

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-165
June 15, 2015

SUBJECT: Establishment – Procurement Accountability and Review Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to sections 422(11) and 449 of the District of Columbia Home Rule Act, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code §§ 1-204.22(11) and 1-204.49 (2014 Repl.), it is hereby **ORDERED** that:

I. ESTABLISHMENT

There is established within the executive branch of the Government of the District of Columbia a Procurement Accountability and Review Board (“Board”).

II. APPLICABILITY

This Mayor's Order applies to all agencies that are subject to the Procurement Practices Reform Act, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.* (2012 Repl.)), and the executive authority of the Mayor.

III. PURPOSE

- A. The purpose of the Board is to improve the quality, efficiency, and integrity of the contracting and procurement process within the District government.
- B. To do so, the Board shall review: (1) general concerns with contracting-related processes or procedures that impact the quality, efficiency, or effectiveness of the contracting process; (2) specific contracting-related actions, such as retroactive contracts, contract appeals, and contractor claims, that indicate that there has been inadequate adherence to applicable laws, regulations, processes, or procedures; and (3) identified conditions and operations within a specific agency that negatively impact the quality, efficiency, or effectiveness of the contracting process.
- C. The goal of the Board is not to consider each potential problem with the contracting process or each potential contracting error. Instead, the goal of the Board is to select matters that, when reviewed and resolved, are likely to result in substantial, widespread, or long-term improvements to the contracting process.

- D. The activities of the Board are part of the deliberative process of the Mayor, City Administrator, Chief Procurement Officer, and executive branch of government.

IV. COMPOSITION

- A. The Board shall consist of the following three (3) members:
 - 1. The Mayor or the Mayor's designee;
 - 2. The City Administrator or the City Administrator's designee; and
 - 3. The Chief Procurement Officer.
- B. The Mayor shall serve as the chairperson of the Board; provided, in the Mayor's absence, the City Administrator shall serve as the chairperson of the Board.

V. BOARD MEETINGS

- A. The Board shall meet at least once quarterly, at the call of the chairperson, to consider matters referred to it under section VII.
- B. The Board may meet at any other time at the call of the chairperson.

VI. PREPARATORY MEETINGS

- A. The Chief Procurement Officer shall meet monthly with the Office of the City Administrator to review matters that may be referred to the Board under section VII and to otherwise prepare for the upcoming Board meeting.
- B. At each monthly meeting:
 - 1. The Chief Procurement Officer shall provide a briefing to the Office of the City Administrator on each new matter described in section VII.A of this Order. The Chief Procurement Officer and the Office of the City Administrator may agree jointly that a matter identified under section VII.A of this Order will not be referred to the Board;
 - 2. The Chief Procurement Officer and Office of the City Administrator shall review the recommendations of the Chief Procurement Officer regarding whether a matter described in section VII.B of this Order should be referred to the Board;
 - 3. The Chief Procurement Officer shall provide a briefing to the Office of the City Administrator on any matters referred to the Board under section VII.D of this Order; and

4. The Office of the City Administrator and Chief Procurement Officer shall determine which of the matters described in sections VII.A, VII.B, and VII.D of this Order will be referred to the Board.

VII. MATTERS TO BE CONSIDERED; REFERRALS TO THE BOARD

- A. Except as provided in section VI.B.1 of this Order, the following matters are required to be referred to the Board for consideration:
 1. Contracts submitted to Council for retroactive approval;
 2. Decisions by the Contract Appeals Board or a court overturning a contracting action or otherwise holding that the action was contrary to law;
 3. Findings of the District of Columbia's internal auditors, the Inspector General, District of Columbia Auditor, Attorney General, and third-party auditors (including the auditors performing the Consolidated Annual Financial Report audit and the Single Audit) indicative of a significant or widespread non-compliance with a contracting or procurement law, regulation, or process or a significant concern with an individual contract or contract action.
- B. The Chief Procurement Officer, or his or her designee, shall regularly review the following matters to determine whether they should be referred to the Board for consideration:
 1. Sole source and emergency procurements where their use may be inconsistent with the preference for open, competitive procurements;
 2. Agency procurement planning;
 3. Inter-agency coordination on contracting matters; and
 4. Other challenges, special conditions, or policies and procedures that may impact procurement service delivery.
- C. In determining whether a matter described in section VII.B of this Order should be referred to the Board, the Chief Procurement Officer, or his or her designee, shall consider whether the issue is common and whether the resolution of the issue is likely to result in substantial, widespread, or long-term improvements to the contracting process.
- D. The Board shall also accept referrals of a matter from the Mayor, City Administrator, or a member of the Board. The Board may also accept a referral of a matter from an agency director or an agency's chief procurement officer.

