are not the only basis for proposal evaluation and contractor selection. For projected contract awards between \$100,000 and \$1,000,000, a formal source election plan is not required. However, the evaluation structure, including the evaluation criteria used, shall be fully documented.
- b. The source selection plan's contents shall reflect the nature of the requirement. The plan provides guidelines and a control mechanism for conduct of the source evaluation and selection process. At a minimum, the plan should:
  - (1) Describe the services to be contracted for in a statement of work that includes a performance or delivery schedule;
  - (2) Identify those individuals, if known at that time, who will be members of the Technical Evaluation Panel (TEP) and their respective responsibilities;
  - (3) Describe the proposal evaluation criteria and the standards for evaluating proposals against the criteria, to ensure each evaluator's ability to apply the criteria and standards independently;
  - (4) State the importance of each technical criterion relative to other technical criteria;
  - (5) State the relative weight to be given to the technical criteria relative to the cost criteria and method of scoring; and

(6) Describe any other elements of the selection procedures to be used by the Technical Evaluation Panel (TEP), such as site visits or pre-award surveys.

**8401.6 Technical Evaluation Panel**

- a. A TEP shall be established to provide technical expertise for the development of the source selection plan and evaluation structure and to implement it.
- b. The size and membership of the TEP depend upon the magnitude and complexity of the proposed contract. The TEP shall consist of at least three voting members, one of whom is designated chairperson. The Authority may appoint outside consultants as TEP members. The General Counsel shall provide advice to the TEP, and may also serve on the TEP. If any circumstances exist that may cast doubt on a member's ability to evaluate proposals objectively, that member shall alert the General Counsel to the need for resolution of the potential conflict of interest
- c. The TEP shall evaluate the technical proposals against the stated evaluation criteria in a timely manner, and provide the evaluation results to the Executive Director, who shall evaluate and rank the cost proposals. The TEP receives a copy of cost proposals only after completing its technical evaluation; the panel's sole purpose in reviewing cost proposals is to determine whether the technical proposal is credible in light of the proposed costs. The TEP accomplishes its function by following a structured system based on technical criteria and standards for use in evaluating proposals against those criteria.

**8402 SOLICITATION PREPARATION AND DISTRIBUTION**

**8402.1 The solicitation shall include:**

- a. A description of the Authority's requirements;
- b. The evaluation criteria established for the procurement and their relative importance;
- c. Minimum qualifications, if any, required of offerors;
- d. Instructions as to how, where and when to submit proposal; and any particular submission requirements such as resumes or list of references; and
- e. Terms and conditions of the proposed contract.

**8402.2 Offerors' Conference and Offerors' Questions.**

- a. It is sometimes necessary to hold an offerors' conference, prior to proposal submission, to provide clarification on matters of interest. Such a conference shall be held as early as feasible in the solicitation sufficiently in advance of the closing date for the submission of proposal; to allow offerors to reflect the information disseminated in their proposal.
- b. In addition to the potential offerors who shall be notified reasonably in advance of the conference, the conference shall be attended by the Authority personnel needed to give potential offerors a clear and complete understanding of the Authority's requirements.

**8402.3 Offerors' Questions.**

When an offerors' conference is not required, interested firms shall be invited to submit all questions in writing. The Authority shall respond to such questions in a timely manner, and responses shall be sent to all firms on the solicitation list

**8402.4 Solicitation Amendments.**

- a. The Executive Director shall issue an amendment to a solicitation when necessary to make changes in the solicitation.
- b. Solicitation amendments shall be sent to all firms who received initial solicitations, and shall clearly communicate all changes.

8402.5 When it is necessary to cancel a solicitation in its entirety, notice in writing shall be sent to every firm that received an initial solicitation.

**8403 PROPOSAL EVALUATION**

Upon receipt of a proposal, the Executive Director shall log the proposal in and distribute the technical response to the TEP for evaluation. Proposals from offerors not solicited by the Authority may be considered at the discretion of the Executive Director. Proposals received after the date and time set forth in the solicitation may be considered only in the event the Executive Director determines that so doing is in the best interest of the Authority.

**8403.1 Technical Evaluation**

- a. Each technical proposal shall be reviewed by a TEP to determine if it meets the requirements of the solicitation.
- b. Individual proposals shall be evaluated against the evaluation criteria and shall not be compared one against another. Additionally, evaluators may consider information that was not expressly mentioned in the solicitation but that logically bears on the criteria listed. They may consider any information from any source, not merely information contained in the proposal, provided that such information is verified and documented. Each TEP member shall rate the proposal in accordance with the pre-established scale.
- c. After the individual TEP members have completed and documented their evaluations, the TEP shall meet as a group to discuss the strengths and weaknesses of each proposal. The goal of this meeting is to reach a consensus - a team position - on the merits and deficiencies of each proposal, relative to the evaluation criteria, and to agree on an overall ranking to each proposal.
- d. The TEP chairperson shall issue the Final TEP Report to the Executive Director. The report shall reflect the consensus reached at the TEP consensus meeting or the basis upon which the TEP chairperson made a decision if a consensus could not be reached. All TEP members must sign, and all copies of the technical reports and cost proposals that were in the possession of TEP members shall be provided as report attachments.

**8403.2 Cost/Price Evaluation**

(1) The Elements. Cost/price evaluation includes:

- (a) The predetermined weighting that reflects the importance of total price or estimated cost to the Authority versus technical merit;
- (b) The realism of a proposed cost or price and its correlation with the technical proposal; and
- (c) When fair and adequate price competition is obtained, comparison among proposed prices and to the Authority's estimates is generally adequate to verify that the prices offered are reasonable; and

- (d) In the case of a proposal offering not a fixed price but an estimated cost of performance, an analysis shall be made of the realism of the estimated cost.
- (2) When a single offer is received in response to a competitive solicitation or when the contract will not have a fixed price, the Executive Director shall verify the reasonableness and realism of the price/costs offers. Techniques for doing so include:
- (a) Comparison of previously proposed costs and previous contract costs against currently proposed costs for the same or similar service or product in comparable quantities;
  - (b) Comparison of proposed costs with the Authority's cost estimates;
  - (c) Application of rough yardsticks (such as dollars per pound, per specific type of data or paperwork processed, or other unit) to highlight significant inconsistencies that warrant additional inquiry; and
  - (d) Comparing an offeror's estimates to historical performance.

## **8404 SELECTION**

### **8404.1 Proposal Verification**

- a. For a contract with a total estimated price greater than \$500,000, the Authority shall verify the accuracy of salient representations made by the firm to compare proposal resources with actual resources. Forms of verification, including discussions with firm's clients and interviews with key personnel, may be undertaken.
- b. Where appropriate, the Executive Director and/or one or more TEP members may perform on-site visits to evaluate that an offeror's capabilities are as presented in its technical proposals. The primary focus of the site visit is verification of the contractor's capacity and resources to perform the work.
- c. For the purposes of obtaining information on which to base financial capacity assessments, the Executive Director may require final candidates to submit additional financial information, as needed, unless they provided sufficient information in their initial proposal.

