

DISTRICT OF COLUMBIA OFFICE OF ADMINISTRATIVE HEARINGS

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

NOTICE OF FINAL RULEMAKING

The Chief Administrative Law Judge of the Office of Administrative Hearings (“OAH”), and the District of Columbia Rental Housing Commission, pursuant to the authority set forth in Section 8 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76, D.C. Official Code § 2-1831.05(b)(7)), and section 202(a)(1) of the Rental Housing Act of 1985, D.C. Law 6-10, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.02(a)) jointly give notice of the adoption of the following amendments to Chapter 29 of Title 1 of the District of Columbia Municipal Regulations (DCMR).

These rules require service of orders in rental housing cases to be by first class mail, with an appropriate certificate of service. The change is necessary to conform to the Office of Administrative Hearings Mailing Certification Emergency Amendment Act of 2009, passed as sections 3010 and 3011 of the Fiscal Year 2010 Budget Support Emergency Act of 2009, D.C. Act No. 18-187 (August 26, 2009) and to the Office of Administrative Hearings Mailing Certification Second Emergency Amendment Act of 2009, Subtitle D sections 3030 and 3031 of the Fiscal Year 2010 Budget Support Second Emergency Act of 2009, D.C. Act No. 18-207 (October 15, 2009).

No comments have been received and no changes made since publication of the Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on September 25, 2009 at 56 DCR 39. This Notice of Final Rulemaking supersedes the emergency rulemaking adopted on September 16, 2009. These final rules will be effective upon publication of this Notice in the *D.C. Register*.

Section 2922.1 of 1 DCMR Chapter 29 is amended to read as follows:

2922.1 Upon receipt of a petition, the Office of Administrative Hearings shall, by first-class mail, notify the adverse parties named in the petition of their right to make a written request for a hearing on the petition within 15 days after receipt of the notice.

Section 2922.3 of 1 DCMR Chapter 29 is amended to read as follows:

2922.3 In the case of petitions filed by a housing provider, the housing provider shall provide for each tenant in the housing accommodation one (1) copy of the petition, and an envelope, with first-class postage prepaid, addressed to each tenant by name and containing the return address of the Office of Administrative Hearings. The Office of Administrative Hearings shall mail the copies to each tenant.

Section 2923.1 of 1 DCMR Chapter 29 is amended to read as follows:

2923.1 If a hearing is timely requested by any party, the Office of Administrative Hearings shall send notice of the time and place of the hearing by first-class mail at least 15 days before the commencement of the hearing. The notice shall inform each party of the party's right to retain legal counsel to represent the party at the hearing.

Section 2928.7 of 1 DCMR Chapter 29 is amended to read as follows:

2928.7 A certificate of service shall be filed with every order issued and every document filed. The certificate of service shall state the date of service, the persons served, the address at which service was made, the manner of service and the person who served the order or document.

Section 2936.1 of 1 DCMR Chapter 29 is amended to read as follows:

2936.1 The Office of Administrative Hearings shall serve all final orders in rental housing cases upon the parties by first-class mail.

THE OFFICE OF CONTRACTING AND PROCUREMENT**NOTICE OF FINAL RULEMAKING**

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by 23 U.S.C. §101, 23 CFR §636, sections 202 and 204 of the District of Columbia Procurement Practices Act of 1985 (PPA), effective February 21, 1986, D.C. Law 6-85, D.C. Official Code §§ 2-302.02 and 2-302.04 (2001)), and Mayor's Order 2002-207 (dated December 18, 2002), hereby gives notice of the adoption of the following rulemaking to amend Chapter 16 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The rulemaking adds a section to Chapter 16 to authorize a two-step procurement process. The purpose of this two-step process is to select a contractor whose offer will provide the best value to the District. Similar rulemaking was recently proposed concerning solicitations for design, development, construction and management of the Anacostia Gateway Government Center and the design and construction of the 11th Street Bridge project.

