

**NOTICE**  
**OF ADOPTION OF FINAL RULE**

The Procurement Policy Board has adopted an amendment to **Chapter 3 Competitive Sealed Proposals** of its Rules pursuant to Section 311 of the New York City Charter. The amendment was published on January 14, 2009 in the City Record. A public hearing was held on February 18, 2009. The amendment was adopted by the Procurement Policy Board on March 4, 2009.

**Basis and Purpose of the Amendment**

For the most part, the amendment makes a series of changes to conform section 3-03 to changes that have occurred in the law. The amendment to section 3-03 requires the Agency to give notice in RFPs of the M/WBE and EBE requirements of section 6-129 of the Administrative Code, where applicable, as well as extending the time for proposal preparation for proposals subject to the M/WBE and EBE requirements. The amendment also provides for the extension of the time to hold open the receipt of proposals, with CCPO approval, where necessitated by generally applicable emergency circumstances.

**The Amended Rule**

In the amendment, which immediately follows this notice, new material is underlined and deletions are bracketed.

Jose Maldonado, Chair

**Section 1. Paragraphs (17) and (19) of subdivision (a) of section 3-03 of Title 9 of the Rules of the City of New York are amended as follows:**

\* \* \*

(a) The Request for Proposals (RFP) – Contents. RFPs shall include the following data:

\* \* \*

(17) a notice that contract award is subject, if applicable, to Section 6-129 of the New York City Administrative Code (M/WBE and EBE Program), as well as to applicable provisions of federal, State, and other local laws and executive orders requiring affirmative action and equal employment opportunity;

\* \* \*

(19) [if applicable for construction and construction-related services contracts,] a notice, for those contracts not otherwise subject to Section 6-129 of the New York Administrative Code (M/WBE and EBE Program), that contract award is subject to the provisions of Section 6-108.1 of the New York City Administrative Code relating to the LBE program and its [implementation]implementing rules;

**Section 2. Paragraph (1) of subdivision (c) of section 3-03 of Title 9 of the Rules of the City of New York is amended to read as follows:**

(c) Proposal Preparation Time and Form.

(1) Proposal preparation time shall be set to provide vendors a reasonable time to prepare their proposals. A minimum of twenty days shall be provided. For those proposals which are subject to Section 6-129 of the New York City Administrative Code (M/WBE and EBE program), a minimum of twenty seven (27) days shall be provided. The manner in which proposals are to be submitted, including any forms for that purpose, shall be designated as a part of the RFP.

**Section 3. Subparagraph (i) of paragraph (1) of subdivision (d) of section 3-03 of Title 9 of the Rules of the City of New York is amended as follows:**

(1) Notice of Solicitation.

(i) Distribution. RFPs or notices of their availability and their notices of solicitation shall be posted on the City's website in a location that is accessible to the public simultaneously with their publication. RFPs and their notices of solicitation shall also be mailed, faxed, hand delivered, or otherwise furnished to a sufficient number of vendors, including all vendors on the bidders list at least twenty (20) days prior to the due date, or within the time frames authorized by Section 3-03 (h). An agency may, upon request of a vendor, provide RFPs or notices electronically. For those proposals which are subject to Section 6-129 of the New York City Administrative Code (M/WBE and EBE program), a minimum of twenty seven (27) days prior to the due date shall be provided.

**Section 4. Clause (C) of subparagraph (ii) of paragraph (1) of subdivision (d) of section 3-03 of Title 9 of the Rules of the City of New York, relating to the posting of RFPs and their notices of solicitation on the City’s website, is REPEALED.**

**Section 5. Paragraph (5) of subdivision (f) of section 3-03 of Title 9 of the Rules of the City of New York is amended as follows:**

(f) RFP Handling Procedures.

\* \* \*

(5) Handling and Acceptance of Late Proposals. A late proposal may only be accepted when it is determined by the ACCO that it is in the best interest of the City to do so. In such event, the ACCO may hold open the receipt of proposals by no more than three hours, during which time no other competing proposal may be opened. The ACCO may, upon written approval by the CCPO, hold open the receipt of proposals by longer than three hours, but until no later than the original submission time on the next business day; such approval may be given by the CCPO only where the need for holding the receipt of proposals open for a longer time arises from generally applicable emergency circumstances, such as weather or transit emergencies. An opened proposal shall eliminate the [possibility] option of accepting any late proposal. Where an ACCO has determined that it is in the best interest of the City to accept a late proposal, any other late proposal received during the period of extension shall be similarly accepted.