### **8404.2 Selection Process.**

- a. Following initial evaluation of proposals, the Executive Director shall determine the approach to be followed in selecting one or more firms for contract award. One of the three following approaches may be used.
- b. A contract may be awarded on the initial ranking that results from technical and cost evaluations of the proposals without further discussions or negotiations.
- c. Firms may be selected based on competitive range determination, and discussions may be held with, and best and final offers (BAFOs) solicited from, only those firms in the competitive range.
- d. Negotiations may be conducted with one or more firms, simultaneously or sequentially. This approach should be used when the requirement is complex or of high dollar value.

### **8404.3 Award Based on Negotiations**

- a. After considering the TEP report and any other findings, the Executive Director may select, for negotiations, one or more qualified offerors whose proposal(s) appear to represent the best value to the Authority.

1. The goal of negotiations is for the Authority and a final candidate to resolve differences of opinion regarding technical, management, or pricing terms and conditions that were not resolved with existing information. Negotiations shall be conducted in good faith and within generally accepted business practices. All negotiations sessions shall be fully documented by the Authority.
  2. This method saves offerors with no likely chance of being selected the additional expense of discussions, negotiations, and preparation of written BAFOs.
  3. If the technical and cost evaluation clearly identifies a firm that is superior to others, only that candidate shall be selected for negotiations. If there are several firms with closely similar scores, negotiations shall be initiated with the closely related firms. An offeror need not have a fully acceptable proposal to qualify for negotiations, provided the Executive Director believes that its proposal can be made fully acceptable during the negotiations.
- b. The Executive Director shall promptly notify, in writing, those offerors who will not be included in the negotiations process.
- c. Request for Negotiated Final Offers
- (1) A request for a negotiated offer shall state that negotiations are concluded and provide any candidate an opportunity to submit negotiated final offers by confirming cost, technical, or other terms and conditions agreed upon. A submission date and time that allow a reasonable opportunity for submission of written negotiated offers shall be included.
- Note: No (2) in original document
- (3) If the Executive Director determines that the revised offers have an effect on technical requirements or may alter the TEP's initial analysis of cost realism, further TEP evaluation may be required.

#### 8404.4 Award Based on Competitive Range Determination and Discussions

- a. Determination of Competitive Range
- (1) The determination is made on the basis of technical, cost, and other factors as stated in the solicitation. The competitive range shall include all proposals that have a reasonable chance of being selected for award;
  - (2) When there is doubt as to whether a firm should be included within the competitive range, that firm shall be included. The Executive Director shall provide to the TEP a list of offerors in the competitive range, and shall promptly notify those offerors that have been eliminated from competition.
- b. Discussions.
- (1) The goal of discussions is to assure the Authority that the final candidates understand and can achieve the requirements of the Authority's solicitation.
  - (2) The Authority shall:
    - (a) Advise the offeror of deficiencies in its proposal;
    - (b) Attempt to resolve any uncertainties concerning the offeror's proposal; and
    - (c) Resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible without disclosing information on other offerors' proposals or the evaluation process.



## (3) The Authority shall not:

- (a) Help an offeror bring its proposal up to the level of other proposals through successive discussion opportunities;
- (b) Disclose technical information pertaining to one proposal that results in improvement of an competing proposal;
- (c) Indicate to an offeror a price that it must meet to obtain further consideration; or
- (d) Furnish information about other offerors' proposed costs.

c. The extent of discussions is determined on a case-by-case basis but shall provide all parties with an equal opportunity for improvement. Each offeror shall be given a reasonable opportunity to support, clarify, correct, improve, or revise its proposal.

d. A best and final offer (BAFO) is a revision to the original cost and technical proposals that reflects the firm's best offer to the Authority. After discussions with all offerors in the competitive range have concluded, the Executive Director shall solicit BAFOs from all offerors in the competitive range.

- (1) The request shall state that discussions are concluded and give notice of the opportunity to submit BAFOs by revision cost proposal, technical proposal, or other-terms and conditions of the original proposals. A common cutoff date and time reasonable opportunity for submission of written BAFOs shall be provided.
- (2) After receipt of BAFOs the Executive Director shall not reopen discussions unless it is clearly necessary in the Authority's interest to do so, or when available information is not adequate for contractor selection and award.
- (3) After the close of discussions and the receipt of BAFOs, the TEP shall reconvene to consider only the changes that are brought about by the BAFOs.

8404.5 The Executive Director shall determine the best value to the Authority based on the stated technical evaluation criteria and the offeror's price, considering all rankings, ratings, or other information by the TEP. Decisions shall be supportable, documented and reasonable, based on the evaluation factors.

### **Section 8405 Contract Award**

8405.1 The Executive Director shall prepare a memorandum detailing the procurement and the rationales for the source selection. For procurements in excess of \$1,000,000 on an annual basis, the memorandum shall be provided to the Chair for review and approval.

#### **8405.2 Notification of Unsuccessful Offerors/Debriefings**

- a. Following contract award the Executive Director shall send a timely written notice of the award to all unsuccessful offerors who continued to participate in the procurement.
- b. A request for a debriefing made within a reasonable time after notice of award by an unsuccessful offeror may be accommodated by the Executive Director in his or her discretion. The purpose of the debriefing is to inform the unsuccessful offeror why its proposal was not selected, to emphasize areas in which improvements may enhance its

chances of receiving future contracts from the Authority, and to provide the offeror with an understanding of the general basis for selection of the successful offeror.

## CHAPTER 85

### TASK ORDER AGREEMENTS

#### 8500 OVERVIEW

##### 8500.1 Scope

(a) Task Order Agreements. A task order agreement is a contracting method intended for repetitive requirements. The Authority identifies recurring needs and prepares a general statement of work for the required services or goods. Firms are solicited and agreements are established with one or more firms that have the qualifications and capability to meet the Authority's anticipated future needs.

(b) Task Order. When needs covered by the agreement arise, the Authority prepares a SOW and an abbreviated solicitation process occurs with one or more of the contractors previously awarded a task order agreement. A task order is awarded to the successful firm. Multiple task orders may be issued, on an as-needed basis.

(c) Term. It is the Authority's policy to establish task order agreements for an initial term of one year, or less, with a maximum of two one-year renewable options. Task orders need not be completed within that time frame, but both parties must execute the task order before expiration of the final term of the task order agreement.

#### 8501 PROCEDURES FOR ESTABLISHING TASK ORDER AGREEMENTS

8501.1 The use of task order agreements reduces processing lead time when meeting future repetitive Authority requirements. It is appropriate to set up task order agreements when the Authority anticipates repetitive needs within a general service or goods category, and the number of occasions, and the exact period of time, the service will be required is not known.

##### 8501.2 Procedures.

- a. The Executive Director shall establish task order agreements for repetitive services or goods with as many firms as is necessary to ensure the advantages of adequate competition, while satisfying the requirements of each task order in a timely manner, and ensure an adequate supply of contractors to meet overall requirements.
- b. Task order agreements may be established by either simplified or formal contracting procedures.