In the first step, prospective contractors will be evaluated based on statements of their qualifications to perform the requirements of the solicitation in order to enable the District to determine whether or not they are qualified to respond to a request for competitive sealed proposals (RFP) to be issued subsequently under Chapter 16. The District's request for qualifications (RFQ) serves to maximize competition and dialogue between the District and contractor community as well as to facilitate determination of the purpose and timing of the project and corresponding issuance of the RFP. The District may also award a stipend to certain unsuccessful offerors for the design and construction of federally funded projects that have submitted responsive proposals complying with the conditions of the RFP.

The proposed rulemaking was published in the *D.C. Register* at 56 DCR 3998 (May 15, 2009). No changes have been made to the rulemaking as originally proposed.

The Council of the District of Columbia approved this rulemaking on November 24, 2009 by Resolution PR18-408, pursuant to section 205(b) of the PPA (D.C. Official Code § 2-302.05(b)).

The rulemaking will become effective upon publication in the *D.C. Register*.

CHAPTER 16**PROCUREMENT BY COMPETITIVE SEALED PROPOSALS**

Chapter 16 is amended by adding a new section 1632 to read as follows:

1632 TWO-STEP SOLICITATIONS

1632.1 The contracting officer may use a two (2)-step solicitation process when the contracting officer determines that this method will provide the best value to the

- District. Notwithstanding the provisions of § 1602, the purpose of this section is to authorize a two (2)-step procurement method. The first step shall be a request for qualifications (RFQ) to enable the contracting officer to determine which prospective contractors are qualified to receive requests for proposals (RFPs) and submit responses to the RFPs, based on financial and professional responsibility criteria established by the contracting officer for pre-qualification of a prospective contractor.
- 1632.2 The District shall conduct the two (2)-step selection process as follows:
- (a) The first step shall consist of a request issued by the Office of Contracting and Procurement (OCP) for qualifications from a firm or combination of firms that has the expertise, ability, and entrepreneurship to:
 - (i) Assemble the labor and capital necessary for the completion of the procurement;
 - (ii) Manage all components of the procurement; and
 - (iii) Complete the procurement in a timely manner while serving the District's stated policy objectives; and
 - (b) The second step shall include the submission of proposals in response to an RFP issued by OCP to up to five (5) offerors determined to be the most qualified in the first step. The only offerors who may submit proposals in response to the RFP in the second step are those offerors that responded to the RFQ and were determined to be the most qualified by the contracting officer.
- 1632.3 The contracting officer shall give public notice of the RFQ in accordance with Chapter 13.
- 1632.4 The contracting officer shall utilize the two (2)-step process set forth in section 1632.2 on forms prescribed by the Director.
- 1632.5 The first step of the process shall consist of an RFQ inviting interested prospective contractors to respond in writing with a statement of their qualifications to perform the required services, including financial and professional responsibility information. The RFQ shall provide, at a minimum:
- (a) A detailed description of the project;
 - (b) The District's intent of the project;
 - (c) The selection process, schedule, and criteria to be used by the District in determining which prospective contractors are qualified;
 - (d) Submission requirements and evaluation criteria that will be used to determine whether each prospective contractor is qualified; and
 - (e) Unless otherwise provided in accordance with §1632.10, a statement that only proposals from up to five (5) offerors determined most qualified in the first step pursuant to subparagraphs (c) and (d) of this subsection will be selected to submit proposals in the second step.
- 1632.6 The contracting officer may conduct oral or written discussions with prospective

