

Notice of Adoption of Rules

Pursuant to the authority vested in the Procurement Policy Board (PPB) by Section 311 and 321 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 3 of Title 9 of the Rules of the City of New York.

Statement of Basis and Purpose of Final Rules

These Procurement Policy Board (PPB) amendments update the provisions of the PPB Rules relating to certain requirements for sole source procurements for goods, services, and construction. The sole source procurement method set forth in PPB Rule § 3-05 allows agencies to award contracts exceeding a certain amount when there is only one source for the required good, service, or construction. For example, if an agency requires goods that are only supplied by a single vendor, and there are no alternative sources available that would be sufficient to meet the agency's needs, then the agency may use the sole source procurement method.

This rule amendment (1) aligns the sole source procurement method dollar limits to procure goods, services, and construction with the micropurchase dollar limit; and (2) clarifies the application of sole source procurement rules and make those rules more consistent.

Section 1 of these proposed rules would amend PPB Rule § 2-02(b)(1) to align the presolicitation review for sole source procurements dollar limits with the micropurchase dollar limit set forth in Section 3-08(c)(1)(ii).

Section 2 of these proposed rules would amend PPB Rule § 2-08(e)(1)(ii) to remove the reference to construction-related services.

Section 3 of these proposed rules would amend PPB Rule § 2-09(a)(1) to align the Recommendation for Award for sole source procurements dollar limits with the micropurchase dollar limit set forth in Section 3-08(c)(1)(ii).

Section 4 of these proposed rules would amend PPB Rule § 3-05(a) to align the dollar limits for use of sole source procedures with the micropurchase dollar limit set forth in Section 3-08(c)(1)(ii).

On December 6, 2023, 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 January 25, 2024. A public hearing was held on February 26, 2024.

The PPB did not receive either written comments or oral testimony at the public hearing. In the absence of comments and in consideration of the PPB's discussions during the December public meeting, the PPB adopted the amendment on March 19, 2024.

The PPB's authority to promulgate these rules is found in sections 311, 321, 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. PARAGRAPH (1) OF SUBDIVISION (b) OF SECTION 2-02 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(1) sole source procurements exceeding [\$10,000 for goods and services and \$15,000 for construction and construction-related services] the micropurchase limit set forth in Section 3-08(c)(1)(ii) of these Rules and

§ 2. SUBPARAGRAPH (ii) OF PARAGRAPH (1) OF SUBDIVISION (e) OF SECTION 2-08 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(ii) is for the provision of goods, services, or construction, [or construction-related services], is awarded to a sole source, and is valued at \$10,000 or more.

§ 3. PARAGRAPH (1) OF SUBDIVISION (a) OF SECTION 2-09 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(1) sole source procurements [for goods and services exceeding \$10,000 and construction and construction-related services exceeding \$15,000 awarded by sole source procedures pursuant to 9 RCNY § 3-05] exceeding the micropurchase limit set forth in Section 3-08(c)(1)(ii) of these Rules, and

§ 4. SUBDIVISION (a) OF SECTION 3-05 OF TITLE 9 OF THE RULES OF THE CITY OF NEW YORK IS AMENDED TO READ AS FOLLOWS:

(a) *Conditions for use.* Sole source procurement shall be used only when there is only one source for the required good, service, or construction. In such case, the accepted price and terms and conditions shall be achieved through negotiation between the agency and the vendor. This section shall apply to [all] sole source procurements [over \$20,000] exceeding the micropurchase limit set forth in Section 3-08(c)(1)(ii) of these Rules.