**8502 TASK ORDERS****8502.1 Method of Solicitation of Task Orders**

- a. Task order agreements shall not be used to avoid the Authority's preference for adequate competition. When appropriate, all task order agreement contractors shall be solicited for each task order. If this is not administratively cost effective, some type of fair and consistent selection shall be used.
- b. The request for a task order proposal shall describe the task order requirement, include the statement of work, and describe the type of proposal required from the contractor and the time frame for its submission. Elements of a task order proposal shall normally include:
  - (1) Management plan, outlining the contractor's technical approach, if appropriate;
  - (2) Schedule of performance for completing the task;
  - (3) Listing of key personnel who will be assigned to the task, with resumes if required; and
  - (4) A cost proposal which will either be a fixed-priced offer or a time-and-materials offer with a ceiling amount.
- c. Contractors shall normally be required to provide a written task order proposal within five business days from receipt of the request.

**8502.2 Task Order Contents. All task orders, at a minimum, shall:**

- (a) Incorporate terms and conditions of the task order agreement;
- (b) Contain or incorporated a SOW for the specific task to be performed;
- (c) Specify milestones with a schedule of deliverables;
- (d) State a period of performance.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the Register. Comments should be filed with the Office of the Chief Financial Officer, Office of Contract and Procurements, 941 North Capitol Street NE, 8th Floor, Washington, DC 20019. Comments of the proposed rules should be sent in writing to the address stated above.

## DEPARTMENT OF HEALTH

**NOTICE OF PROPOSED 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 25, 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 take final rulemaking action to adopt the following amendments to Chapter 46 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The proposed amendments establish standards of treatment and care for patients afflicted with chronic pain.

**Chapter 46 (Medicine) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended to read as follows:**

**A new section is added to read as follows:**

**4609                   Standards for the Use of Controlled Substances for  
the Treatment of Pain**

- 4609.1           A licensed physician shall prescribe, order, administer, or dispense controlled substances for pain only for a legitimate medical purpose based on accepted scientific knowledge of the treatment of pain or based on sound clinical grounds. All such prescribing shall be based on clear documentation of unrelieved pain and in compliance with applicable District or federal law.
- 4609.2           A licensed physician shall perform an evaluation of the patient by taking a complete medical history and performing a physical examination. The medical history and physical examination shall be documented in the medical record. The medical record shall contain a description of the following:
- (a)   The nature and intensity of the patient's pain;
  - (b)   The patient's current and past treatments for pain;
  - (c)   The patient's underlying or coexisting diseases or conditions;
  - (d)   The effect of the pain on the patient's physical and psychological function;
  - (e)   A history of the patient's substance abuse if applicable; and

- (f) The presence of one or more recognized medical indications in the patient for the use of a controlled substance.
- 4609.3 A licensed physician shall maintain a written treatment plan which states the objectives used to determine treatment success, such as pain relief and improved physical and psychosocial function.
- 4609.4 The treatment plan shall indicate if any further diagnostic evaluations or other treatments are planned.
- 4609.5 The physician shall adjust drug therapy to the individual medical needs of each patient after treatment begins.
- 4609.6 The physician shall consider other treatment modalities or a rehabilitation program if necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.
- 4609.7 The physician shall discuss the risks and benefits of the use of controlled substances with the patient, person(s) designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent.
- 4609.8 If the patient is determined to be at high risk for medication abuse or have a history of substance abuse, the physician shall employ the use of a written agreement between the physician and patient outlining the patient's responsibilities, including, but not limited to:
  - (a) Urine/serum medication levels screening when requested;
  - (b) Number and frequency of all prescription refills; and
  - (c) Reasons for which drug therapy may be discontinued, such as violation of an agreement.
- 4609.9 The physician shall do the following:
  - (a) Review the course of treatment and any new information about the etiology of the pain at reasonable intervals based on the individual circumstances of the patient;
  - (b) Continue or modify the pain therapy depending on the physician's evaluation of the patient's progress;
  - (c) Reevaluate the appropriateness of continued treatment if treatment goals are not being achieved despite medication adjustments; and

- (d) Monitor the patient's compliance in medication usage and related treatment plans.

4609.10 The physician shall refer the patient, as necessary, to another physician for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion.

4609.11 The physician shall consult with or refer to an expert for management of the following types of patients:

- (a) Patients with a history of substance abuse; or
- (b) Patients with comorbid psychiatric disorders that require extra care, monitoring, and documentation.

4609.12 The physician shall keep accurate and complete records that include, but are not limited to:

- (a) The medical history and physical examination, including history of drug abuse or dependence, as appropriate;
- (b) Diagnostic, therapeutic, and laboratory results;
- (c) Evaluations and consultations;
- (c) Treatment objectives;
- (d) Discussion of risks and benefits;
- (e) Treatments;
- (f) Medications including date, type, dosage, and quantity prescribed;
- (g) Instructions and agreements; and
- (h) Periodic reviews.

4609.8 The physician shall maintain current records in an accessible manner that is readily available for review.

#### **4699 DEFINITIONS**

4699.1 As used in this chapter, the follow terms shall have the meaning ascribed:

**Chronic pain** – a pain state that is persistent.

**Pain** – an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage.

**Substance abuse** – the use of any substance for non-therapeutic purposes or use of medication for purposes other than those for which it is prescribed.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5 p.m., Monday through Friday, excluding holidays.

## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED 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 take final rulemaking action to adopt the following amendments to Title 17 (Business, Occupations & Professions) (May 1990) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The purpose of the amendment is to establish licensure and practice regulations for the profession of Marriage and Family Therapy, which was newly established pursuant to the Marriage and Family Therapy Amendment Act of 2003, effective March 10, 2004 (D.C. Law 15-88; D.C. Office Code § 3-1201.02(19)).

**Title 17 (Business, Occupations & Professions) (May 1990) is amended as follows:**

**I. The table of contents is amended as follows:**

**A. A new Chapter heading for Chapter 51 is added to read as follows:**

**CHAPTER 51        MARRIAGE AND FAMILY THERAPY**

**B. Section headings for Chapter 51 are added to read as follows:**

- 5100        GENERAL PROVISIONS
- 5101        TERM OF LICENSE
- 5102        EDUCATIONAL REQUIREMENTS
- 5103        EXPERIENTIAL REQUIREMENTS
- 5104        APPLICANTS EDUCATED IN FOREIGN COUNTRIES
- 5105        NATIONAL EXAMINATION
- 5106        CONTINUING EDUCATION REQUIREMENTS
- 5107        APPROVED CONTINUING EDUCATION PROGRAMS AND  
              ACTIVITIES
- 5108        UNAPPROVED CONTINUING EDUCATION PROGRAMS AND  
              ACTIVITIES



- 5109 CONTINUING EDUCATION CREDITS
- 5110 LICENSURE BY ENDORSEMENT
- 5111 PRACTICE OF MARRIAGE AND FAMILY THERAPY BY  
UNLICENSEDMARRIAGE AND FAMILY THERAPISTS
- 5112 STANDARDS OF CONDUCT
- 5199 DEFINITIONS

**II. A new Chapter 51 is added to read as follows:**

**CHAPTER 51 MARRIAGE AND FAMILY THERAPY**

**5100 GENERAL PROVISIONS**

- 5100.1 This chapter shall apply to applicants for and holders of a license to practice marriage and family therapy.
- 5100.2 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title shall supplement this chapter.