- contractors who submitted responses to the RFQ. If the contracting officer conducts discussions, he or she shall conduct such discussions with all prospective contractors who submitted responses to the RFQ.
- 1632.7 The contracting officer may provide the information submitted by all prospective contractors in response to the RFQ to an evaluation panel who may recommend to the contracting officer, based upon the panel's analysis of the information according to the criteria set forth in the RFQ, whether or not the prospective contractor is among the up to five (5) most qualified to proceed to the second step.
- 1632.8 The contracting officer shall determine the financial and professional responsibility of each prospective contractor that responds to the RFQ and whether the prospective contractor is among the up to five (5) most qualified to proceed to the second step.
- 1632.9 The second step of the selection process shall follow the competitive sealed proposal procedures consistent with the requirements of this chapter, except as follows:
- (a) The contracting officer shall issue an RFP only to up to five (5) of the top-ranked offerors who have been determined most qualified in the first step;
 - (b) The contracting officer shall ensure that an independent cost/benefit analysis of each proposal is completed; and
 - (c) The RFP shall not be advertised in newspapers or publicly posted.
- 1632.10 The maximum number of offerors that may be selected to receive an RFP shall not exceed five (5) unless the contracting officer determines, prior to the RFQ, that a number greater than five (5) is in the District's best interest and is consistent with the objectives of that particular solicitation.
- 1632.11 The contracting officer, in the contracting officer's discretion, may pay a stipend solely from federal funds for design and construction procurements that are funded, or partially funded, with funds provided by the U.S. Department of Transportation, Federal Highway Administration, to one (1) or more unsuccessful offerors that have submitted responsive proposals complying with the conditions of the RFP. The stipends may be used to compensate an unsuccessful offeror for a portion of their proposal development costs, the use of information contained in their proposal, and to encourage competition. The contracting officer shall determine the number and amount of the stipend(s), if any. If an unsuccessful offeror accepts a stipend, the District shall be authorized to retain the right to use ideas and information from the design documents and technical drawings in its proposal.

THE OFFICE OF CONTRACTING AND PROCUREMENT**NOTICE OF FINAL RULEMAKING**

The Chief Procurement Officer of the District of Columbia (CPO), pursuant to authority granted by sections 202, 204 and 321 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, 2-302.04 and 2-303.21 (2006 Repl.)) (PPA), Mayor's Order 2002-207 (dated December 18, 2002) and Mayor's Order 2009-42 (dated March 25, 2009), hereby gives notice of the adoption of the following rulemaking to amend Chapter 18 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements).

The rules amend sections 1800-1803 of Chapter 18 concerning small purchase procedures. The rules authorize the use of small purchase procurement procedures only for procurements not exceeding \$100,000 for all departments, agencies, instrumentalities, and employees under the procurement authority of the Office of Contracting and Procurement (OCP), including the Office of the Chief Technology Officer and the Metropolitan Police Department.

The proposed rulemaking was published in the *D.C. Register* at 56 DCR 3212 (April 24, 2009). No changes have been made to the rulemaking as originally proposed.

The Council of the District of Columbia approved this rulemaking on November 10, 2009 by Resolution PR-386, pursuant to section 205(b) of the PPA (D.C. Official Code § 2-302.05(b)).

The rulemaking will become effective upon publication in the *D.C. Register*.

CHAPTER 18**SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES**

Sections 1800 - 1803 are amended to read as follows:

1800 USE OF SMALL PURCHASE PROCEDURES

- 1800.1 The small purchase procedures set forth in this chapter may only be used for the procurement of supplies, services and other items when the total of the procurement does not exceed one hundred thousand dollars (\$100,000) in accordance with §321 of the District of Columbia Procurement Practices Act of 1985, as amended, effective February 27, 1998 (D.C. Law 12-50; D.C. Official Code § 2-303.21 (2006 Repl.)) (Act) and Mayor's Order 2009-42 (dated March 25, 2009).
- 1800.2 A contracting officer shall not use small purchase procedures when the requirement can be met by using a requirements contract, an indefinite quantity contract, a federal supply schedule, the D.C. Supply Schedule or other required source of supply as set forth in chapter 21 of title 27 DCMR.
- 1800.3 A contracting officer shall not use small purchase procedures when the

procurement requirement is initially estimated to exceed one hundred thousand dollars (\$100,000), even though the resulting award does not exceed one hundred thousand dollars (\$100,000).

- 1800.4 A contracting officer shall not split a procurement totaling more than one hundred thousand dollars (\$100,000) into several purchases that are less than the limit in order to permit the use of small purchase procedures.
- 1800.5 A contracting officer shall use the small purchase procedure that is most suitable, efficient and economical based on the circumstances of each procurement.

