

Notice of Adoption of Rules

Pursuant to the authority vested in the Procurement Policy Board (PPB) by Section 311 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 Final Rules

These final Procurement Policy Board (PPB) Rule amendments update the provisions of the PPB Rules relating to consecutive postings in the City Record.

These rule amendments minimize the publication of certain notices in the *City Record*. The elimination of certain consecutive posting requirements, which have limited utility to the public, simultaneously preserves the resources of the City of New York and streamlines the procurement process.

Section 1 amends PPB Rule § 3-04(d)(1)(i) to eliminate the consecutive posting requirement for public notices regarding negotiated acquisitions.

Section 2 amends PPB Rule § 3-05(c)(1)(i) to eliminate the consecutive posting requirement for public notices regarding sole source procurements. This amendment adds flexibility to the notice process while ensuring that vendors possess a sufficient opportunity to express interest, as notices will remain accessible on the City Record's website.

Section 3 amends PPB Rule § 3-10(e)(1)(i) and (ii) to modify the consecutive posting requirement for inclusion on prequalification lists.

Section 4 amends PPB Rule § 3-11(e)(1) to eliminate the consecutive posting requirement for public notices regarding demonstration projects and to modify the posting deadline.

Section 5 amends PPB Rule § 3-12(b)(3)(i) to eliminate the consecutive posting requirement for public notices regarding innovative procurements.

Section 6 amends PPB Rule § 3-13(d)(1) to eliminate the consecutive posting requirement for public notices regarding government-to-government purchases.

Section 7 amends PPB Rule 3-16(c)(1) to modify the consecutive posting requirement for public notices regarding prequalified lists for the HHS Accelerator procurement mechanism.

On September 13, 2023, the PPB voted to initiate the rulemaking process under the Citywide Administrative Procedure Act for these rule amendments. A proposed version of these amendments was published in the *City Record* on September 27, 2023. A public hearing was held on November 1, 2023.

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 September public meeting, the PPB adopted the amendment on December 6, 2023.

The PPB's authority to promulgate these rules is found in sections 311, 321, 322, 324, 325, and 1043 of the New York City Charter.

“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 (i) OF PARAGRAPH (1) OF SUBDIVISION (d) OF SECTION 3-04 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(i) *Frequency.* Notice of intent to enter into negotiations shall be published at least once in the City Record [for five consecutive editions] at least ten calendar days before negotiations are expected to begin and shall be posted on the City's website in a location that is accessible by the public simultaneously with its publication. [The last date of publications of such notice shall appear no fewer than ten days before negotiations are expected to begin.]

§ 2. SUBPARAGRAPH (i) OF PARAGRAPH (1) OF SUBDIVISION (c) OF SECTION 3-05 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(i) *Frequency.* After the ACCO determines that this procurement method will be used, notice of the intent to enter into negotiations shall be published at least once in the City Record [for five (5) consecutive editions no fewer than] at least ten calendar days before negotiations are expected to begin and shall be posted on the City's website in a location that is accessible by the public simultaneously with its publication. Such notice shall solicit expressions of interest from vendors qualified to compete on that procurement or in the future. This subdivision shall not apply in cases where Corporation Counsel has provided a written statement that such notice may jeopardize pending litigation or collective bargaining.

§ 3. SUBPARAGRAPHS (i) AND (ii) OF PARAGRAPH (1) OF SUBDIVISION (e) OF SECTION 3-10 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK ARE AMENDED TO READ AS FOLLOWS:

(i) For each category of procurement for which an agency maintains a PQL or intends to establish a new PQL, the ACCO shall publish in the City Record at least once annually [for five consecutive editions] and shall post on the City's website in a location that is accessible by the public simultaneously with its publication a notice or notices specifically identifying each such category and inviting vendors to apply for inclusion on such PQL. Application for inclusion on such PQL shall be continuously available.

(ii) For each procurement not falling within a category for which a PQL has been established, but for which the agency intends to prequalify vendors prior to issuing a solicitation for such procurement, the ACCO shall publish at least once in the City Record [for five consecutive editions] and shall post on the City's website in a location that is accessible by the public simultaneously with its publication a notice of its intention to establish such a PQL and invite vendors to apply for inclusion. There shall be a cutoff date for receipt of prequalification questionnaires for such PQL.

§ 4. PARAGRAPH (1) OF SUBDIVISION (e) OF SECTION 3-11 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(1) *Frequency.* Notice of intent to enter negotiations for a demonstration project exceeding the small purchase limits shall be published at least once in [not less than five consecutive editions of] the City Record at least ten calendar days before [entering into] negotiations are expected to begin and shall be posted on the City's website in a location that is accessible by the public simultaneously with its publication.

§ 5. SUBPARAGRAPH (i) OF PARAGRAPH (3) OF SUBDIVISION (b) OF SECTION 3-12 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(i) *Frequency.* Notice of such opportunity shall be published at least once in [not less than five consecutive editions of] the City Record and on the City's website and shall be posted on the City's website in a location that is accessible by the public simultaneously with its publication. The due date for receipt of comments and submission of expressions of interest shall be not less than twenty days after [the final] notice in the City Record.

§ 6. PARAGRAPH (1) OF SUBDIVISION (d) OF SECTION 3-13 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(1) *Notice of intent.* Notice of intent to enter into a government-to-government purchase exceeding the small purchase limits shall be published at least once in the City Record [for at least five consecutive editions] at least ten calendar days before negotiations are expected to begin and shall be posted on the City's website in a location that is accessible by the public simultaneously with its publication. [The last date of publication of such notice shall appear no fewer than ten days before negotiations are expected to begin.]

§ 7. PARAGRAPH (1) OF SUBDIVISION (c) OF SECTION 3-16 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(1) *Frequency.* [At least once annually for five consecutive editions, the] The HHS Accelerator Director must publish at least once annually in the City Record, a notice or notices specifically identifying client services categories covered by HHS Accelerator and inviting vendors to apply for inclusion on the HHS Accelerator PQL. The same documents published in the City [record] Record must be posted continuously and prominently on the City's website. The City's website shall also include the criteria used to prequalify vendors. The application to be included on the HHS Accelerator PQL must always be available.