

Statement of Basis and Purpose of Proposed Rule

These Procurement Policy Board (PPB) Rule amendments would update the provisions of the PPB Rules relating to public hearings, notice and comment.

On May 21, 2025, the New York City Charter § 326 will be amended by 2024 N.Y. Laws Chapter 483 to require public notice and comment for any contract for goods, services or construction to be awarded by other than competitive sealed bidding or competitive sealed bids from prequalified vendors in excess of one hundred thousand dollars.

This rule amendment that transitions public hearings to public notice and comments as authorized by the New York City Charter § 326 would provide the public with easier access to comment on a potential contract and ultimately result in a more transparent procurement process.

Section 1 would amend PPB Rule § 2-11 to rename the section from “Public Hearing Requirements” to “Public Notice and Comment Requirements” and update the section for clarity and consistency. The additional requirements for the public notice would detail the contents of the public notices and the process for public comments.

The PPB’s authority to promulgate these rules is found in sections 311, 326, and 1043 of the New York City Charter.

The new material added in the text of the rule is underlined and the deleted material is in [brackets]. “Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Section 2-11 of Title 9 of the Rules of the City of New York is amended to read as follows:

§ 2-11 Public Notice and Comment [Hearing] Requirements.

(a) Application. Except in cases set forth in subdivision (b) below, prior to entering into any contract or exercising a renewal option in a contract exceeding in value \$100,000, the agency shall [hold a public hearing to receive testimony regarding the proposed contract]give notice in the City Record that comments on the proposed contract may be submitted online for a period of time not less than seven days.

(b) Exemptions.

(1) The following contracts or exercise of a renewal option in the following contracts are exempt from the requirements of this section:

- i. contracts to be awarded by competitive sealed bidding, except where the basis for award is best value to the City pursuant to Section 3-02(o) of these Rules;
- ii. contracts to be awarded by competitive sealed bidding from prequalified lists,
- iii. emergency contracts,
- iv. accelerated procurements, and

- v. contracts where [a] public notice and comment [hearing] may disclose litigation strategy or otherwise impair the conduct of litigation by the City. Where this exemption is claimed, the Corporation Counsel shall make a determination that [a] public notice and comment [hearing] may have an impact on litigation.
- (2) Exercise of a renewal option in a contract where the original contract or any prior renewal option was subject to a public hearing or a public notice and comment is exempt from the requirements of this section.
 - (3) Contracts to be let that do not differ materially in terms and conditions, as defined herein, from contracts currently held by the City where the parties to such contracts are the same shall be exempt from the public notice and comment [hearing] requirements of this section and the Charter, provided that such exemption shall not apply to contracts over ten million dollars in value. Contracts do not differ materially in terms and conditions when they:
 - i. contain substantially the same specifications;
 - ii. are for substantially the same length of time, except in the case of contracts awarded pursuant to negotiated acquisition where there is a compelling need to extend the contract one or more times beyond the cumulative twelve-month limit and where such extensions awarded pursuant to negotiated acquisition are cumulatively for a period of time no greater than one year;
 - iii. contain substantially the same pricing, as determined by the ACCO, taking inflation into account and reflecting fair and reasonable pricing. For the purposes of this paragraph, the consideration of inflation shall be limited to demonstrated changes in the cost of materials and/or labor, as appropriate. “Inflation” shall not include corresponding or other increases in overhead, general selling and administrative expenses, or profit, i.e., increases based on these factors shall not be deemed to result in “substantially the same pricing” and
 - iv. contain substantially the same legal terms.
- (c) Public Notice.
- (1) Frequency. Notice of public [hearings shall be published once in the City Record not less than ten days prior to the hearing date or a shorter period approved by the CCPO] comment on proposed contract awards shall be made once in the City Record no less than seven calendar days prior to the conclusion of accepting public comment on a particular proposed contract award.
 - (2) Required Content. Such notice shall include:
 - i. agency name;
 - ii. Procurement identification number (PIN);
 - iii. a brief description of the goods, services, or construction to be procured, and method of source selection;
 - iv. name and address of the proposed vendor and location of the proposed program, project, or worksite;

- v. dollar amount of the proposed contract; [and]
- vi. where and how comments may be submitted; and
- vii. date[, time and place of the public hearing] and time until which public comment will be received on the particular proposed contract award.

[(3) Optional Content. For contracts or renewals, the value of which does not exceed one million dollars, such notice may include a provision that if the agency does not receive, within five business days after publication of such notice or shorter period approved by the CCPO, from any individual a written request to speak at such hearing, then the agency need not conduct such hearing. Should the agency choose not to conduct such hearing, the agency shall publish a notice in the City Record canceling such hearing.]

(d) [Conduct of Hearing] Conduct of Public Notice and Comment.

(1) [All persons attending who desire to testify shall have the opportunity to do so.

(2) An audiotape or transcript shall be made of the proceedings and shall be public information.

(3) No commitment to make changes in the intended contract award shall be made during the [hearing] notice and comment process; however, [testimony] comments received shall be considered after the [hearing] public notice and comment period is concluded.

(2) A copy of all comments received shall be included in the agency contract file.

Section 2. Effective Date

This rule shall take effect on May 21, 2025.