1801 NON-COMPETITIVE SMALL PURCHASES

- 1801.1 A contracting officer may make a procurement for an amount of five thousand dollars (\$5,000) or less without obtaining competitive quotations.
- 1801.2 A contracting officer shall distribute non-competitive small purchases equitably among suppliers.

1802 COMPETITIVE SMALL PURCHASES

- 1802.1 Except as provided in §1802.2, in order to promote competition to the maximum extent practicable, and to ensure that the purchase is in the best interest of the District government, considering price and other factors (including the administrative cost of the purchase), a contracting officer shall solicit quotations as follows:

- (a) For each procurement of goods and services in an amount greater than five thousand dollars (\$5,000) and less than or equal to twenty-five thousand dollars (\$25,000), the contracting officer shall obtain at least three (3) oral quotations from vendors for the goods and services to be purchased;
- (b) For each procurement of goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to one hundred thousand dollars (\$100,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods and services to be purchased; and
- (c) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the contract to the vendor providing the lowest priced quotation for the goods or services solicited.

- 1802.2 If the contracting officer determines that it is impractical under the circumstances to obtain the number of quotations required under §1802.1 due to time constraints, lack of available sources, or other factors set forth in §1802.4, or if the contracting officer, despite a good faith effort, is unable to obtain the required number of quotations, the contracting officer may obtain quotations from fewer vendors than required in §1802.1. The contracting officer must document his or her attempts to obtain the required number of quotations.

- 1802.3 If the contracting officer determines that the best interest of the District or other factors set forth in §1802.4 indicate that quotations should be obtained from more than the number of sources required under §1802.1, the contracting officer shall

obtain additional quotations.

- 1802.4 In determining whether or not to obtain quotations from more or fewer vendors than required in §1802.1, the contracting officer shall consider the following factors:
- (a) The nature of the item or service to be purchased and whether it is highly competitive and readily available in several makes or brands, or if it is relatively non-competitive;
 - (b) Information obtained in making recent purchases of the same or similar item;
 - (c) The urgency of the proposed purchase;
 - (d) The dollar value of the proposed purchase; and
 - (e) Past experience concerning specific contractor prices.
- 1802.5 For procurements in excess of the amounts specified in §1801, a contracting officer may award a small purchase solicitation on a sole source basis when the contracting officer determines that one of the conditions in section 305(a) of the Act is satisfied, in accordance with chapter 17 of title 27 DCMR.
- 1802.6 A contracting officer may orally solicit quotations for procurements valued at twenty-five thousand dollars (\$25,000) or less. However, a contracting officer shall use a written solicitation in the following circumstances:
- (a) When the contracting officer determines that obtaining oral quotations is not considered economical or practical; or
 - (b) When extensive specifications are involved.
- 1802.7 A contracting officer shall, to the greatest extent practicable under the circumstances, maximize competition for small purchases and shall not limit solicitations to suppliers of well known and widely distributed makes or brands, or solicit on a personal preference basis.

1803 DETERMINATION OF REASONABLE PRICE AND AWARD

- 1803.1 The contracting officer shall determine that the price to be paid to the successful offeror is fair and reasonable.
- 1803.2 When only one (1) response is received to a request for competitive quotations, or the price variance between multiple responses is so great that it reflects a lack of adequate competition, the contracting officer shall include a statement in the contract file giving the basis for the determination of a fair and reasonable price.
- 1803.3 The determination that a proposed price is fair and reasonable may be based on the following:
- (a) Competitive quotations;
 - (b) Comparison of the proposed price with (i) prices found reasonable on previous purchases, (ii) current price lists; (iii) catalogs, (iv) advertisements or (v)

similar items;

(c) Value analysis;

(d) The contracting officer's personal knowledge of the item being purchased; or

(e) Any other reasonable basis.

1803.4 The contracting officer shall establish and maintain records of oral and written price quotations and include the record in the purchase file. The records shall consist of the names of suppliers contacted and the prices and other terms and conditions quoted by each.

