

## **Statement of Basis and Purpose of Proposed Rule**

These proposed Procurement Policy Board (PPB) amendments would update the provisions of the PPB Rules relating to HHS Accelerator references. The purpose of this proposed amendment to the PPB Rules is to fully decommission and eliminate references to HHS Accelerator.

On April 9, 2012, the Mayor issued Executive Order No. 160, establishing HHS Accelerator within the Office of the Mayor. HHS Accelerator was created to simplify and speed up the contract process for client and community services providers. HHS Accelerator was launched in 2013 to establish a centralized, digital system for human services solicitations, prequalification, document storage and financial management. HHS Accelerator was decommissioned on July 31, 2024. All HHS Accelerator procurement processes are now handled in PASSPort.

On January 30, 2024, New York City Administrative Code § 6-148 was amended by Local Law 169 of 2023 to require the Mayor's Office of Contract Services to complete a study and issue a report with recommended time frames for each step of the procurement for a human services contract and to require the PPB to promulgate rules setting forth time schedules in accordance with the report.

These rule amendments: (1) reflect the decommissioning of HHS Accelerator; (2) remove duplicative text and outdated processes; (3) and implement the time schedules set forth in the report required pursuant to Local Law 169 of 2023 in order to provide best practices to support the timely registration of human services contracts and give human services providers more predictability during the contracting process, resulting in a more transparent procurement process.

Section 1 of these proposed rules would amend PPB Rule § 1-01 to remove the definitions for HHS Accelerator and the HHS Accelerator Director and add a new definition for the HHS PQL.

Sections 2, 3, 4, 5, and 9 of these proposed rules would amend PPB Rule § 2-04, § 2-08, § 2-09, § 3-01, and § 4-12 to remove references to HHS Accelerator and the HHS Accelerator Director and replace with references to the HHS PQL and the CCPO, respectively.

Section 6 of these proposed rules would amend PPB Rule § 3-03 to remove the requirement that a competitive sealed proposal be opened in the presence of two or more City employees because proposals are now most often submitted and opened electronically.

Section 7 of these proposed rules would amend PPB Rule § 3-10 to remove the exception that § 3-10 does not apply to the prequalification of client services vendors under § 3-16.

Section 8 of these proposed rules would repeal and replace PPB Rule § 3-16 entirely. Specifically, this proposed rule would remove and replace outdated references, remove text that is restated in multiple rule sections and replace with references to those sections, and all together simplify the existing rule.

Section 8 would also add time frames for steps during the procurement process for human services contracts.

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

The new material added in the text of the rule is underlined and the deleted material is in [brackets]. Asterisks (\*\*\*) indicate unamended text. "Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this agency, unless otherwise specified or unless the context clearly indicates otherwise.

**§ 1. SUBDIVISION (e) OF SECTION 1-01 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED BY REPEALING THE DEFINITIONS OF "HHS ACCELERATOR" AND "HHS ACCELERATOR DIRECTOR" AND ADDING NEW DEFINITIONS OF "HHS" AND "HHS PQL," IN ALPHABETICAL ORDER, TO READ AS FOLLOWS:**

[HHS (Health and Human Services) Accelerator. HHS Accelerator is an office that facilitates the central management of the procurement process for client services and contractual relationships with client services vendors by creating and maintaining a web-based document vault for client services vendors; by creating and maintaining a centralized, electronic and web-accessible categorization system of services provided for all City agencies; by prequalifying client services providers; and by managing procurements for client services.

HHS Accelerator Director. A position designated by the Mayor to head HHS Accelerator with regard to procurements conducted through HHS Accelerator.]

HHS: An acronym that stands for Health and Human Services, also referred to as client services.

HHS PQL. A prequalified list (see PQL) of client services vendors.

**§ 2. PARAGRAPHS 2 AND 6 OF SUBDIVISION (c) AND THE OPENING PARAGRAPH OF SUBDIVISION (d) OF SECTION 2-04 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK ARE AMENDED TO READ AS FOLLOWS:**

*(c) Planning.*

(2) The form of the draft and final Plans shall be prescribed by the CCPO[, in consultation with the HHS Accelerator Director]. The draft and final Plans shall include, but not be limited to: the type of services to be provided, the authorized

maximum amount of funding associated with the program, the authorized number of contracts to be let for a particular program, and the month and year of the next planned competitive solicitation.

