

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF EMERGENCY RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by sections 202(a) and 204 of the District of Columbia Procurement Practices Act of 1985, as amended, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §§2-302.02(a) and 2-302.04) (PPA), hereby gives notice of the adoption of the following emergency rules, amending Chapter 20 of Title 27 of the *District of Columbia Municipal Regulations (Contracts and Procurements)*. These rules will amend those sections of Title 27 *D.C. Municipal Regulations*, Chapter 20 that pertain to special contracting methods in order to contract for the District of Columbia Evidenced Traffic Violations Systems authorized by D.C. Official Code §50-2209.01.

The District of Columbia's Evidenced Traffic Violations Systems are a major element of the Metropolitan Police Department's overall strategy to reduce the number of aggressive speeders on the District's roads and highways, and to prevent harm and danger on the streets of the District of Columbia by reducing the number of traffic violations. According to the Metropolitan Police Department, over the past two-plus years, the percentage of aggressive speeders has declined by approximately 80 percent. Without these emergency rules, the Office Contracting and Procurement will be unable to continue the current contract for evidenced traffic violations systems, which are needed to protect the public's safety. Adoption of these emergency rules to amend Chapter 20 is thus necessary for the immediate preservation of the public peace, health, safety, or welfare in accordance with D.C. Official Code §2-505(c).

Action was taken on February 20, 2004, to adopt the following rules on an emergency basis effective on that date. These rules will remain in effect for up to one hundred twenty (120) days from the date of adoption, unless superseded by another rulemaking notice or by publication of a Notice of Final Rulemaking in the *D.C. Register*.

CHAPTER 20**SPECIAL CONTRACTING METHODS**

Section 2005.6 is amended to read as follows:

2005 USE OF OPTIONS

2005.6 The basic period in a contract for services or supplies shall not exceed one (1) year, unless the contract is funded from an appropriation that is available for more than one (1) year or the use of a multiyear contract for which funds would otherwise be available for

obligation only within the fiscal year for which appropriated pursuant to Public Law 104-134 (D.C. Official Code §1-204.51(c)). The total of the basic and option periods in a contract for services or supplies shall not exceed five (5) years, except in the following circumstances:

- (a) a contract for city-wide telecommunications systems may exceed five years but shall not exceed ten years; and
- (b) a contract for Evidenced Traffic Violations Systems provided to the Metropolitan Police Department or the Department of Motor Vehicles may exceed five years but shall not exceed six years.

Section 2099.1 is amended by adding the following definition:

Evidenced Traffic Violations Systems - the equipment and processes by which specified traffic law infractions are electronically captured and the resultant tickets for such infractions are processed and distributed.

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

The Acting Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (the CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.01 *et seq.*) (2001), as amended on an emergency basis by the Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Emergency Amendment Act of 2004 (the Act), effective February 19, 2004 (D.C. Act 15-357), or any similar subsequent legislation, hereby gives notice of the adoption of the following emergency rules. These rules explain the requirements for the payment of an active duty pay differential to District government employees who have been called to active duty from reserve units of the United States Armed Forces as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom. The Act provides that implementing rules must be issued within thirty (30) days of its effective date. The utilization of emergency rulemaking is the only available means of complying with this requirement and, thereby, providing for the continuation of payment of the differential authorized by the Act for eligible employees. The Notice of Emergency Rulemaking published at 50 DCR 10865 (December 19, 2003) expires on March 27, 2004. Therefore, to ensure the welfare of the public, action was taken on March 12, 2004 to adopt the following rules on an emergency basis effective March 12, 2004. These rules will remain in effect for up to one hundred twenty (120) days from March 12, 2004 unless earlier superseded by another rulemaking notice.

CHAPTER 11**CLASSIFICATION AND COMPENSATION**

Section 1155 is amended to read as follows:

- 1155 OPERATION ENDURING FREEDOM AND OPERATION IRAQI
FREEDOM PAY DIFFERENTIAL**
- 1155.1 Any full-time permanent employee, term employee, or an employee on a Temporary Appointment Pending Establishment of a Register (TAPER appointment) who serves in a reserve component of the armed forces and who has been ordered to active duty, or was retained for duty as a result of

Operation Enduring Freedom, or in preparation for a potential conflict with Iraq, or as a result of Operation Iraqi Freedom, shall be entitled to apply for and receive, or continue to receive, as applicable, a pay differential to compensate the employee for any difference between the employee's District government basic pay and basic military pay.