1803.5 The contracting officer's records of solicitations shall include, at a minimum, notes of abstracts to show prices, delivery, references to printed price lists used, the vendor or vendors contacted, and other pertinent data.

1803.6 The contracting officer shall retain records supporting small purchases for a minimum of three (3) years.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKINGFORMAL CASE NO. 977, IN THE MATTER OF THE INVESTIGATION INTO THE QUALITY OF SERVICE OF WASHINGTON GAS LIGHT COMPANY, DISTRICT OF COLUMBIA DIVISION, IN THE DISTRICT OF COLUMBIA

The Public Service Commission of the District of Columbia (“Commission”) pursuant to the D.C. Official Code, § 2-505 and § 34-802 (2001 Ed.), hereby gives notice of final rulemaking action, amending Chapter 37 of Title 15 of the District of Columbia Municipal Regulations (“DCMR”), commonly referred to as the “Natural Gas Quality of Service Standards” (“NGQSS”). The Notice of Proposed Rulemaking (“NOPR”) was published in the *D.C. Register* on October 30, 2009, at 56 *D.C. Reg.* 8599-8601. The amendments modify certain sections which refer to reporting and repairing requirements for leaks and odor complaints, billing error notification, compliance reporting, and definitions. No comments were filed in response to the NOPR. The final version of the rules has no modifications from the Notice of Proposed Rulemaking. Final action adopting these rules was taken December 18, 2009, by Commission Order No. 15630. The final rules will become effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*. Copies of the rules may be obtained by contacting Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, NW, West Tower, Suite 200, Washington, DC 20005. Copies may also be obtained on the Commission’s website at www.dcpsc.org.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (“Act”) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a); 38-1202.06) hereby amends Section 728 of Chapter 7 of Title 8, DCMR entitled “Tuition and Fees.” The purpose of the amended rule is to revise the tuition rates applicable to students at the UDC David A. Clarke School of Law as of the 2010-2011 academic year.

The Board of Trustees of the University of the District of Columbia hereby amends Section 728.1 of the Title 8, DCMR, entitled “Tuition and Fees,” as follows:

728.1 The following tuition rates shall be in effect for all students of the University for each semester:

TUITION FOR ACADEMIC YEAR 2009-2010

<u>Student/Level</u>	<u>Per Credit Hr.</u>
COMMUNITY COLLEGE (all students)	\$ 100.00

UNIVERSITY OF THE DISTRICT OF COLUMBIA (Flagship University)

UNDERGRADUATE PROGRAMS

Washington, DC Residents	\$ 197.92
Metropolitan Area Residents	\$ 236.67
All Other Residents	\$ 486.67

GRADUATE PROGRAMS

Washington, DC Residents	\$ 421.11
Metropolitan Area Residents	\$ 476.67
All Other Residents	\$ 810.00

DAVID A. CLARKE LAW SCHOOL

Washington, DC Residents	\$ 3,675 per semester
All Other Residents	\$ 7,350 per semester

TUITION FOR ACADEMIC YEAR 2010-2011 AND THEREAFTER

<u>Student/Level</u>	<u>Per Credit Hr.</u>
COMMUNITY COLLEGE (all students)	\$ 100.00

UNIVERSITY OF THE DISTRICT OF COLUMBIA (Flagship University)

UNDERGRADUATE PROGRAMS

Washington, DC Residents	\$ 265.83
Metropolitan Area Residents	\$ 307.50
All Other Residents	\$ 557.50

GRADUATE PROGRAMS

Washington, DC Residents	\$ 421.11
Metropolitan Area Residents	\$ 476.67
All Other Residents	\$ 810.00

DAVID A. CLARKE SCHOOL OF LAW

FULL TIME PROGRAM STUDENTS (FALL & SPRING SEMESTERS ONLY)

Washington, DC Residents	\$ 4,425 per semester
All Other Residents	\$ 8,850 per semester

ALL OTHER STUDENTS

Washington, DC Residents	\$ 300 per credit hr.
All Other Residents	\$ 600 per credit hr.