

## NOTICE OF PUBLIC HEARING

**Subject:** Opportunity to comment on the proposed amendments related to rules concerning public hearing requirements for contract awards based on best value.

**Date / Time:** June 4, 2012  
3:00pm-5:00pm

**Location:** 253 Broadway, 14<sup>th</sup> Floor Conference Room  
New York, New York 10007

**Contact:** Andrea Glick  
Director  
Mayor's Office of Contract Services  
253 Broadway, 9<sup>th</sup> Floor  
New York, New York 10007

### Proposed Rule Amendment

Pursuant to the authority vested in the Procurement Policy Board ("PPB") by section 311 and in accordance with section 1043 of the New York City Charter the PPB hereby proposes to amend Chapter 2 of Title 9 of the Rules of the City of New York ("RCNY").

The proposed amendments were not included in the board's most recent regulatory agenda because the amendments were not anticipated at the time the agenda was published.

### Instructions

Written comments regarding the proposed amendments must be received by close of business on June 4, 2012. Written comments should be sent to:

Jennifer Jones Austin  
Chair  
Procurement Policy Board  
253 Broadway, 9<sup>th</sup> Floor  
New York, New York 10007

or electronically through NYC RULES at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules) by June 4, 2012.

If you need a sign language interpreter or other form of reasonable accommodation for disability at the hearing, please notify Andrea Glick by close of business on May 29, 2012.

Written comments and a summary of the oral comments will be available for public inspection within a reasonable time after receipt between 9:00 a.m. and 4:30 p.m. at the Mayor's Office of Contract Services.

### **Statement of Basis and Purpose**

Prior to recent amendments to New York State General Municipal Law § 103, contracts for public work and contracts for purchase contracts (i.e., contracts for the purchase of goods and standard services) had to be procured, as a general matter, by publicly advertised, low sealed bid. The recent changes to GML § 103 (the "Best Value Law") give the City the option to procure purchase contracts based on best value to the City, as that phrase is defined in State Finance Law § 163. Under that section, best value is defined in terms of the optimization of quality, cost and efficiency.

The proposed amendment to this rule adds the requirement for a public hearing where contracts are to be awarded by competitive sealed bidding on the basis of best value to the City.

### **The Proposed Rule Amendments**

New material is underlined and deletions are [bracketed].

**Section 1. Subparagraph (i) of paragraph (1) of subdivision (b) of section 2-11 of Chapter 2 of Title 9 of the Rules of the City of New York is amended as follows:**

- (i) contracts to be awarded by competitive sealed bidding, except where the basis for award is best value to the City pursuant to 3-02 (o);

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Best Value Rules

**REFERENCE NUMBER:** 2011 RG 021

**RULEMAKING AGENCY:** Procurement Policy Board

I certify that this office has reviewed the above-referenced proposed rules as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rules:

- (i) are drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) are not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, are narrowly drawn to achieve their stated purposes; and
- (iv) to the extent practicable and appropriate, contain statements of basis and purpose that provide a clear explanation of the rules and the requirements imposed by the rules.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: April 9, 2012

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Best Value Rules  
REFERENCE NUMBER: MOCS-4-5-6-7-8-9  
RULEMAKING AGENCY: MOCS**

I certify that this office has analyzed the proposed rules referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rules referenced above:

- (i) Are understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Do not provide a cure period because the proposed rules do not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco Navarro  
Mayor's Office of Operations

April 12, 2012  
Date