

COUNCIL OF THE DISTRICT OF COLUMBIA

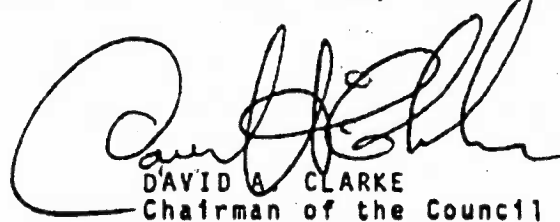
NOTICE

D.C. LAW 6-85

"District of Columbia Procurement Practices Act of 1985".

Pursuant to Section 412 of the District of Columbia Self-government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill 6-191 on first and second readings, November 5, 1985, and November 19, 1985, respectively. Following the signature of the Mayor on December 3, 1985, this legislation was assigned Act 6-110, published in the December 20, 1985, edition of the D. Register, (Vol. 32 page 7396) and transmitted to Congress December 4, 1985 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-85, effective February 21, 1986.

  
DAVID A. CLARKE  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

December 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20  
January 21, 22, 23, 24, 27, 28, 29, 30, 31  
February 3, 4, 5, 6, 7, 18, 19, 20

D.C. LAW 6 - 85

AN ACT

FEB 21 1986

DC. ACT 6 - 110

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 03 1985

Codification  
New Chapter 11A  
of title 1  
Procurement

To provide for a uniform system of procurement management for the District of Columbia government; to adopt a procurement law uniform with other jurisdictions; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Procurement Practices Act of 1985".

TITLE I -- GENERAL PROVISIONS

Sec. 101. Purposes, rules of construction.

New,  
D.C. Code,  
sec. 1-1181.1  
(1986 supp.)

(a) This act shall be liberally construed and applied to promote its underlying purposes and policies.

(b) In enacting this act, the Council of the District of Columbia ("Council") supports the following statutory purposes:

(1) To simplify, clarify, and modernize the law governing the procurement of property, supplies, services, and construction by the District of Columbia government ("District government");

(2) To foster effective and equitably broad-based competition in the District of Columbia ("District") through support of the free enterprise system, insuring support of the minority business opportunity program as set forth in the Minority Contracting Act of 1976, effective March 29,

1977 (D.C. Law 1-95; D.C. Code, sec. 1-1141 et seq.), and its implementing regulations;

(3) To provide increased procurement opportunities for District-based, women-owned businesses;

(4) To provide for increased public confidence in the procedures followed in public procurement;

(5) To eliminate overlapping or duplication of procurement and related activities;

(6) To provide increased economy in procurement activities and to maximize, to the fullest extent allowed by law, the purchasing power of the District government;

(7) To insure the fair and equitable treatment of all persons who deal with the procurement system of the District government;

(8) To improve the understanding of procurement laws and policies within the District by organizations and individuals doing business with the District government;

(9) To permit the continued development of procurement laws, policies, and practices;

(10) To promote the development of uniform procurement procedures District government-wide;

(11) To provide safeguards for the maintenance of a procurement system of quality and integrity; and

(12) To promote overall efficiency in the District government procurement organization and operation.

Sec. 102. Supplementary general principles of law applicable.

Unless superseded by the particular provisions of this

New,  
D.C. Code,  
sec. 1-1181.2  
(1986 supp.)

act, the principles of law and equity, including the District of Columbia Uniform Commercial Code, approved December 30, 1963 (77 Stat. 631; D.C. Code, sec. 28:1-101 et seq.), and laws relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy, shall supplement the provisions of this act.

Sec. 103. Obligation of good faith.

Every contract or duty within this act imposes an obligation of good faith in its performance or enforcement. For the purposes of this act, the term "good faith" means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.

New,  
D.C. Code,  
sec. 1-1181.3  
(1986 supp.)

Sec. 104. Application of the act.

(a) Nothing in this act shall abrogate the authority of a separate branch of government or an independent agency, as defined in the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-150) et seq., to enter into contracts or to issue rules and regulations for the awarding of contracts pursuant to existing law.

New,  
D.C. Code,  
sec. 1-1181.4  
(1986 supp.)

(b) Any existing provisions of District law regarding the conformity to District procurement law of rules and regulations issued or promulgated by independent agencies shall remain in effect.

(c) This act shall apply to all agencies and employees of the District government which are subordinate to the Mayor.

(d) This act shall apply to every contract, interagency agreement, or intergovernmental agreement for procurement or disposal of goods and services by covered agencies and employees, except contracts or agreements for the receipt or the making of a grant-in-aid or for federal financial assistance.

(e) Any branch or agency of government exempted from the provisions of this act by subsection (a) of this section may formally agree to be bound by any provisions of this act, or by the final rules and procedures adopted pursuant to this act.

(f) The Council may enter into contracts to procure supplies and services.

Sec. 105. Limitation of contracting authority.

New,  
D.C. Code,  
sec. 1-1181.5  
(1986 supp.)