**5101 TERM OF LICENSE**

- 5101.1 Subject to § 5101.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of December 31 of each even-numbered year.
- 5101.2 If the Director changes the renewal system pursuant to § 4006.3 of chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birthdate of the holder of the license, or other date established by the Director.

**5102 EDUCATIONAL REQUIREMENTS**

- 5102.1 An applicant shall furnish proof satisfactory to the Board in accordance with § 831(a) of the Act, (D.C. Official Code § 3-1208.31(a) (2004 Supp.)) that the applicant has successfully completed a master's degree or a doctoral degree in marriage and family therapy from a recognized educational institution, or a graduate degree in an allied field from a recognized educational institution and has successfully completed graduate level course work which is equivalent to a master's degree in marriage and family therapy, as determined by the Board.
- 5102.2 For the purposes of § 5102.1, qualifying degrees shall consist of

at least 60 semester hours or 90 quarter credits in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE).

5102.3 A qualifying graduate degree shall include a minimum of thirty-nine (39) semester hours in the following areas:

- (a) A minimum of nine (9) semester hours of marriage and family studies, which shall include:
  - (1) Theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling;
  - (2) Family systems theories and other relevant theories and their application in working with wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and
  - (3) Preventative approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems;
- (b) A minimum of nine (9) semester hours of marriage and family therapy, which shall include:
  - (1) The practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and
  - (2) Interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues, including socioeconomic disadvantage, abuse and addiction;
- (c) A minimum of nine (9) semester hours of human development, which shall include:
  - (1) Individual development and transitions across the life span;

- (2) Family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues, and disability;
  - (3) Human sexual development, function and dysfunction, impacts on individuals, couples, and families, and strategies for intervention and resolution; and
  - (4) Issues of violence, abuse, and substance use in a relational context, and strategies for intervention and resolution;
- (d) A minimum of six (6) semester hours of psychological and mental health competency which shall include:
- (1) Psychopathology, including etiology, assessment, evaluation, and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis, and multiaxial diagnosis;
  - (2) Standard mental health diagnostic assessment methods and instruments, including standardized tests; and
  - (3) Psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples, and families;
- (e) A minimum of three (3) semester hours of professional ethics and identity, which shall include:
- (1) Professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings, and collaboration with other disciplines;
  - (2) Ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, record keeping, family law, confidentiality issues, and the relevant code of ethics, including the code of ethics specified by the Board; and

- (3) The interface between therapist responsibility and the professional, social, and political context of treatment; and
- (f) A minimum of three (3) semester hours of research, which shall include:
  - (1) Research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and
  - (2) Research methodology, quantitative and qualitative methods, statistics, data analysis, ethics, and legal considerations of conducting research, and evaluation of research.

**5103****EXPERIENTIAL REQUIREMENTS**

- 5103.1 An applicant shall furnish proof satisfactory to the Board that the applicant has completed a minimum of two (2) years of post-graduate work, within five (5) years of graduation, consisting of supervised clinical work experience in marriage and family therapy and supervision following completion of the first qualifying graduate degree and practicum required as part of the course of study.
- 5103.2 Unless good cause is shown, the post-graduate work shall be completed within five (5) years after the day the first qualifying degree was conferred and the practicum completed.
- 5103.3 Pursuant to § 5103.1, supervision shall be provided by supervisors approved by the American Association for Marriage and Family Therapy (AAMFT) or by the Board.
- 5103.4 A supervisor shall be responsible for all supervised practice by a supervisee during the period of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the supervisee.
- 5103.5 In addition to satisfying the requirements of §§ 5103.1 and 5103.2 an applicant shall document successful completion of the following:
  - (a) A minimum of fifteen hundred (1,500) hours of face-to-face contact with couples, families and individuals for the purpose of assessment and intervention; and

- (b) A minimum of three hundred (300) hours of supervision of marriage and family therapy, with at least one hundred (100) hours being individual supervision. The remaining hours may be group supervision.

5103.6 An applicant who has practiced marriage and family therapy for a period of at least five (5) years prior to the date of submission of the application in a jurisdiction that does not require licensure shall not be required to be supervised pursuant to §§ 5103.1, 5103.2, 5103.3, and 5103.4

#### **5104 APPLICANTS EDUCATED IN FOREIGN COUNTRIES**

5104.1 The Board may grant a license to practice marriage and family therapy to an applicant who completed an educational program in an educational institution in a foreign country, which is not accredited by COAMFTE if the applicant meets the following requirements:

- (a) Meets all requirements of this chapter except for § 5102.1; and
- (b) Demonstrates to the satisfaction of the Board that the applicant's education and training are substantially equivalent to the requirements of this subtitle and the Act in ensuring that the applicant is qualified to practice marriage and family therapy required by § 5104.2.

5104.2 An applicant under this section shall, in lieu of meeting the requirements of § 5102.1, submit with the application a certification from a private education evaluation service approved by the Board that the applicant's foreign education is substantially equivalent to the education provided in an accredited program.

5104.3 The Board may interview an applicant under this section to determine whether the applicant's education or training meets the requirements of the Act and this chapter.

5104.4 If a document required by this chapter is in a language other than English, the applicant shall arrange for its translation into English by a translation service acceptable to the Board and shall submit a translation signed by the translator attesting to its accuracy.

#### **5105 NATIONAL EXAMINATION**

5105.1 To qualify for a license, an applicant shall, in addition to meeting the requirements of § 5102 and § 5103, receive a passing score, as determined

by the Board, on the standardized examination sponsored by the Association of Marital and Family Therapy Regulatory Boards.

**5106 CONTINUING EDUCATION REQUIREMENTS**

5106.1 This section shall apply to applicants for the renewal, reactivation, and reinstatement of a license for the term expiring December 31, 2006 and for subsequent terms.

5106.2 This section shall not apply to applicants for an initial license by reciprocity or endorsement.

5106.3 Continuing education credit shall be granted only for programs or activities approved by the Board in accordance with § 5107.

5106.4 An applicant for renewal of a license to practice marriage and family therapy shall submit proof of having completed thirty (30) hours of approved continuing education during the two-year (2) period preceding the date the license expires. No less than fifteen (15) of the thirty (30) hours shall be completed in the physical presence of the approved sponsor. Six (6) hours of the thirty (30) hours shall be in ethics and the remaining twenty-four (24) hours may consist of current and emerging issues in marriage and family therapy such as:

- (a) Non-Traditional Families;
- (b) Domestic Violence;
- (c) HIV;
- (d) Aging;
- (e) End of Life Issues;
- (f) Addiction and Psychopharmacology; or
- (g) Trauma.

5106.5 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act, (D.C. Official Code § 3-1205.11 (2001)), who submits an application to reactivate a license shall submit proof of having met the continuing education requirements for each licensing period that the license was in inactive status.

5106.6 To qualify for a license, an applicant for reinstatement of a license to

practice marriage and family therapy pursuant to § 512 of the Act (D.C. Official Code § 3-1205.12 (2001)) shall submit proof of having completed fifteen (15) hours of credit in an approved continuing education program for each year after March 2, 2004 that the applicant was not licensed, up to a maximum of seventy-five (75) hours.

