

Notice of Adoption of Rules

Pursuant to the authority vested in the Procurement Policy Board (PPB) by Sections 311 and 326 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 2 of Title 9 of the Rules of the City of New York.

Statement of Basis and Purpose

These Procurement Policy Board (PPB) Rule amendments update the provisions of the PPB Rules relating to public hearings and public notice and comment.

Effective May 21, 2025, New York City Charter § 326 will be amended by New York State law (Chapter 483 of the Laws of 2024) to replace the requirement for public hearings with a requirement for public notice and comment for any contract for goods, services or construction in excess of one hundred thousand dollars to be awarded by other than competitive sealed bidding or competitive sealed bids from prequalified vendors.

This rule amendment transitions public hearings to public notice and comment as required by the amendments to New York City Charter § 326 to improve efficiency and public participation in the procurement process. Eliminating the need to schedule and host public hearings helps reduce procurement timelines, and implementing notice and comment provides the public with easier access to comment on a potential contract compared to appearing and giving testimony at a hearing.

Section 1 amends PPB Rule § 2-11 to rename the section from “Public Hearing Requirements” to “Public Notice and Comment Requirements” and update the section for clarity and consistency with the changes to Charter § 326. The additional requirements for the public notice detail the contents of the public notices and the process for public comments.

Section 2 provides an effective date for the amendments made by Section 1.

On March 6th, 2025, the PPB voted to initiate the rulemaking process under the Citywide Administrative Procedure Act for this rule amendment. A proposed version of this amendment was published in the *City Record* on April 1, 2025. A public hearing was held on May 1, 2025.

The PPB received two written comments and no oral testimony at the public hearing. Upon careful consideration of the comments and in consideration of the PPB’s discussions during the March public meeting, the PPB adopted the amendment on May 8, 2025. Pursuant to subparagraph (d) of paragraph (1) of subdivision (f) of section 1043 of the Charter, the Chair of the Procurement Policy Board and the Mayor determined that this rule takes effect on May 21, 2025, based on a substantial need for the earlier implementation of this rule. A copy of this determination is included following the text of this rule.

The PPB’s authority to promulgate these rules is found in sections 311, 326, 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]. “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. Section 2-11 of Title 9 of the Rules of the City of New York is amended to read as follows:

§ 2-11 Public [Hearing] Notice and Comment Requirements.

(a) Application. Except in cases set forth in subdivision (b) below, prior to entering into any contract or exercising a renewal option in a contract exceeding in value \$100,000, the agency shall [hold a public hearing to receive testimony regarding the proposed contract] give notice in the City Record that comments on the proposed contract may be submitted online for a period of time not less than seven days.

(b) Exemptions.

- (1) The following contracts or exercise of a renewal option in the following contracts are exempt from the requirements of this section:
 - i. contracts to be awarded by competitive sealed bidding, except where the basis for award is best value to the City pursuant to Section 3-02(o) of these Rules;
 - ii. contracts to be awarded by competitive sealed bidding from prequalified lists,
 - iii. emergency contracts,
 - iv. accelerated procurements, and
 - v. contracts where [a] public [hearing] notice and comment may disclose litigation strategy or otherwise impair the conduct of litigation by the City. Where this exemption is claimed, the Corporation Counsel shall make a determination [that a] as to whether public [hearing] notice and comment may have an impact on litigation.
- (2) Exercise of a renewal option in a contract where the original contract or any prior renewal option was subject to a public hearing or public notice and comment is exempt from the requirements of this section.
- (3) Contracts to be let that do not differ materially in terms and conditions, as defined herein, from contracts currently held by the City where the parties to such contracts are the same shall be exempt from the public [hearing] notice and comment requirements of this section and the Charter, provided that such exemption shall not apply to contracts over ten million dollars in value. Contracts do not differ materially in terms and conditions when they:
 - i. contain substantially the same specifications;
 - ii. are for substantially the same length of time, except in the case of contracts awarded pursuant to negotiated acquisition where there is a compelling need to extend the contract one or more times beyond the cumulative twelve-