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(6) The agency shall submit to the CCPO [and the HHS Accelerator Director] by August 31 a copy of the Plan approved by the ACCO.

(d) *Determination and Approvals.* Prior to issuing a solicitation for a multi-term contract, the ACCO, with the approval of the [HHS Accelerator Director] CCPO for those procurements procured pursuant to Section 3-16 of these Rules, shall make a determination that:

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**§ 3. SUBPARAGRAPH (i) OF PARAGRAPH (2) OF SUBDIVISION (e) OF SECTION 2-08 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:**

(i) by applicants, at the time of an application for inclusion on a prequalified list, provided that this requirement shall not apply to applications [under HHS Accelerator] pursuant to Section 3-16 of these Rules;

**§ 4. PARAGRAPH 7 OF SUBDIVISION (b) OF SECTION 2-09 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:**

(b) *Content.* The Recommendation for Award shall contain, but not be limited to, the following information:

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(7) date of City Record publication and date and publication name of any other advertised notice. If a prequalified vendor list other than [HHS Accelerator] the HHS PQL is used, date(s) of advertisement(s) for prequalified list; if the procurement is from a sole source, the date of the notice of intent to enter sole source negotiations;

**§ 5. SUBDIVISION (c) OF SECTION 3-01 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:**

(c) *Preference for Competitive Sealed Proposals in Certain Contracts.* Procurement by competitive sealed proposals[, including, where applicable, through HHS Accelerator,] is the preferred method for awarding contracts for non-commodity data processing equipment and for information technology, non-commodity data processing, architectural, engineering, client, legal, accounting, financial, training, educational, cultural, medical, managed care, employee health benefits, scientific, management,

research, performing arts, and systems consultation services, and/or other similar services. A “Special Case” determination is not required for such procurements.

**§ 6. PARAGRAPH 9 OF SUBDIVISION (f) OF SECTION 3-03 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:**

(9) *Receipt and Registration of Proposals.* The identify of an offeror shall not be disclosed prior to the established date and time for receipt of proposals. Proposals shall not be opened publicly [but shall be opened in the presence of two or more City employees]. Proposals and modifications shall be time and date-stamped upon receipt and held in a secure place until the established due date and time. The agency shall disclose the identity of all proposers for goods and standard services on the due date and time of the proposals. After the date and time established for the receipt of proposals, a Register of Proposals shall be prepared and shall be open to public inspection after award of a contract. It shall include for all proposals the name of each offeror and the number of modifications received, if any.

**§ 7. SUBDIVISION (a) OF SECTION 3-10 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:**

(a) *Policy.* Prequalification allows an agency to evaluate the qualifications of vendors for provision of particular categories of goods, services, construction, or construction-related services (including subcategories based on expertise, size, dollar size of project, or other factors as determined by the ACCO) before issuing a solicitation for a specific contract. Except for procurements for construction or procurements designated for a mentoring program or procurements for client services, a procurement using a PQL shall be considered a “special case” under these Rules. [This Section does not apply to the prequalification of vendors pursuant to Section 3-16 of these Rules.]

**§ 8. SECTION 3-16 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS REPEALED AND REPLACED WITH A NEW SECTION 3-16 TO READ AS FOLLOWS:**

**§ 3-16 HHS Procurements**

(a) *Policy.*

(1) Client services contracts must be procured pursuant to this section of the Rules.

(2) The CCPO will prequalify vendors for the HHS PQL by evaluating their qualifications to provide client services (including the relevant subcategories of client services). When procuring client services pursuant to this section, an agency must issue a solicitation for a specific contract to vendors on the HHS PQL in accordance with the provisions of this section. An ACCO may permit joint ventures of two or more prequalified vendors.

(b) HHS Prequalification. The prequalification of vendors for client services shall be conducted pursuant to the rules and procedures set forth in section 3-10, except as modified by this section.