- 5106.7 An applicant for license renewal, reactivation, or reinstatement under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:
- (a) The name and address of the sponsor of the program;
  - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
  - (c) The dates on which the applicant attended the program;
  - (d) The hours of credit claimed; and
  - (e) Verification by the sponsor of completion, by signature or stamp.
- 5106.8 An applicant for renewal of a license who fails to submit proof of having completed continuing education requirements by the date the license expires may renew the license up to sixty (60) days after expiration by submitting the proof pursuant to § 5106.7 and by paying the required additional late fee.
- 5106.9 Upon submitting proof and paying the late fee, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documentation and payment of the late fee.
- 5106.10 If an applicant for renewal of a license fails to submit proof of completion of continuing education requirements or pay the late fee within sixty (60) days after the expiration of the applicant's license, the license shall be deemed to have lapsed on the date of expiration.
- 5106.11 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause.
- 5107 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**
- 5107.1 The Board may, in its discretion, approve continuing education programs

and activities that contribute to the growth of an applicant in professional competence in the practice of marriage and family therapy and that meet the other requirements of this section.

5107.2 The Board may approve the following types of continuing education if the programs or activity meets the requirement of § 5107.1:

- (a) An undergraduate or graduate course given at an accredited college or university;
- (b) A seminar or workshop;
- (c) An educational program given at a conference;
- (d) Engaging in instructional hours while serving as an instructor or speaker at an institution of higher learning, conference, seminar, workshop, or in-service training;
- (e) Professional writing, excluding reprints or republications of previously published materials, published within the two (2) years prior to the license renewal date, which consist of articles or books that meet the following requirements:
  - (1) Journal articles shall be published in professional journals; and
  - (2) Chapters authored in books acceptable under this section.
- (f) Participation in research as a principal investigator or research assistant; and
- (g) Informal study or a home study program (documented by title, author, name of topic, time spent, written summary, and date(s) completed) carried out individually that is approved by the Board.

5107.3 A continuing education program shall meet all of the following requirements:

- (a) Be current in its subject matter and taught by qualified individuals;
- (b) Be approved by the Board; and
- (c) Meet one of the following requirements:



- (1) Be administered or approved by a health care organization; accredited health care facility, or accredited college or university; or
- (2) Be submitted by the program sponsors to the Board for review no less than sixty (60) days prior to the date of the presentation and be approved by the Board.

5107.4 The Board may issue and update a list of approved continuing education programs or providers.

**5108 UNAPPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

5108.1 Continuing education credit shall not be granted for the following:

- (a) Organizational activity such as serving on committees or councils or as an officer in a professional organization;
- (a) Meetings or activities such as in-service programs which are required as part of one's job; and
- (c) Continuing education activity completed before the two (2) year period for which the continuing education credit is submitted.

**5109 CONTINUING EDUCATION CREDITS**

5109.1 Professional research and writing conducted pursuant to § 5107.2(f) shall account for a total of no more than ten (10) of the thirty (30) continuing education units required.

**5110 LICENSURE BY ENDORSEMENT**

5110.1 The Board shall issue a license to a marriage and family therapist who has a valid unrestricted license from another jurisdiction of the United States or Canada if:

- (a) That person, when granted the license met all requirements contained in § 5102.1 through § 5104.4 and any applicable Board rules; or
- (b) The requirements of the other jurisdiction are, at the time of the application, substantially equivalent to the requirements of this chapter.

**5111 PRACTICE OF MARRIAGE AND FAMILY THERAPY BY  
UNLICENSED MARRIAGE AND FAMILY THERAPISTS**

- 5111.1 An unlicensed marriage and family therapist may practice marriage and family therapy in accordance with this section only under general or immediate supervision.
- 5111.2 An unlicensed marriage and family therapist shall be subject to disciplinary action for any violation of the Act or this chapter. The Board may deny an application for a license by a supervisee who is found to have violated the Act or this chapter, in accordance with chapter 41 of this title.
- 5111.3 An unlicensed marriage and family therapist shall identify himself or herself as such at all times when practicing marriage and family therapy.
- 5111.4 An unlicensed marriage and family therapist shall not receive compensation of any nature, directly or indirectly from a client, except for a salary based on hours worked under supervision.

**5112 STANDARDS OF CONDUCT**

- 5112.1 Any holder of a license under this chapter or any person authorized to practice marriage and family therapy under this chapter shall comply with the standards of ethical and professional conduct established by the AAMF Therapy as they may be amended or republished from time to time.
- 5112.2 A marriage and family therapist shall provide an informed consent form, signed by both parties, which shall notify the client of his or her rights and the risks involved during the therapy.
- 5112.3 The following documentation shall be maintained for each session:
- (a) Person or persons present;
  - (b) Date of the session;
  - (c) Times the session began and ended;
  - (d) Issues presented (including assessment and history as appropriate);
  - (e) Risks presented; and
  - (f) Risks assessed.

**5199            DEFINITIONS**

5199.1            As used in this chapter, the following terms shall have the meanings ascribed:

**Applicant** – a person applying for a license to practice marriage and family therapy under this chapter.

**Board** – the Board of Marriage and Family Therapy, established by section 217 of the Act, as amended by the Marriage and Family Therapy Amendment Act of 2003, effective March 10, 2004 (D.C. Law 15-88; D.C. Official Code § 3-1202.17).

**General supervision** – supervision in which an approved marriage and family therapist is available to the supervisee either in person or by a communications device.

**Good cause** – a legally sufficient reason for granting an extension because of:

- (a)      Serious or protracted illness of the applicant;
- (b)      The death or serious and protracted illness of a member of the applicant's immediate family; or
- (c)      Deployment in a combat zone by the military whenever the United States is engaged in active military operations against any foreign power.

**Group supervision** – one supervisor meeting with three to six supervisees.

**Immediate supervision** – face-to-face supervision in which an approved marriage and family therapist, psychologist, psychiatrist, licensed independent clinical social worker, licensed professional counselor, or advanced practice nurse is either discussing or observing the supervisee's practice.

**Individual supervision** – one supervisor meeting with one or two supervisees.

**Instructional hours** – the amount of time spent in actual presentation excluding preparation hours.

**Marriage and family therapist** – a person licensed to practice marriage and family therapy under the Act.

**Unlicensed marriage and family therapist** – a person who has completed the educational requirements for a degree in marriage and family therapy but has not met the clinical requirements for licensure.

Comments on the proposed rules should be sent in writing to the Department of Health, Office of the General Counsel, 4<sup>th</sup> Floor, 825 North Capitol Street, NE, Washington, DC

20002, not later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Copies of these rules may be obtained Monday through Friday, excepting holidays, between the hours of 8:30 A.M. and 4:45 P.M. at the same address.

## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Health Occupations Revision Act of 1985, 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 take final rulemaking action to adopt the following amendments of Chapter 63 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of these amendments is to clarify the educational and training requirements for occupational therapists, occupational therapy assistants and occupational therapy students.

**Chapter 63 (Occupational Therapy) of Title 17 (Business, Occupations & Professions) (May 1990) is amended as follows:**

**Section 6302.1 is amended to read as follows:**

Except as otherwise provided in this chapter, an applicant for a license to practice occupational therapy shall furnish proof satisfactory to the Board, in accordance with § 504(g) (1) of the Act, D.C. Official Code § 3-1205.04 (g)(1), that the applicant has done the following:

- (a) Has successfully completed an educational program in the practice of occupational therapy in an educational program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE); and
- (b) Has successfully completed a period of supervised fieldwork experience required by the recognized educational institution where the applicant fulfilled his or her academic requirements.