(a) No department, agency, or employee subject to this act shall exercise any procurement or contracting authority other than the authority delegated by this act, except authority otherwise provided for receiving or making grants-in-aid or for federal financial assistance.

(b)(1) The Mayor may appoint the head of each agency, subject to the provisions of this act, as a contracting officer for the District subject to all applicable laws, rules, regulations, and standards.

(2) Contracting officers shall have the authority to execute contracts on behalf of an agency subject to review by the Director of the Department of Administrative Service for compliance with provisions of this act.

(3) The Director of the Department of

Administrative Services shall be the central procurement official of the District.

(c) Each contracting officer is authorized to redelegate any contracting authority delegated pursuant to this act to other officials under the contracting officer's administrative control. This delegation shall be subject to any limitations specified in writing, copies of which shall be filed in the contracting officer's office, and submitted to the Mayor, the Director of the Department of Administrative Services, and the Inspector General. The Director shall annually publish a listing of each contracting officer within the District government and a description of the extent of their delegated contracting authority and responsibility.

Sec. 106. Determinations.

Every determination required by this act shall be in writing and based upon written findings of the public official making the determination. These determinations and written findings shall be retained in the official contract file.

New,  
D.C. Code,  
sec. 1-1181.6  
(1986 supp.)

Sec. 107. Definitions.

For the purposes of this act, the term:

(1) "Acquisition" means the obtaining by contract of property, supplies, and services (including construction) by and for the District through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated, and includes the establishment of agency needs, the description

New,  
D.C. Code,  
sec. 1-1181.7  
(1986 supp.)

of requirements to satisfy agency needs, solicitation of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

(2) "Agency" means any officer, employee, office, department, board, commission, or other entity of the District other than an independent agency, the Mayor, or the Council, that is required by law, the Mayor, or the Council to implement any law, rule, or regulation that is adopted pursuant to a law.

(3) "Architect-engineer and land surveying services" means those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the District.

(4) "Best interest of the District government" means courses of action that result in the most favorable position within the market for goods and services, or will maximize the achievement of certain socio-economic policies as expressed in this act or other existing laws.

(5) "Bid bond" means a form of security assuring that the bidder will not withdraw a bid within the period specified for acceptance and will execute a written contract within the time specified in the bid.

(6) "Bond" means a written instrument executed by a contractor (principal) and a second party (surety or sureties) to assure fulfillment of the contractor's obligations to a third party (obligee or the District). If

the principal's obligations are not met, the bond assures payment, to the extent stipulated, of any loss sustained by the obligee.

(7) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

(8) "Centralized purchasing" means a system of purchasing in which authority, responsibility, and control of purchasing activities are concentrated in 1 administrative unit.

(9) "Central procurement official" means the Director of the Department of Administrative Services.

(10) "Competitive bidding" means the offer of prices by individuals or firms competing for a contract, privilege, or right to supply specified services or materials.

(11) "Competitive sealed proposals" means a process which includes the submission of sealed written technical and price proposals from 2 or more sources and a written evaluation of each proposal in accordance with evaluation criteria which consider price, quality of the items, performance, and other relevant factors.

(12) "Construction" means the process of building, altering, repairing, or improving any public structure or building, or other public improvements of any kind to any public real property. The term "construction" does not include the operation or routine maintenance of



existing structures, buildings, or real property.

(13) "Contract" means all types of mutually binding agreements covered by this act, which, except as otherwise authorized, are in writing. It includes, but is not limited to: (A) awards and notices of awards; (B) contracts providing for the issuance of job or task orders; (C) letter contracts; (D) purchase orders; (E) supplemental agreements and contract modifications with respect to any of the foregoing; and (F) orders.

(14) "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. The term "contract modification" includes actions such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

(15) "Contracting officer" means an agency head, or a designee who is vested with the authority to execute contracts on behalf of an agency subject to review by the Director of the Department of Administrative Services for compliance with provisions of this act.

(16) "Contractor" means any business which enters into a contract agreement with the District.

(17) "Cooperative purchasing" means procurement conducted by the District government with, or on behalf of,

a neighboring jurisdiction.

(18) "Cost-plus incentive fee contract" means a type of contract that specifies a target cost, a target fee, minimum and maximum fees, and a fee adjustment formula.

(19) "Cost-reimbursement contract" means a contract under which the District reimburses the contractor for those contract costs, within a stated ceiling, which are recognized as allowable and allocated in accordance with cost principles, and a fee, if any.

(20) "Data" means recorded information, regardless of form or characteristics.

(21) "Designee" means a duly authorized representative of a person holding a superior position.

(22) "Director" means the Director of the Department of Administrative Services, established by Mayor's Order 84-52, dated March 2, 1984.

(23) "Employee" means an individual receiving a salary from the District government, whether elected or not, and any nonsalaried individual performing personal services for the District government.

(24) "Established catalogue price" means the price included in the most current catalogue, price list, schedule, or other form that:

(A) Is regularly maintained by the manufacturer or supplier of an item;

(B) Is either published or otherwise available for inspection by customers;

(C) States prices at which sales are