- 1155.2 An employee as described in § 1155.1 shall not be required to be released from active duty before making application for and receiving the pay differential. However, if the employee has not been released from active duty when he or she makes application for the pay differential, the employee shall provide all documentation required in § 1155.9, except that in lieu of providing a copy of the military orders releasing the employee from active duty, the employee shall provide a letter from his or her commanding officer attesting to the fact that the employee, as of the date of application for the pay differential, is still in an active duty status.
- 1155.3 A pay differential received pursuant to this section shall not be considered basic pay for any purpose.
- 1155.4 Any eligible employee, upon making application for the pay differential and upon approval of the application by his or her department or agency head, shall receive a pay differential that equals the difference between the employee's District government basic pay reduced by the employee's basic military pay.
- 1155.5 The estate of any eligible employee who has been killed while in active duty or who is missing in action as a result of active duty shall be eligible to collect any pay differential to which the employee would have been entitled upon making application on behalf of the employee and upon approval of the application by the employee's department or agency head.
- 1155.6 The period of entitlement to the pay differential shall not exceed:
- (a) The period following the formal inception of Operation Enduring Freedom through the date the employee is released from active duty occasioned by Operation Enduring Freedom; or
 - (b) The period following the formal inception of the preparations for a potential conflict with Iraq and the period following the formal inception of Operation Iraqi Freedom through the date the employee is released from active duty occasioned by, the preparation for, or, Operation Iraqi Freedom.

- 1155.7 The pay differential shall not be payable for any period following the employee's release from active duty and the employee's return to his or her District government position.
- 1155.8 The pay differential shall not be payable for any days for which the employee received pay by reason of any annual leave, military leave, compensatory time, or any other form of paid leave taken by the employee.
- 1155.9 In making application for the pay differential, the employee shall:
- (a) Provide a copy of the military orders activating the employee for full-time active military service for the Operation Enduring Freedom conflict, or, in preparation for, or, as a result of, the Operation Iraqi Freedom conflict;
 - (b) Provide a copy of the military orders releasing the employee from full-time active military service for the Operation Enduring Freedom conflict, or, for the preparation for, or, the Operation Iraqi Freedom conflict; and
 - (c) Provide all military pay documentation required to calculate the differential amount.
- 1155.10 A pay differential under this section shall be paid by the agency that last employed the eligible employee before the employee was ordered to active duty as specified in § 1155.1, out of the agency's funds or appropriations then currently available for salaries and expenses.

1155.99 DEFINITIONS

Active duty – full-time duty in the active military service of the United States for the Operation Enduring Freedom conflict, or, in preparation for, or, for the Operation Iraqi Freedom conflict.

Armed forces – has the meaning prescribed in 10 U.S.C. § 101 (a)(4).

Basic military pay – the basic pay under 37 U.S.C. § 204.

Basic pay – the employee's scheduled rate of pay plus any additional pay that is defined as basic pay for annuity computation purposes in the retirement system in which the employee is a participant.

Employee – any full-time permanent employee, term employee, or an employee on a TAPER appointment who serves in a reserve component of the United States Armed Forces and who has been called to active duty as a result of the Operation Enduring

Freedom conflict, or in preparation for, or as a result of the Operation Iraqi Freedom conflict.

Operation Enduring Freedom -- the period encompassed within Executive Order 13223 Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation, effective September 14, 2001, and amended by Amendment to Executive Order 13223, effective January 16, 2002 and ending on the date the employee is released from active duty occasioned by Operation Enduring Freedom.

Operation Iraqi Freedom -- the period encompassed within the Joint Resolution entitled Authorization for Use of Military Force Against Iraq Resolution of 2002, approved October 16, 2002 (P.L. 107-243) and ending on the date the employee is released from active duty occasioned by Operation Iraqi Freedom.

Reserve component -- has the meaning prescribed in 37 U.S.C. § 101(24).