**Section 6302.2 is amended to read as follows:**

Except as provided in § 6303, an applicant for a license as an occupational therapy assistant shall furnish proof satisfactory to the Board, in accordance with § 504(f)(2) of the Act, D.C. Official Code § 3-1205.04(g)(3)(A) (2001), that the applicant has done the following:

- (a) Has successfully completed an educational program in occupational therapy assistant, in an educational program, accredited by ACOTE;
- (b) Has successfully completed a period of supervised fieldwork experience required by the recognized educational institution where the applicant fulfilled his or her academic requirements.

**Section 6303.1 is amended to read as follows:**

6303.1 The Board may grant a license to practice to an applicant who has his or her exam scores submitted from NBCOT to the Board and who has completed an educational program in a foreign country that:

- (a) Is approved by the World Federation of Occupational Therapists; and
- (b) Is verified by National Board for Certification in Occupational Therapy (NBCOT).

**Section 6303.2 is amended to read as follows:**

6303.2 In lieu of meeting the requirements of § 6302.2(a) an applicant for licensure as an occupational therapist shall submit evidence of successful completion of the occupational therapy certification examination developed by NBCOT for occupational therapists to the Board.

**Section 6303.3 is amended to read as follows:**

6303.3 In lieu of meeting the requirements of § 6302.2 (a) an applicant for licensure as an occupational therapy assistant shall submit evidence of successful completion of the occupational therapy assistant certification examination developed by NBCOT for occupational therapy assistants to the Board.

**Section 6303.4 is amended to read as follows:**

6303.4 An applicant shall arrange for the evaluation required by § 6303.2(a) or § 6303.3(a) to be sent directly from NBCOT to the Board.

**Section 6304.1 is amended to read as follows:**

6304.1 To qualify for a license by examination, an applicant shall receive a passing score on the occupational therapy certification examination developed by the NBCOT.

**Section 6304.2 is amended to read as follows:**

6304.2 The passing score on the national examination shall be the passing score established by NBCOT.

**Section 6304.4 is amended to read as follows:**

6304.4 An applicant shall submit with a completed application the applicant's examination results, certified by the NBCOT, to the Board.

**A new section 6304.5 is added as follows:**

- 6304.5        An applicant shall only be licensed upon successfully passing the certification examination for occupational therapists or occupational therapy assistants.

**A new section 6305 is added to read as follows:**

**6305            SCOPE OF PRACTICE FOR OCCUPATIONAL THERAPISTS**

- 6305.1        An occupational therapist shall exercise sound judgment and provide adequate care within the practice when using methods that include but are not exclusive of the following AOTA standards for scope of practice:

- (a) Establishment, remediation or restoration of skill or ability in a client;
- (b) Compensation, modification, or adaptation of activity or environment to enhance performance;
- (c) Maintenance and enhancement of capabilities without which performance in everyday life would decline;
- (d) Health and wellness promotion to enable or enhance performance in everyday life activities; and
- (e) Prevention of barriers to performance, including disability prevention.

- 6305.2        An occupational therapist shall exercise sound judgment when evaluating factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure, and social participation. These factors may include:

- (a) Body functions and body structures;
- (b) Habits, routines, roles, and behavior patterns;
- (c) Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance; and
- (d) Performance skills including motor, process, and communication or interaction skills.

- 6305.3        An occupational therapist shall exercise sound judgment and provide adequate care to a client when administering interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, education, work, play, leisure, and social participation.

These interventions and procedures may include:

- (a) Therapeutic use of occupations, exercises, and activities;
- (b) Training in self-care, self-management, home management, and community work reintegration;
- (c) Development, remediation, or compensation of physical, cognitive, neuromuscular, and behavioral skills;
- (d) Therapeutic use of self including one's personality, insights, perceptions, and judgments as part of the therapeutic process;
- (e) Education and training of individuals, involved in the care of the client;
- (f) Care coordination, case management, and transition services;
- (g) Consultative services to groups, programs, organizations, or communities;
- (h) Modification of environments and adaptation of processes, including the application of ergonomic principles;
- (i) Assessment, design, fabrication, application, fitting and training in assistive technology, adaptive devices and orthotic devices, and training in the use of prosthetic devices;
- (j) Assessment, recommendation, and training in techniques to enhance mobility including wheelchair management and adaptive driving;
- (k) Management of feeding, eating, and swallowing to enable eating and feeding performance; and
- (l) Application of physical agent modalities, and use of a range of specific therapeutic procedures to enhance performance skills.

**Section 6306.4 is amended to read as follows:**

- 6306.4      Practitioners applying for license renewal shall complete contact hours of qualified activities for maintaining continuing competence during the two (2) year period preceding the date the license expires in the following manner:
- (a) Occupational therapists shall complete a minimum of 24 contact hours; and
  - (b) Occupational therapy assistants shall complete a minimum of 12 contact hours.



**Section 6306.6 is amended to read as follows:**

- 6306.6 To qualify for a license, a person with an inactive license pursuant to § 511 of the Act, D.C. Official Code § 3-1205.11 who submits an application to reactivate a license shall submit proof according § 6306.9 of having met the continuing education requirements for the current term of the license.

**Section 6306.7 is amended to read as follows:**

- 6306.7 An applicant for reinstatement of a license or reactivation of an inactive license to practice as an occupational therapist:
- (a) Who does not hold a current license in any other jurisdiction, shall submit proof pursuant to § 6306.9 of having completed twelve (12) contact hours in an approved continuing education program for each year that the applicant was not licensed, up to a maximum of sixty (60) hours. Twenty-four (24) of those contact hours shall be completed within two (2) years prior to the date licensed has lapsed and one hundred and sixty (160) hours of supervised clinical training shall be completed within the two (2) months prior to licensure; or
  - (b) Who holds a current license in any other jurisdiction shall submit proof pursuant to § 6306.9 of having completed twelve (12) contact hours in an approved continuing education program for each year that the applicant was not licensed, up to a maximum of sixty (60) hours. Twenty-four (24) of those contact hours shall be completed within two (2) years prior to the date licensed has lapsed.

**Section 6306.8 is amended to read as follows:**

- 6306.8 An applicant for reinstatement of a license or reactivation of an inactive license to practice as an occupational therapy assistant, shall submit proof pursuant to § 6306.9 of having completed six (6) contact hours in an approved continuing education program for each year that the applicant was not licensed, up to a maximum of thirty (30) hours. Twelve (12) of those contact hours shall be completed within two (2) years prior to the date a licensed has lapsed. One hundred and sixty (160) hours of supervised clinical training shall be completed within the two (2) months prior to licensure.

**A new section 6306.14 is added to read as follows:**

- 6306.14 Practitioners who are licensed to practice in a jurisdiction other than the District shall meet the requirements of this section in order to obtain licensure in the District.

**Section 6307.2 is amended to read as follows:**

- 6307.2 The Board shall approve continuing education programs and activities that are relevant to the practice or education of occupational therapists and occupational therapy assistants that document the following:
- (a) Current subject matter with course description;
  - (b) Content focus;
  - (c) Learning outcomes;
  - (d) Target audience; and
  - (e) Satisfactory completion of the course by the course participant.

**Section 6307.3 is amended to read as follows:**

- 6307.3 The Board shall approve the following types of activities provided they are consistent with provisions of these regulations:
- (a) Activities sponsored by state or local occupational therapy organizations;
  - (b) Activities sponsored by American Occupational Therapy Association (AOTA);
  - (c) Activities sponsored by AOTA approved providers;
  - (d) Activities sponsored by an accredited healthcare facility; or
  - (e) Activities sponsored by an accredited college or university.

**Section 6307.5 is amended to read as follows:**

- 6307.5 Any course that does not meet the requirements of § 6307.3 shall not be approved by the Board unless the licensee had prior approval from the Board, at least thirty (30) days before the course.

**Section 6308.4 is amended to read as follows:**

- 6308.4 The Board may grant continuing education credit to an applicant who serves as an instructor or speaker at a program for preparation and presentation time of an academic course, peer-reviewed or non peer-reviewed workshop, seminar, in-service, electronic or web-based course subject to the following restrictions:

- (a) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time;
- (b) The maximum amount of credit which may be granted pursuant to this subsection is fifty percent (50%) of an applicant's continuing education requirement;
- (c) If an applicant had previously received credit in connection with a particular presentation, the Board shall not grant credit in connection with a subsequent presentation unless it involves either a different subject or a substantially modified program; and
- (d) The presentation shall have been completed during the period for which credit is claimed and includes documentation of the following:
  - (1) A copy of the official program or syllabus;
  - (2) The presentation title;
  - (3) The date;
  - (4) The hours of the presentation;
  - (5) The type of audience addressed; and
  - (6) A verification signed by the sponsor.

**Section 6308.7 is amended to read as follows:**

6308.7 The Board may grant an applicant for renewal up to six (6) contact hours for the renewal period, for participation as a primary clinical fieldwork educator for Level II occupational therapy or occupational therapy assistant fieldwork students with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates of the fieldwork; and
- (d) Signature page of student evaluation excluding evaluation scores and comments on student.

**Section 6308.9 is amended to read as follows:**

6308.9 The Board may grant continuing education credit to an applicant for renewal who participates in Board or committee work with agencies or organizations in professionally related areas to promote and enhance the practice of occupational therapy up to three (3) contact hours for one year of involvement for a minimum of eighteen (18) hours. The applicant shall provide the following documentation:

- (a) Name of the committee, board, agency or organization;
- (b) Purpose for service;
- (c) Description of duties and roles; and
- (d) Validation of service by an officer or representative of the organization.

**Section 6308.10 is amended to read as follows:**

6308.10 The Board may request proof of a licensee's completion of continuing competence activities at the completion of a renewal period. A licensee shall:

- (a) Maintain the required proof of completion for each continuing competence activity as specified in these regulations; and
- (b) Retain documentation of continuing competence activity for a minimum of two (2) years following the last day of the license renewal period for which the continuing competence activities were earned.

**A new section 6309 is added to read as follows:**

**6309 SUPERVISION**

6309.1 An occupational therapist shall exercise sound judgment and provide adequate care in the performance of duties as provided in nationally recognized standards of practice while treating clients or supervising the treatment of clients.

6309.2 An occupational therapist shall be responsible for managing all aspects of the occupational therapy care of each client. An occupational therapist shall provide the following:

- (a) The initial evaluation for each client and all supporting documentation;
- (b) Periodic reevaluation of each client and all supporting documentation; and
- (c) The documented discharge of the client, including the response to the intervention at the time of discharge.

- 6309.3 An occupational therapist may supervise an occupational therapy assistant pursuant to 6310.6 and also through telephonic or electronic communication means as determined by the level of skill and competence of the occupational therapy assistant pursuant to § 6310.7.
- 6309.4 An occupational therapist shall maintain immediate supervision of an occupational therapy aide where the aide is visually present except for activities of daily living skills where supervision may be general to maintain client privacy.
- 6309.5 An occupational therapist shall:
- (a) Delegate only those functions to an aide that do not require education or training in occupational therapy for treatment or non-treatment related activities; and
  - (b) Not permit an occupational therapy aide under his or her supervision to provide independent care of a client or document the client file at any time.
- 6309.6 An occupational therapist shall:
- (a) Directly supervise all students training to be occupational therapists or occupational therapy assistants;
  - (b) Not permit a student to work independently with a client until such time as the student has demonstrated competency in practice under general supervision; and
  - (c) Countersign all documentation drafted by students.
- 6309.7 An occupational therapy assistant may directly supervise occupational therapy assistant students.
- 6309.8 An occupational therapist or occupational therapy assistant supervising a student shall be responsible for all of the actions performed by the student within the scope of practice during the time of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the person supervised.

**A new section 6310 is added to read as follows:**

**6310 SUPERVISION OF PRACTICE FOR OCCUPATIONAL THERAPY ASSISTANTS**

- 6310.1 An occupational therapy assistant shall exercise reasonable judgment and provide adequate care in the performance of duties as provided in nationally recognized standards of practice and on file with the facility.

- 6310.2 An occupational therapy assistant may only practice under the supervision of a licensed occupational therapist, who is authorized to practice in the District of Columbia.
- 6310.3 An occupational therapy assistant shall assist in the collection and some documentation of client information pertaining to the evaluation and treatment of a client. The extent of this involvement shall be based on the demonstrated competency of the occupational therapy assistant. This demonstrated competency shall be documented and maintained on file by the supervising occupational therapist.
- 6310.4 An occupational therapy assistant shall not supervise another occupational therapy Assistant, but may supervise an occupational therapy student (Level I Fieldwork training only) or an occupational therapy assistant student in training (both level I and Level II Fieldwork training).
- 6310.5 An occupational therapist may supervise an occupational therapy assistant if he or she meets the competency standards that are outlined in § 6310.7 while the occupational therapy assistant is under general supervision.
- 6310.6 An occupational therapist shall provide the following:
- (1) Supervision to an occupational therapy assistant prior to initiating treatment programs and before planned discharges for clients;
  - (2) An initial and, at a minimum, bimonthly direction to the occupational therapy assistant; and
  - (3) Documentation for verification of supervision and direction, as may be required by the Board.
- 6310.7 A supervising occupational therapist shall delegate duties and responsibilities for care of clients to the occupational therapy assistant with consideration given to the following:
- (a) The level of skill shown by the occupational therapy assistant;
  - (b) The ability to use identified intervention in a safe and effective manner;
  - (c) Experience and work setting demands; and
  - (d) The complexity and stability of the client population to be treated.
- 6310.8 An occupational therapy assistant shall immediately inform the supervising occupational therapist and discontinue treatment if the procedure appears to be harmful to the client.

- 6310.9 An occupational therapy assistant may provide immediate supervision to an occupational therapy aide while the aide is discussing or assisting in the care and treatment of a client.
- 6310.10 An occupational therapy assistant shall only delegate tasks to an occupational therapy aide for which the aide has been trained and is able to demonstrate competency.

