

Statement of Basis and Purpose of Proposed Rules

These proposed Procurement Policy Board (PPB) Rule amendments would update the provisions of the PPB Rules relating to “M/WBE Noncompetitive Small Purchases.”

The PPB is proposing amendments to PPB Rule § 3-08(c)(1)(iv) to rename the “M/WBE Noncompetitive Small Purchases” to “M/WBE Small Purchase.”

Section 1 would amend PPB Rule § 3-08(c)(1)(iv) to rename the “M/WBE Noncompetitive Small Purchases” to “M/WBE Small Purchase” to provide greater clarity regarding this procurement method. While competition is not required for contracts awarded pursuant to this method, agencies often do utilize various forms of source selection in connection with M/WBE small purchase contracts to promote competition and in the best interests of the City. Renaming this method will reduce confusion amongst vendors and potential vendors regarding whether to expect potential competition in connection with contracts awarded through this method.

Additionally, changing “except” to “provided” in the first sentence of § 3-08(c)(1)(iv) will clarify that when making M/WBE small purchases pursuant to such provision agencies are required to attempt to obtain at least three price quotes from M/WBE vendors or document their inability to do regardless of whether a procurement includes competition.

The PPB’s authority to promulgate these rules is found in sections 311, 314, and 1043 of the New York City Charter.

On [date], 2024, the PPB voted to initiate the rulemaking process under the Citywide Administrative Procedure Act for this proposed rule amendment.

The new material added in the text of the rule is underlined and the deleted material is in [brackets]. “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 (iv) of PARAGRAPH (1) OF SUBDIVISION (c) OF SECTION 3-08 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(iv) *M/WBE [Noncompetitive] Small Purchases.* No competition is required for the procurement of goods, services, and construction from M/WBE vendors, [except] provided that in making purchases pursuant to this subparagraph, the Contracting Officer must attempt to obtain at least three price quotes from M/WBE vendors or document their inability to do so. The Contracting Officer must ensure that the [noncompetitive] price [selected] is reasonable and that purchases are distributed appropriately among responsible M/WBE vendors. Agencies shall not use this subparagraph to make any purchase for goods, services or construction, the value of which is less than or equal to the applicable micropurchase limits set in subparagraph (c)(1)(ii) above, or to make any purchase the value of which exceeds the maximum amount authorized pursuant to paragraph (1) of subdivision (i) of section 311 of the Charter. Additionally, agencies shall not make purchases pursuant to this subparagraph for human services.