

## PROCUREMENT POLICY BOARD

### NOTICE OF PUBLIC HEARING AND OPPORTUNITY TO COMMENT ON PROPOSED RULES

**What are we proposing?** The Procurement Policy Board (PPB) is proposing to amend Chapter 1 of Title 9 of the Rules of the City of New York to clarify the definition of a Minority- and Women-Owned Business Enterprise as per New York City Local Law 1 of 2013.

The proposed amendments were not included in the PPB's most recent regulatory agenda as the amendments were not anticipated at the time the agenda was published.

**When and where is the Hearing?** The PPB will hold a public hearing on the proposed rules. The public hearing will take place at 2:30 p.m. on September 14, 2015. The hearing will be held at 22 Reade Street, Spector Hall, New York, NY 10007.

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

- **Website.** You can submit comments through the NYC rules web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [ppb@cityhall.nyc.gov](mailto:ppb@cityhall.nyc.gov).
- **Mail.** You can mail comments to:

Attn: Procurement Policy Board  
Mayor's Office of Contract Services  
253 Broadway, 9<sup>th</sup> Floor  
New York, New York 10007

- **Fax.** You can fax comments to PPB at 212-788-0049. Please include "PPB Proposed Rules" on the cover page of your fax.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by e-mailing [ppb@cityhall.nyc.gov](mailto:ppb@cityhall.nyc.gov), or you can sign up in the hearing room before the hearing begins on September 14, 2015. You can speak for up to three minutes.

**Is there a deadline to submit comments?** The deadline to submit comments is September 14, 2015.

**Do you need assistance to participate in the Hearing?** You must tell the Office of Legal Affairs 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 e-mail at [ppb@cityhall.nyc.gov](mailto:ppb@cityhall.nyc.gov). You must tell us by August 31, 2015.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Mayor's Office of Contract Services, 253 Broadway, 9th Floor, New York, NY 10007.

**What authorizes the PPB to make these rules?** Pursuant to the authority vested in the PPB by section 311 and in accordance with section 1043 of the New York City Charter authorizes the PPB to make these proposed rules.

**Where can I find the PPB's rules?** PPB's rules are contained in Title 9 of the Rules of the City of New York.

**What rules govern the rulemaking process?** PPB must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

## STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULES

New York City's Minority-and Women-Owned Business Enterprise (M/WBE) program was established to enhance the ability of M/WBEs to compete for city contracts, to enhance city agencies' awareness of such business enterprises, and to ensure their meaningful participation in city procurement. The City's M/WBE Program was signed into law by New York City Local Law 129 of 2005, and was later expanded by New York City Local Law 1 of 2013 (Local Law 1). PPB is proposing to amend Chapter 1 of Title 9 of the Rules of the City of New York to clarify the definition of an M/WBE as per Local Law 1. This clarification will avoid any confusion about other similar certifications for M/WBE's.

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

### The Proposed Rule Amendments

New material is underlined and deletions are [bracketed].

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this board, unless otherwise specified or unless the context clearly indicates otherwise.

### **Section 1. The definition of “M/WBE”, appearing alphabetically in subdivision (e) of section 1-01 of Chapter 1 of Title 9 of the Rules of the City of New York, is amended to read as follows:**

M/WBE. [Minority and Women's Business Enterprise;] An acronym that stands for Minority and Women Owned Business Enterprise. [a] A business [concern] enterprise authorized to do business in the State that has been certified by the program established pursuant to §1304 of the New York City Charter, including sole proprietorships, partnerships, and corporations, in which (i) at least fifty-one percent of the ownership interest is held by United States citizens or permanent resident aliens who are [(a)] either minority group members or [(b)] women, (ii) the ownership interest of such person is real, substantial, and continuing, and (iii) such persons have and exercise the authority to control independently the day-to-day business decisions of the enterprise.

**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:** Definition of Minority- and Women-Owned Business Enterprise

**REFERENCE NUMBER:** 2015 RG 070

**RULEMAKING AGENCY:** Procurement Policy Board

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  
Acting Corporation Counsel

Date: July 23, 2015

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

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

**RULE TITLE: Definition of Minority- and Women-Owned Business Enterprise**

**REFERENCE NUMBER: MOCS-16**

**RULEMAKING AGENCY: MOCS**

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/ Francisco X. Navarro  
Mayor's Office of Operations

July 23, 2015  
Date