**Section 6311 is amended to read as follows:**

**6311           LAWFUL PRACTICE**

**Section 6311.1 is amended to read as follows:**

- 6311.1 Occupational therapy assistants licensed to practice in the District of Columbia shall adhere to the Code of Ethics established by the AOTA for the practice of occupational therapy as it may be amended from time to time.

**Section 6311.2 is amended to read as follows:**

- 6311.2 An occupational therapist may purchase, store and administer topical and aerosol medications as part of the practice of occupational therapy as defined herein, as long as the purchasing, storage, and administration of those medications are carried out pursuant to all laws and regulations of the federal government and the District of Columbia.

**Section 6311.3 is amended to read as follows:**

- 6311.3 An occupational therapist shall use the letters "OT", "OTR", "LOT", "OTR/L" or any other similar title or description in connection with the occupational therapist's name or place of business to denote licensure pursuant to the Act.

**Section 6311.4 is amended to read as follows:**

- 6311.4 Only a licensed occupational therapist shall be advertised or otherwise promoted by a business providing and billing for occupational therapy services pursuant to the Act.

**Section 6311.5 is amended to read as follows:**

- 6311.5 An occupational therapy assistant shall use the letters "OTA", "COTA", "OTA/L", "COTA/L", or any other similar title or description in connection with the occupational therapy assistant's name or place of business to denote licensure pursuant to the Act.

**Section 6311.6 is amended to read as follows:**

6311.6 Occupational therapists licensed in the District of Columbia shall adhere to the Code of Ethics as established by the AOTA for the practice of occupational therapy as may be amended from time to time.

**Section 6311.7 is repealed.**

**Section 6399 is amended by adding the following:**

**General Supervision** – supervision in which the supervisor is available on the premises or by communications device at the time the supervisee is practicing.

**Immediate Supervision**- Oversight of an individual through face- to- face observations and in the physical proximity to the individual being supervised.

**Level I Fieldwork**- Enrichment of didactic coursework through direct observation and participation in selected aspects of the occupational therapy process to enable students to develop a basic comfort level with and understanding of the needs of the clients.

**Level II Fieldwork**- Development of competent entry-level, general occupational therapists and occupational therapy assistants through exposure to in-depth experiences in delivering occupational therapy services to a variety of clients.

**Occupational Therapist**- A person licensed to practice occupational therapy who has completed an ACOTE occupational therapy educational program and a period of supervised fieldwork experience.

**Occupational Therapy**- The evaluation and treatment of individuals whose ability to manage normal daily functions is threatened or impaired by developmental deficits, the aging process, poverty and cultural differences, physical injury or illness, or psychological and social disability, utilizing task-oriented activities to prevent or correct physical or emotional disabilities and enhance developmental and functional skills that use specific therapeutic and diagnostic techniques pursuant to the Act.

**Occupational Therapy Assistant**- A person licensed to practice occupational therapy who has completed an ACOTE occupational therapy assistant educational program and a period of supervised fieldwork experience.

All persons wishing to comment on the proposed rulemaking shall submit written comments no later than thirty (30) days after the date of publication of this notice in the D.C. Register to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor,



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Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays, at the address listed above.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION  
PANEL ON RATES AND RULES**

**NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(G) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986, (D.C. Law 6-97; D.C. Official Code §§ 50-307(b) (1)(G), and 50-308(b)), hereby gives notice of its proposed rulemaking action taken September 14, 2005, to amend § 609.1 of Chapter 6 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The proposed rulemaking changes the age requirement for licensed taxicabs from not more than eight (8) model years old to not more than ten (10) model years old. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following section in 31 DCMR Chapter 6 is amended as follows:

**609            AGE OF TAXICAB**

609.1            Except as provided in § 609.2, all taxicabs licensed to operate in the District of Columbia, whether owned, rented, or leased, shall be not more than ten (10) model years old.

Any person desiring to file written comments on the Panel's proposed rulemaking action must do so not later than thirty (30) days after the publication of this notice in the District of Columbia Register. Comments should be filed with Kimberly A. Lewis, Attorney Advisor and Secretary, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. Copies of the proposed rulemaking may be obtained by writing to the above address.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION  
PANEL ON RATES AND RULES**

**NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(A) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986, (D.C. Law 6-97; D.C. Official Code §§ 50-307(b) (1)(A), and 50-308(b)), hereby gives notice of its proposed rulemaking action taken September 14, 2005, to amend § 801.5 of Chapter 8 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The proposed rulemaking sets standards for the usage of credit cards in taxicabs. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following section in 31 DCMR Chapter 8 is amended as follows:

**801                    PASSENGER RATES**

801.5                All charges for taxicab service provided within the District of Columbia shall be in accordance with the schedule of rates established by the Commission. No person shall knowingly or intentionally charge an amount in excess of the rate established by the Commission. Taxicab operators may accept credit cards in payment of fares. If such method of payment is accepted:

- (a)                no surcharge may be imposed by a company, association, or driver upon the use of a credit card so that the total charge exceeds the established rate of fare;
- (b)                no minimum charge may be imposed for the use of a credit card to pay a fare;
- (c)                no service may be refused to any person desiring to use a credit card on the grounds that a trip will not exceed a minimum length or generate a minimum fare; and
- (d)                any operator who accepts credit cards in payment of fares must have posted on a sign in a location that is conspicuous to all passengers the type of credit cards accepted for payment.

Any person desiring to file written comments on the Panel's proposed rulemaking action must do so not later than thirty (30) days after the publication of this notice in the District of Columbia Register. Comments should be filed with Kimberly A. Lewis, Attorney Advisor and Secretary, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite

204, Washington, D.C. 20020. Copies of the proposed rulemaking may be obtained by writing to the above address.

## DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The Chairperson of the District of Columbia Taxicab Commission pursuant to the authority set forth under §§ 14 (a) and (d) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986, (D.C. Law 6-97; D.C. Official Code §§ 50-313(a) and (d)), and Mayor's Order 87-156, dated July 1, 1987, hereby gives notice of his intent to add § 1201.6 to Chapter 12 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The proposed rulemaking requires limousine operators to file a change of address, telephone number, organization or vehicle owner and assesses a penalty for failure to do so within five (5) business days. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following section in 31 DCMR Chapter 12 is added as follows:

**1201            GENERAL REQUIREMENTS**

- 1201.6            Every person holding a license to operate a limousine shall maintain at the Office of Taxicabs their correct name, residence address and telephone number, and if affiliated with an organization the organization or owner for which they drive. In the event of any change in this information, the licensee shall inform the Office of the change within five (5) business days. The licensee may elect to provide this information by certified mail with return receipt requested or by hand delivery, the Office will provide proof of filing to the licensee. Failure to do so will result in a fine of one hundred dollars (\$100.00) per offense. Any fine imposed pursuant to this section shall be collected at the time of the licensee's renewal period.

Any person desiring to file written comments on the Panel's proposed rulemaking action must do so not later than thirty (30) days after the publication of this notice in the District of Columbia Register. Comments should be filed with Kimberly A. Lewis, Attorney Advisor and Secretary, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. Copies of the proposed rulemaking may be obtained by writing to the above address.