Prior to the consideration of any such referral at a Board meeting, the Chief Procurement Officer shall assess the referral under the standards described in section VII.C of this Order to determine whether the matter should be considered by the Board at a quarterly meeting.

- E. A referral to the Board is not an allegation of wrongdoing. The objective of the Board is to improve the quality, efficiency, and integrity of the procurement process and to increase the accountability of executive agency directors and staff for such quality, efficiency, and integrity throughout the District of Columbia.

VIII. PROCEDURES

- A. Prior to a meeting of the Board, the Chief Procurement Officer, or his or her designee, shall prepare a briefing package describing in detail each matter before the Board. For each such matter, the package shall describe the specific factors, conditions, and actions that have culminated in the current status of the matter or may influence subsequent steps in response to the matter. The briefing package shall also include supporting documents for Board review. The Chief Procurement Officer may request other agency directors submit relevant documents or information for inclusion in, or in support of preparation of, the package.
- B. The City Administrator shall request that parties with pertinent information on each matter at issue attend the Board meeting. Such parties should generally include, at a minimum, the agency Director, a representative from the program that initiated the procurement, and the procurement officer responsible for the procurement. Other parties may include, but are not limited to, representatives of the Office of the Chief Financial Officer, the Mayor's Office of Legal Counsel, and the Office of Policy and Legislative Affairs, senior procurement staff, and attorneys with significant procurement law experience.
- C. Each person coming before the Board shall present a summary of facts related to the matter before the Board, describe relevant actions, policies, procedures, and systems, and answer any questions posed by the members of the Board.
- D. Notwithstanding section VIII.C, the Board may, at the discretion of the chairperson, consider matters based on the information in the briefing package provided pursuant to section VIII.A, without following the procedures set forth in section VIII.C.
- E. The Chief Procurement Officer shall be responsible for ensuring that detailed minutes are taken of each meeting.

IX. RECOMMENDATIONS OF THE BOARD

- A. After each meeting, the Chief Procurement Officer, in consultation with the Office of the City Administrator, shall promptly prepare and transmit to the Mayor a draft report that includes a description of the matters that were before the Board, proposed findings and conclusions, proposed recommendations, and proposed action items and an associated timeline.
- B. The proposed recommendations shall be focused on establishing or modifying processes, procedures, regulations, or laws in order to strengthen operations, resolve deficiencies, improve quality, and ensure compliance with all laws and regulations. The recommendations may also provide strategic guidance to ensure that procurement operations remain responsive to the District's needs for goods and services, including recommendations regarding inter-agency cooperation and coordination to facilitate timely and proficient development and execution of procurements and contracts and recommendations for training. The Board's recommendations may be directed to staff involved in the procurement process (including agency program staff, contracting officers, contracting and purchasing officials, funding approvers, and agency contract administrators) or any other District of Columbia staff if such recommendations are likely to improve the contracting process.
- C. Although the Board is not a disciplinary body, the report may include a recommendation that an agency director consider disciplinary action where it is likely that an employee engaged in misconduct.
- D. After the Mayor's review of each report, the Chief Procurement Officer shall finalize the report based on any comments received from the Mayor..
- F. The Chief Procurement Officer shall provide the Board with a quarterly report, at each Board meeting, on the status of any approved recommendations and action items.

IX. LIMITATIONS

- A. The Board shall not take actions that may interfere with the integrity of the procurement process.
- B. The Board is not expected to provide guidance or recommend action that is inconsistent with current District laws and regulations; however it is recognized that the Board may make recommendations that will require legislative or regulatory changes.
- C. The Board shall not serve in the capacity of the Contract Appeals Board ("CAB"). Contract protests, appeals, and claims shall continue to be heard by the CAB.

X. ADMINISTRATION


- A. The Office of the Chief Procurement Officer shall provide administrative support to the Board. The Office of the City Administrator may also provide administrative support to the Board, at the request of the chairperson.
- B. Each District agency shall cooperate with the Board and shall provide documents or information in a timely manner when requested by the Board, the City Administrator, or the Chief Procurement Officer to carry out the provisions of this Order.

XI. EFFECTIVE DATE

This Order shall become effective immediately.


MURIEL E. BOWSER
MAYOR

ATTEST:


LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA