

Notice of Adoption of Rules

Pursuant to the authority vested in the Procurement Policy Board (PPB) by Sections 311 and 314 of the New York City Charter and in accordance with the requirements of Section 1043 of said Charter, the PPB has adopted amendments to Chapter 3 of Title 9 of the Rules of the City of New York.

Statement of Basis and Purpose of Proposed Rules

These Procurement Policy Board (PPB) Rule amendments update the provisions of the PPB Rules relating to “M/WBE Noncompetitive Small Purchases.” The amendments set forth in PPB Rule § 3-08 provide greater clarity regarding the M/WBE Small Purchase procurement method. While competition is not required for contracts awarded pursuant to this method, agencies often do utilize various forms of source selection in connection with M/WBE small purchase contracts to promote competition and in the best interests of the City. Renaming this method by removing the word “noncompetitive” from the title will reduce confusion amongst vendors and potential vendors regarding whether to expect potential competition in connection with contracts awarded through this method.

This rule amendment (1) changes the name of the procurement method in order to reduce confusion amongst potential vendors and current vendors regarding whether to expect potential competition, and (2) changes the text of the rule to be consistent with the name change and other clean up.

Section 1 amends PPB Rule § 3-08(c)(1)(iv) to rename the “M/WBE Noncompetitive Small Purchases” to “M/WBE Small Purchases” to provide greater clarity regarding this procurement method. Additionally, changing “except” to “provided” in the first sentence of § 3-08(c)(1)(iv) clarifies that when making M/WBE small purchases pursuant to such provision agencies are required to attempt to obtain at least three price quotes from M/WBE vendors or document their inability to do regardless of whether a procurement includes competition.

On June 4, 2024, the PPB voted to initiate the rulemaking process under the Citywide Administrative Procedure Act for this proposed rule amendment. A proposed version of this amendment was published in the *City Record* on June 24, 2024. A public hearing was held on July 30, 2024.

The PPB did not receive either written comments or oral testimony at the public hearing. In the absence of comments and in consideration of the PPB’s discussions during the June public meeting, the PPB adopted the amendment on August 14, 2024.

The PPB’s authority to promulgate these rules is found in sections 311, 314, 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. SUBPARAGRAPH (iv) of PARAGRAPH (1) OF SUBDIVISION (c) OF SECTION 3-08 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(iv) *M/WBE [Noncompetitive] Small Purchases.* No competition is required for the procurement of goods, services, and construction from M/WBE vendors, [except] provided that in making purchases pursuant to this subparagraph, the Contracting Officer must attempt to obtain at least three price quotes from M/WBE vendors or document their inability to do so. The Contracting Officer must ensure that the [noncompetitive] price [selected] is reasonable and that purchases are distributed appropriately among responsible M/WBE vendors. Agencies shall not use this subparagraph to make any purchase for goods, services or construction, the value of which is less than or equal to the applicable micropurchase limits set in subparagraph (c)(1)(ii) above, or to make any purchase the value of which exceeds the maximum amount authorized pursuant to paragraph (1) of subdivision (i) of section 311 of the Charter. Additionally, agencies shall not make purchases pursuant to this subparagraph for human services.



**THE CITY OF NEW YORK
LAW DEPARTMENT**

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Hon. Lisa M. Flores
Chief City Procurement Officer
Director of the Mayor's Office of Contract Services

Re: Amendment of Rules Relating to M/WBE Small Purchases
No. 2024 RG 055

Dear Director Flores:

Pursuant to New York City Charter § 1043 subd. c, the above-referenced rule has been reviewed and determined to be within the authority delegated by law to your agency.

Sincerely,

/s/ Steven L. Goulden

STEVEN GOULDEN
Senior Counsel
Division of Legal Counsel

cc: David Garfinkel