

DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES

Updated Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? Pursuant to Local Law 81 of 2023, Administrative Code § 12-214, and as authorized by sections 811, 823(c) and 1043 of the New York City Charter, the Department of Citywide Administrative Services (“DCAS”) is proposing to add a new chapter 16 to Title 55 of the Rules of the City of New York, requiring DCAS to donate surplus city-owned computers to eligible organizations for beneficial use.

When and where is the hearing? DCAS will hold a public hearing on the proposed rules. The public hearing will take place at 10:30 am on May 16, 2024. The hearing will be held in the Auditorium at 125 Worth Street, New York, New York 10013.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DCAS through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to dcasrulescomments@dcas.nyc.gov.
- **Mail.** You can mail comments to The Department of Citywide Administrative Services, c/o Office of the General Counsel, 1 Centre Street -19th Floor, New York, New York 10007
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling (718) 416-8703. You can also sign up in the hearing room before the hearing begins on May 16, 2024. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit written comments by May 16, 2024.

Do you need assistance to participate in the hearing? You must tell DCAS by May 13, 2024 if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (718) 416-8703. You must tell us by May 13, 2024. The public hearing location is wheelchair accessible.

Can I review the comments made on the proposed rules? You can review the comments submitted online by visiting <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rules will be available to the public at The Office of the DCAS General Counsel at 1 Centre Street-19th Floor North, New York, New York 10007.

What authorizes DCAS to make this rule? Section 1043 of the New York City Charter (“City Charter”) and §12-214 of the Administrative Code of the City of New York (“Administrative Code”) authorizes DCAS to make these proposed rules. This proposed rule was not included in DCAS’s regulatory agenda because it was not contemplated at the time of publication of regulatory agendas.

Where can I find DCAS’ rules? DCAS’ rules are in title 55 of the Rules of the City of New York.

What rules govern the rulemaking process? DCAS must meet the requirements of City Charter § 1043 when creating or changing rules. This notice is made according to the requirements of City Charter § 1043.

Statement of Basis and Purpose of Proposed Rules

On June 25, 2023, Local Law 81 of 2023 (the “law”) was enacted. The law added Administrative Code § 12-214, requiring the Department of Citywide Administrative Services (“DCAS” or the “Department”) to donate surplus city-owned computers to eligible organizations. These eligible organizations include schools and libraries, as well as nonprofits working with people with disabilities, seniors, and low-income people. The law authorizes DCAS to adopt rules by which it will implement a process to donate surplus equipment to these eligible organizations and how it will determine priority when multiple eligible organizations seek such equipment. Therefore, pursuant to the law, DCAS is proposing these rules to:

- Set forth the process for surplus equipment donation;
- Define the eligibility criteria for organizations seeking donations; and
- Set forth the records retention and reporting requirement for the Department.

DCAS’ authority for these rules is found in City Charter §§ 811, 823(c) and 1043, and Administrative Code § 12-214.

New material is underlined.

“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.

Proposed Rules

Section 1. Title 55 of the Rules of the City of New York is amended by adding a new chapter 16 to read as follows:

CHAPTER 16

DONATION OF SURPLUS CITY-OWNED COMPUTERS

§ 16-01 Definitions. As used in this chapter, the following terms have the following meanings:

Beneficial Use. The term “Beneficial Use” means the use of equipment by an Eligible Organization for an educational or other public purpose, provided that such organization has a demonstrated need for such equipment; and provided further that such use may not include religious worship, instruction, or proselytization.

Commissioner. The term “Commissioner” means the Commissioner of the Department of Citywide Administrative Services.

Computer. The term “Computer” means a desktop computing device, a laptop, or other portable computing device, containing a central processing unit and any peripheral components that are connected to the central processing unit such that they may reasonably be viewed functionally as a single unit, including, but not limited to, motherboards, RAM, hard drives, or other storage devices, video or sound cards, and computer cases.

Department. The term “Department” means the Department of Citywide Administrative Services (“DCAS”).

Eligible Organization. The term “Eligible Organization” means a public school, public library, other public or private educational institution, and a not-for-profit institution serving persons with disabilities, senior citizens, or low-income individuals.