(1) Appeal of Denial or Revocation of Prequalification.

(i) Time Limit. A vendor shall have fifteen days from receipt of the determination to file a written appeal of that determination with the CCPO. Receipt of notice by the vendor will be deemed to be no later than five days from the date of mailing, or upon delivery if delivered using a system that provides proof of the date of delivery. Filing of the appeal must be accomplished by actual delivery of the hard copy appeal

(ii) Form and Content. The appeal must be in writing and must briefly state all of the facts or other basis upon which the vendor contests the CCPO's determination. Supporting documentation, if any, must be included.

(iii) Determination. The CCPO must consider the appeal, and must make a prompt written decision with respect to its merits. The CCPO may in their sole discretion convene an informal conference with the vendor to resolve the issue by mutual consent prior to making a determination.

(iv) Notification. A copy of the decision of the CCPO must be sent to the vendor, stating the reasons for the decision and informing the vendor of the right to appeal. The decision will be reflected in PASSPort. A copy of the determination must be sent to the Comptroller's Office.

(v) Appeal to OATH. The decision of the CCPO shall be final unless appealed to OATH. If a vendor wishes to contest the CCPO's decision, it may appeal to OATH, which shall hear and take final action in the matter in accordance with its rules. The petition to OATH shall be filed by the vendor within fifteen days of the date of the decision. Supporting documentation, if any, shall be included. The vendor shall, at the same time, send a copy of its appeal to the CCPO and the Comptroller's Office. The CCPO shall forward a copy of all appeal-related documents within fourteen days of its receipt of the copy of the vendor's appeal to OATH. During the pendency of the appeal, an Agency may proceed with the solicitation. OATH shall review the decision and determine whether that decision is arbitrary or capricious and whether it is based on substantial evidence. Copies of OATH's determination shall be sent to the vendor, the CCPO and the Comptroller's Office. When the decision results in the revocation of prequalification, the CCPO shall reflect this modification in the PASSPort.

(c) Solicitation from HHS PQL. An agency may only solicit bids or proposals for client services from vendors on the HHS PQL. An ACCO may determine the method of procurement and shall ensure compliance with applicable rules.

(d) HHS Procurement Timeframes. An agency shall make reasonable efforts to meet the following timeframes for HHS procurements pursuant section 3-03 of these Rules:

(1) Pre-Solicitation. Publication of the notice of solicitation shall occur no more than 180 days after the date of initiation of the pre-solicitation report.

(2) Solicitation. The deadline for receipt of proposals shall be no more than 60 days after the date of the publication of the notice of solicitation.

(3) Evaluation. An agency shall select the vendors to receive contracts awards no more than 120 days after the date of the deadline for receipt of proposals.

(4) Award and Contract. An agency shall submit contracts to the Comptroller's Office for registration no more than 120 days after the date of selection of vendors.

**§ 9. PARAGRAPH (ii) OF SUBDIVISION (a) OF SECTION 4-12 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:**

(ii) In the circumstance wherein an expiring contract for client services is to be replaced by a new contract awarded from an RFP pursuant to Section 3-03 or [via HHS Accelerator] from the HHS PQL pursuant to Section 3-16 of these Rules, renewed pursuant to Section 4-04 or extended pursuant to Sections 3-04(b)(2)(iii) or 4-02(b)(1)(iii) of these Rules, the agency should notify the selected vendor of its selection by no later than ninety (90) days prior to the expiration date of the contract that is to be replaced, renewed or extended. Earlier notification is preferable, particularly where the agency anticipates that the vendor will be required to file a new VENDEX questionnaire pursuant to Section 2-08(e)(2) of these Rules. In addition, where an agency proposes to continue services by means of a new RFP award, the Notice of Solicitation such RFP should be published by the agency pursuant to Section 3-03(d) of these Rules, or by the [HHS Accelerator Director] CCPO pursuant to [Section 3-16(b)(1)] Section 3-10(e) of these Rules, by no later than two hundred fifty (250) days prior to the expiration of the contracts to be replaced.