

## **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 public hearings, notice and comment.

**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, 9<sup>th</sup> 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](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](mailto: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](mailto: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](mailto: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, 326, 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 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 that transitions public hearings to public notice and comment as required by the amendments to New York City Charter § 326 would improve efficiency and public participation in the procurement process. Eliminating the need to schedule and host public hearings would help reduce procurement timelines, and implementing notice and comment would provide the public with easier access to comment on a potential contract compared to appearing and giving testimony at a hearing.

Section 1 would amend 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 would detail the contents of the public notices and the process for public comments.

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

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 shall take effect on May 21, 2025.



**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 Rules Relating to Public Hearings, Notice and Comment

**REFERENCE NUMBER:** 2025 RG 008

**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, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

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

**RULE TITLE: Amendment of Rules Relating to Public Hearings, Notice and Comment**

**REFERENCE NUMBER: PPB-7**

**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:

- (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/ Ilana Luther

Mayor's Office of Operations

March 27, 2025

Date