Equipment. The term “Equipment” means a Computer and its associated peripheral components, and other electronic devices that operate with or can be operated by a Computer, including but not limited to floppy disk drives, CD drives, USB drives, printers, modems, networking devices, scanners, monitors, and the cables or wiring required to connect a Computer with the computer equipment.

Salvage Office. The term “Salvage Office” means the unit entrusted with the disposal of personal property by public or private sale or as otherwise authorized by law or regulation under Chapter 5 of Title 55 of the Rules of the City of New York.

Salvage Officer. The term “Salvage Officer” means agency personnel who is responsible for the repurposing/relinquishment of all inventories purchased with City funds.

Surplus. The term “Surplus” means equipment that is no longer in use, and not needed for use, by any agency.

§ 16-02 Donation Process.

(a) Notification.

- i. The Department will notify the public of its intent to donate Surplus Equipment through:

1. the Public Surplus online platform;
2. the existing network of Salvage Offices across the City;
3. the DCAS Connect Surplus webpage; and
4. The City Record.

ii. The notification will include a description of the Surplus Equipment and the total shipping and handling fees, if any.

(b) *Specific Plan.*

i. Eligible Organizations must submit to the Department a specific plan for the Beneficial Use of Surplus Equipment within fourteen (14) days of the Department notification described in subdivision (a) of this section. Eligible Organizations must use the form provided by the Department for the specific plan.

ii. Eligible Organizations must submit the specific plan to the Department by email to OSAGeneral@dcas.nyc.gov. General inquiries may also be sent to that email address.

iii. The specific plan must include, but need not be limited to:

1. A description of the organization, including:

A. Whether the organization is a public school or public library;

B. Whether the organization is a public or private educational institution other than a public school or public library;

C. Whether the organization is a not-for-profit institution serving persons with disabilities, senior citizens, or low-income individuals;

D. The type of community the organization serves;

E. An estimate of the number of people the organization serves yearly;

F. The location(s) which will utilize the Surplus Equipment;

G. All locations operated by the organization; and

H. The number of staff at the location to be served.

2. A description of the Surplus Equipment requested by the Eligible Organization.

3. The intended use of the Surplus Equipment, including:
 - A. The primary purpose of the Surplus Equipment; and
 - B. When, where and how the Surplus Equipment will be used.
4. A written statement indicating why the donation of equipment to the organization will facilitate the organization's services to the public for low or no cost.
5. Whether the Eligible Organization has previously received Surplus Equipment donations.
 - A. If the Eligible Organization has previously received Surplus Equipment by donation, it must:
 - a. Specify the equipment that was donated to the organization;
 - b. Provide the date the organization received the donation; and
 - c. Provide a written description regarding the past utilization of the Surplus Equipment.
6. Any other information which the Eligible Organization deems relevant to its plan submission.

(c) Order of Priority.

- i. If only one Eligible Organization submits a specific plan for the Beneficial Use of Surplus Equipment, such Eligible Organization will receive the Surplus Equipment if it has demonstrated that it intends to use such equipment for a predominantly public purpose in which any private benefit is merely incidental. In determining whether the use will be for a predominantly public purpose, the Department will review factors including, but not limited to:
 1. The primary users of the Surplus Equipment;
 2. The primary use of the Surplus Equipment;
 3. Whether the Surplus Equipment will go to programs affected by budget cuts;
 4. Whether the Surplus Equipment will go to organizations with limited resources; and
 5. Whether the Surplus Equipment will be used for educational purposes.

ii. If multiple Eligible Organizations submit a specific plan for the Beneficial Use of Surplus Equipment, the Department will take into consideration the following factors in determining priority:

1. Whether the Beneficial Use of such equipment facilitates services to the public for low or no cost;
2. Whether the Beneficial Use of such equipment will serve communities that are under-served or have difficulty receiving services;
3. In the event that an Eligible Organization has previously received a donation of Surplus Equipment, whether such organization has utilized such equipment to fulfill the Beneficial Use for which it was donated;
4. Whether an Eligible Organization has a greater need for a donation of Surplus Equipment due to its limited size as compared to other Eligible Organizations; and
5. Any other factor that the Department deems relevant.

