

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 changes to the PPB Rules to update provisions relating to vendor protests.

When and where is the hearing? The PPB will hold a public hearing on the proposed rule. The public hearing will take place May 1, 2025, at 11:00 AM. The hearing will be at 255 Greenwich St, 9th Floor in the Borough of Manhattan.

The public may also access and participate in the hearing via Internet or telephone.

- To join the public hearing via Internet, please follow the meeting link:
https://teams.microsoft.com/l/meetup-join/19%3ameeting_OWQ0MTIyMjUtODIwOS00NTcxLTkwMzAtYWWRmYjc5MTIwNjVk%40thread.v2/0?context=%7b%22Tid%22%3a%2232f56fc7-5f81-4e22-a95b-15da66513bef%22%2c%22Oid%22%3a%22ef8843c3-c7eb-4912-a948-ce23417db9ab%22%7d

Meeting Number: 272 343 609 48

Meeting Password: HF65Kt6N

- To join the public hearing via telephone, please dial: +1 646-893-7101,,358676158#

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

- **Website.** You can submit comments to the PPB through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to ppb@mocs.nyc.gov.
- **Mail.** You can mail comments to:

Attn: Procurement Policy Board
Mayor's Office of Contract Services
255 Greenwich St, 9th Floor
New York, NY 10007

- **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 emailing ppb@mocs.nyc.gov, or calling (212) 298-0624. While there will be an opportunity during the hearing to indicate that you would like to comment, we prefer that you sign up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a "Question and Answer" format.

Is there a deadline to submit comments? The deadline to submit written comments will be May 1, 2025.

What if I need assistance to participate in the hearing? You must tell the Disability Service Facilitator if you need a reasonable accommodation of a disability at the hearing, including, but not limited to, a sign language interpreter. You can contact the Disability Service Facilitator by email at DisabilityAffairs@mocs.nyc.gov, by telephone at (212) 298-0743 or by mail at the address provided above with an attention line to “Disability Service Facilitator.” Advance notice is requested to allow sufficient time to arrange the accommodation. Please notify the Disability Service Facilitator at least five (5) business days in advance of the hearing.

This location has the following accessibility option(s) available: Wheelchair accessibility.

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/>. Within a reasonable time after the hearing, copies of all written comments and a summary of oral comments concerning the proposed rules will be available to the public on MOCS’ website at <https://www.nyc.gov/site/mocs/regulations/ppb.page> and at MOCS’ office located at 255 Greenwich St, 9th Floor, New York, NY 10007.

What authorizes the PPB to make these rules? Sections 311 and 1043 of the New York City Charter authorize the PPB to make the proposed rules. This proposed rule was not included in the PPB’s regulatory agenda for this Fiscal Year because it was not contemplated when the PPB published its agenda.

Where can I find the PPB’s rules? The PPB’s rules are in Title 9 of the Rules of the City of New York.

What laws govern the rulemaking process? The PPB must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the New York City Charter.

Statement of Basis and Purpose of Proposed Rule

These Procurement Policy Board (PPB) Rule amendments would update the provisions of the PPB Rules relating to vendor protests.

Effective March 9, 2025, New York City Charter § 311(b) was amended by Local Law 107 of 2024 to require the PPB to promulgate rules authorizing the submission of a protest by a vendor or a vendor's designated representative of a determination of any procurement action by an agency, except for determinations related to accelerated procurements, emergency procurements, and small purchases.

This rule amendment required by New York City Charter § 311(b) would provide third parties the ability to protest a determination of an agency procurement action on behalf of a vendor.

Section 1 of the proposed rule would amend PPB Rule § 2-10 to allow a vendor's designated representative to protest a determination of a procurement action, create a new paragraph (1) to define "vendor's designated representative," and update the paragraph numbers for paragraphs (1) to (3).

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]. "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 2-10 of Title 9 of the Rules of the City of New York is amended to read as follows:

- (i) Protests. Any vendor or vendor's designated representative may protest a determination of any procurement action pursuant to this section, unless another appeal or protest provision is provided in these Rules. Accelerated procurements, emergency procurements, and small purchases are not subject to vendor protests.
- (1) For purposes of this section, a vendor's designated representative means a person, as defined by Section 1-01(e) of these Rules, authorized by a vendor to submit a protest on behalf of the vendor. No more than one person may be a vendor's designated representative at a time. A vendor and the vendor's designated representative may not both submit protests of the same determination. Protests by a vendor's designated representative must include written evidence of such designation.
- (2) Time for Protest. A protest shall be made within ten days after the protesting vendor knows or should have known of the facts that prompted the protest but no later than ten days after publication of the notice of award.

[(2)] (3) Form and Content of Protest. The protest shall be filed with the Agency Head and shall briefly state all the facts or other basis upon which the vendor contests the agency decision. Supporting documentation, if any, shall be included. If a vendor has already been selected for the procurement, the Agency Head shall, upon receipt of the protest, mail a copy of the protest to the selected vendor. Filing of the protest shall be accomplished by actual delivery of the protest documents to the office of the Agency Head. The vendor shall also send a copy of its protest to the ACCO and the New York City Comptroller, Office of Contract Administration.

[(3)] (4) Agency Head Determination. The Agency Head may, in his or her sole discretion, invite written comment from the selected vendor (if any) or other interested party, and/or convene an informal conference with the protesting vendor, the selected vendor, and/or any other interested party to resolve the protest by mutual consent. The Agency Head's determination with respect to the merits of the protest shall be mailed to the protesting vendor and the selected vendor (if any) within thirty days of receipt of the protest documents. The determination shall state the reasons upon which it is based. Copies of all documents required by this paragraph shall be forwarded to the CCPO and the Comptroller as such documents become available to the agency. The Agency Head's determination shall be final. The procurement action under protest shall not be stayed unless the Agency Head determines that it is in the City's best interest to delay the action.

**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: Amendment of Rule Relating to Vendor Protests

REFERENCE NUMBER: 2025 RG 028

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:

is drafted so as to accomplish the purpose of the authorizing provisions of law;

is not in conflict with other applicable rules;

to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

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
Senior Counsel

Date: March 21, 2025

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

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

RULE TITLE: Amendment of Rule Relating to Vendor Protests

REFERENCE NUMBER: PPB-8

RULEMAKING AGENCY: Procurement Policy Board

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:

- (ii) 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/ Ilana Luther

Mayor's Office of Operations

March 27, 2025

Date