

**BOARD OF TRUSTEES
UNIVERSITY OF THE DISTRICT OF COLUMBIA
UDC RESOLUTION NO. 2019 - 22**

SUBJECT: Notice of Proposed Rulemaking, Amendment to 8B DCMR Chapter 30, University Procurement Rules

WHEREAS, pursuant to D.C. Official Code § 38-1202.01(a), the Board of Trustees (“Board”); has the power to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations it considers necessary for the governance and administration of the University of the District of Columbia (“University”); and

WHEREAS, pursuant to D.C. Official Code § 38-1202.06(13), it is the duty of the Board to perform such duties and make such regulations as may be necessary to carry out the purposes of the University and that such regulations are adopted in accordance with the provisions of D.C. Official Code § 2-505(a); and

WHEREAS, the University is seeking an amendment to 8B DCMR Chapter 30 in order to clarify that the University has determined it will follow the requirements of the Procurement Practices Reform Act of 2010 (“PPRA”) except as expressly provided in 8B DCMR Chapter 30; and

WHEREAS, the University’s Office of Strategic Sourcing and Procurement will provide oversight and ensure the University’s compliance with applicable laws and regulations pertaining to such activities.

NOW, THEREFORE, BE IT RESOLVED that the Board of the University hereby takes proposed rulemaking action to amend Chapter 30 of the University Rules (Title 8B DCMR) to align those Rules with the PPRA as indicated in the Notice of Proposed Rulemaking attached hereto as Appendix A; and

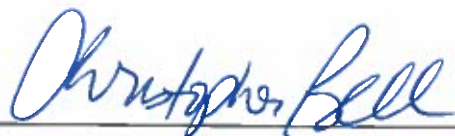
BE IT FURTHER RESOLVED that the Acting General Counsel of the University is hereby directed to publish this Notice of Proposed Rulemaking in the D.C. Register as soon as is practicable for a comment period of not less than thirty (30) days, in accordance with the provisions of D.C. Official Code §2-505(a).

Submitted by the Operations Committee:

May 21, 2019

Approved by the Board of Trustees:

June 4, 2019



Christopher Bell
Chairperson of the Board

APPENDIX A

Notice of Proposed Rulemaking

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED 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(13) (2012 Repl.) hereby gives notice of its intent to amend Chapter 30 (University Procurement Rules) of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed rule is to make the University's procurement regulations consistent with the Procurement Practices Reform Act of 2010, as amended ("PPRA"), with certain exceptions.

The Board of Trustees will take final action to adopt these amendments to the University Rules in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Chapter 30, UNIVERSITY PROCUREMENT RULES, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 3000, PURPOSE AND APPLICATION, is amended by adding new subsections 3000.8 and 3000.9, as follows:

- 3000.8 The University shall follow the Procurement Practices Reform Act of 2010, as heretofore and hereafter amended ("PPRA"), except as amended, modified and supplemented by these Rules, in the conduct of its procurement activities.
- 3000.9 References in the PPRA to the District's Procurement website shall be construed to refer to a procurement website maintained by the University, to publicize University procurement activities.
- 3000.10 In lieu of the Contract Appeals Board described in PPRA Title X, the University when considering protests, disputes, appeals, debarment and suspension decisions made by the CCO, shall have a Contracts Review Committee in accordance with Section 3063 of these Rules. Decisions of the Contracts Review Committee may be appealed as described in these Rules.
- 3000.11 In lieu of PPRA Section 1008 pertaining to Protest procedures, the University shall follow the provisions of Section 3066 of these Rules.

3000.12 The PPRA shall be construed and applied to give effect to the roles and responsibilities of the University's Office of Strategic Sourcing and Procurement and Chief Contracting Officer as provided for in these Rules.

Section 3002, PUBLICIZING CONTRACT ACTIONS, is amended in its entirety as follows:

3002.1 The CCO shall issue a formal written solicitation for all proposed contracts with an estimated price over one hundred thousand dollars (\$100,000).

3002.2 The CCO shall publicize the formal written solicitation referred to in Section 3002.1 in accordance with PPRA Sections 402, 403, and 404, as applicable. Publication shall be in a manner calculated to reach a significant number of prospective bidders, and will be conducted in accordance with the PPRA's requirements.

3002.3 The requirement to publicize the solicitation set forth in this chapter shall not apply to any of the following procurements: (a) emergency procurements; (b) simplified procurements; and (c) contracts existing as of the effective date of these Rules.

Section 3005, ITEMS EXEMPT FROM COMPETITIVE PROCUREMENT, is amended in its entirety as follows:

3005.1 The goods, services, supplies and materials enumerated in PPRA Section 413 shall be exempt from the competitive procurement requirements imposed by this Chapter.

3005.2 In addition, the University may also procure the following goods, services and materials without subjecting such procurements to competition:

- (a) Abstracts of titles for real property and title searches;
- (b) Brokers and other agents retained by the University to negotiate for and obtain goods, services (including but not limited to insurance policies) and real estate for the University at competitive prices;
- (c) Items purchased for resale to the general public;
- (d) Recreational sports and other program instructors;
- (e) Translation services, including but not limited to American Sign Language and foreign languages;
- (f) Educational assessments and special education testing equipment and materials;
and

(g) Utilities, including but not limited to electric, gas, propane, oil and water services.

Section 3020, EMERGENCY PROCUREMENTS, is amended by replacing subsections 3020.1, 3020.2 and 3020.3 as follows:

- 3020.1 The CCO may award a contract on an emergency basis if the requirement is essential to handle an existing or imminent emergency situation, including, but not limited to, any situation or condition which would threaten the health, safety, property or welfare of the University community or severely hamper the ability of the University to accomplish its educational mission.
- 3020.2 Emergency procurement procedures shall not be used for contracts exceeding 90 days, subject to any exceptions allowed by the PPRA.
- 3020.3 The CCO shall not be required to publicize emergency solicitations. Publication of emergency procurements shall be governed by PPRA Section 405.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Comments should be filed with the Office of General Counsel, Building 39- Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008.

Comments may also be submitted by email to OfficeofGC@udc.edu. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking: Business Enterprises and Sales of Products and Services" in the subject line.

TO: The Board of Trustees
FROM: Managing Director of Finance *David A. Franklin*
DATE: May 13, 2019
SUBJECT: DCMR Change – Title 8B Ch. 30 – University Procurement Rules

Conclusion

It is concluded that there is no significant fiscal impact associated with the Board of Trustees' authority to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations that it believes necessary for the governance and administration of the University.

Background

Pursuant to 8B DCMR, the Board of Trustees intends to revise its regulations to reflect its determination to require the University's Office of Sourcing and Strategic Procurement to follow the District's Procurement Practices Reform Act of 2010 through the amendments to 8B Chapter 30 (University Procurement Rules). The previous language of 8B DCMR Chapter 30 contained terms which were facially in conflict with the PPRA. The revised sections remove or revise the conflicting language and allows the University to comply with PPRA in its procurement activities.

UDC's existing OSSP will provide oversight and ensure the University's compliance with applicable laws and regulations pertaining to such activities. The University will continue to exercise procurement autonomy from the District, under the supervision of the Chief Contracting Officer and the President, and will follow the requirements of the PPRA as modified or supplemented by 8B DCMR Chapter 30.

Financial Impact

Based on the information provided, we do not anticipate any fiscal impact.