iii. The order of priority for which Eligible Organizations receive the Surplus Equipment will be determined as follows:

1. Public schools and libraries will receive first priority. If more than one public school and/or public library submits a specific plan, the Department will review the details provided in the specific plans and determine priority in accordance with the factors stated in section 16-02(c)(ii). The Department will retain a record of how it reached the determination for a minimum of six years after the determination has been made.
2. Subsequent to the consideration of specific plans for Beneficial Use submitted by public schools and libraries, if any, the Department will review specific plans from other Eligible Organizations. If more than one Eligible Organization other than a public school or library submits a specific plan, the Department will review the details provided in the specific plans and determine priority in accordance with the factors stated in section 16-02(c)(ii). The Department will retain a record of how it reached the determination for a minimum of six years after the determination has been made.

iv. If the Surplus Equipment is in need of repair or restoration, priority will be given to Eligible Organizations that have documented, in their specific plans for Beneficial Use, that they intend to use the repair or restoration of such equipment in the training of their students. Public schools and libraries will receive first

priority. If more than one Eligible Organization other than a public school or library intends to repair or restore the Surplus Equipment, the Department will prioritize those organizations in accordance with the factors set forth in section 16-02(c)(ii). Upon the repair or restoration of the Surplus Equipment, the Eligible Organization may either:

1. Retain such equipment; or

2. Return such equipment to the Department for donation to another Eligible Organization.

(d) Cost. The Department will donate Surplus Equipment to Eligible Organizations for Beneficial Use at no cost except for any reasonable shipping and handling fees.

(e) Compliance.

i. The donation of any Surplus Equipment must comply with section 10-504 of the Administrative Code of the City of New York.

ii. The Department will notify New York City agencies of the requirements under this rule and will require a Certification of Compliance from any donating agency prior to accepting Surplus Equipment from such agency. Donating agencies must complete the Certification of Compliance provided by the Department.

iii. Agencies must confirm that the Surplus Equipment they seek to donate is in a condition suitable for donation.

iv. Computers missing one or more of the following components are ineligible for donation under this rule:

1. Central Processing Unit (CPU);

2. Motherboard;

3. RAM;

4. Hard drive or other storage device;

5. Video or sound card; or

6. Computer case (where applicable).

§ 16-03 Auction or Disposal.

(a) The Department may auction or dispose of Surplus Equipment if no Eligible Organization has submitted a specific plan for the Beneficial Use of such Surplus Equipment over the

course of one (1) year from the date of the Department's notification, pursuant to section 16-02(a), of its intent to donate such Surplus Equipment.

- (b) The Department is not required to donate equipment where it determines, upon consideration of the five (5) factors stated in §16-02(c)(i), that no Eligible Organization has demonstrated that it intends to use such equipment for a predominantly public purpose in which any private benefit is merely incidental. In such case, the Department will retain a record as to how it made such determination.
- (c) Auction or disposal of Surplus Equipment must comply with section 10-504 of the Administrative Code.

§ 16-04 Record Retention.

- (a) The Department will retain all documentation related to Surplus Equipment donations for a period of six (6) years.
- (b) Documentation retained by the Department will include, but is not limited to:
 - i. Department notifications to the public of its intent to donate Surplus Equipment;
 - ii. Specific plans submitted to the Department by Eligible Organizations;
 - iii. Department statements explaining how it prioritized order when multiple Eligible Organizations submitted specific plans; and
 - iv. Itemized lists of Surplus Equipment offered for donation, including whether the equipment was in need of repair or restoration, donated, auctioned, or disposed. If auctioned or disposed, a record as to why the Surplus Equipment was not donated.

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

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

RULE TITLE: Disposal of Surplus City-Owned Computers for Beneficial Use

REFERENCE NUMBER: DCAS 12

RULEMAKING AGENCY: Department of Citywide Administrative Services

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

- (i) Is 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) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Grace Francese
Mayor's Office of Operations

March 28, 2024
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

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

RULE TITLE: Disposal of Surplus City-Owned Computers for Beneficial Use

REFERENCE NUMBER: 2024 RG 020

RULEMAKING AGENCY: Department of Citywide Administrative Services

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

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Senior Counsel

Date: March 28, 2024