- month limit and where such extensions awarded pursuant to negotiated acquisition are cumulatively for a period of time no greater than one year;
- iii. contain substantially the same pricing, as determined by the ACCO, taking inflation into account and reflecting fair and reasonable pricing. For the purposes of this paragraph, the consideration of inflation shall be limited to demonstrated changes in the cost of materials and/or labor, as appropriate. “Inflation” shall not include corresponding or other increases in overhead, general selling and administrative expenses, or profit, i.e., increases based on these factors shall not be deemed to result in “substantially the same pricing” and
 - iv. contain substantially the same legal terms.

(c) Public Notice.

- (1) Frequency. Notice of public [hearings shall be published once in the City Record not less than ten days prior to the hearing date or a shorter period approved by the CCPO] comment on proposed contract awards shall be made once in the City Record no less than seven calendar days prior to the conclusion of accepting public comment on a particular proposed contract award.
- (2) Required Content. Such notice shall include:
 - (i) agency name;
 - (ii) [PIN] procurement identification number (PIN);
 - (iii) a brief description of the goods, services, or construction to be procured, and method of source selection;
 - (iv) name and address of the proposed vendor and location of the proposed program, project, or worksite;
 - (v) dollar amount of the proposed contract; [and]
 - (vi) [date, time, and place of the public hearing] where and how comments may be submitted; and
 - vii. date and time until which public comment will be received on the particular proposed contract award.
- [(3) Optional Content. For contracts or renewals, the value of which does not exceed one million dollars, such notice may include a provision that if the agency does not receive, within five business days after publication of such notice or shorter period approved by the CCPO, from any individual a written request to speak at such hearing, then the agency need not conduct such hearing. Should the agency choose not to conduct such hearing, the agency shall publish a notice in the City Record canceling such hearing.]

(d) Conduct of [Hearing] Public Notice and Comment.

- (1) [All persons attending who desire to testify shall have the opportunity to do so.
- (2) An audiotape or transcript shall be made of the proceedings and shall be public information.

(3)] No commitment to make changes in the intended contract award shall be made during the [hearing] notice and comment process; however, [testimony] comments received shall be considered after the [hearing] public notice and comment period is concluded.

(2) A copy of all comments received shall be included in the agency contract file.

Section 2. Effective Date

This rule takes effect on May 21, 2025.

FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

In accordance with Section 1043(f)(1)(d) of the New York City Charter, the Procurement Policy Board (“PPB”) has determined that there is a substantial need for the implementation of these rules relating to public hearing, notice and comment immediately upon its final publication in the City Record, thereby waiving the requirement that thirty days elapse prior to the effective date of the rule.

As discussed in the Statement of Basis and Purpose, effective May 21, 2025, New York City Charter Section 326 will be amended by New York State law (Chapter 483 of the Laws of 2024) to replace the requirement for public hearings with a requirement for public notice and comment for any contract for goods, services or construction in excess of one hundred thousand dollars to be awarded by other than competitive sealed bidding or competitive sealed bids from prequalified vendors.

On May 8, 2025, the PPB voted into adoption rule amendments transitioning PPB Rules section 2-11 from “public hearing” to “public notice and comment.” To ensure this rule takes effect as soon as possible, thus facilitating a timely transition from public hearing to public notice and comment and minimizing disruption to the procurement actions that will be affected by Charter section 326, it must take effect immediately upon publication in the City Record.

Therefore, we find pursuant to section 1043(f)(1)(d) of the New York City Charter that there is a substantial need for this rule’s earlier implementation.

Dated: May 8, 2025

/s/ Guillermo Chacón
GUILLERMO CHACÓN
Chair,
Procurement Policy Board

/s/ Eric Adams
ERIC ADAMS
Mayor