

Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Procurement Practices Reform Act of 2010 to add and amend certain definitions, to explicitly authorize the delegation of certain authority by the Chief Procurement Officer, to permit the submission of contracts and contract modifications during Council recess, to clarify the manner in which option periods and other contract actions are approved by the Council, to specify the manner in which District of Columbia Supply Schedule contracts, locally-funded construction and transportation contracts, and capitolly funded vehicle purchases are reviewed and approved by the Council, to clarify who may provide legal sufficiency certifications to the Council, to authorize the Chief Procurement Officer to use any source selection method to acquire goods and services that is not prohibited by law, to eliminate the requirement that a determination and findings be issued prior to conducting a procurement by competitive sealed proposal, to authorize contracting officers to appoint technical evaluation panels and delineate the manner in which they are utilized by contracting officers in evaluating proposals, to enhance the protection of proprietary information submitted to the District by offerors, to increase the limit for non-competitive procurements to \$25,000, to clarify use of federal schedules, to exempt from competition procurements for motorcycles for a presidential inauguration, to authorize the Chief Procurement Officer to set aside certain contracts for architectural and engineering services to qualified certified business enterprises and certified joint ventures, to authorize contracting officers to establish a retainage rate for construction contracts that utilize progress payments, to clarify the review process of suspension and debarment decisions, to establish a time period within which a claim may be made by a contractor arising under or relating to a government contract, to prohibit the inclusion of certain improper terms in District contracts, to clarify the time period by which a denied claim may be appealed to the Contract Appeals Board, to eliminate the Contract Appeals Board's review of the designation of urgent and compelling circumstances; to amend the First Source Employment Agreement Act of 1984 to align review of First Source plans with procurement evaluation criteria, to conform the debarment process under the First Source Employment Agreement Act of 1984 with the debarment process under the Procurement Practices Reform Act of 2010; to repeal An Act Regulating the retent on contracts with the District of Columbia; and to amend the Small and Certified Business Enterprise Development and Assistance Act of 2005 to authorize contracting officers to designate when subcontracting plans are due and permit contracting officers to negotiate the terms of subcontracting plans with vendors.

47

48 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may
49 be cited as the “Procurement Reform Amendment Act of 2026”.

50 Sec. 2. The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C.
51 Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), is amended as follows:

52 (a) Section 104 (D.C. Official Code § 2-351.04) is amended as follows:

53 (1) New paragraphs (8A) and (8B) are added to read as follows:

54 “(8A) “Certified business enterprise” shall have the same meaning as provided in
55 section 2302(1D) of the Small and Certified Business Enterprise Development and Assistance
56 Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D)).

57 “(8B) “Certified joint venture” shall have the same meaning as provided in
58 section 2302(1E) of the Small and Certified Business Enterprise Development and Assistance
59 Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1E)).”.

60 (2) Paragraph (50) is amended to read as follows:

61 “(50) “Public notice” means the distribution or dissemination of information to
62 interested parties using methods that are reasonably available. Methods may include publication
63 in newspapers, electronic or paper mailing lists, trade publications, and websites designated by
64 the District.”.

65 (b) Section 201(a) (D.C. Official Code § 2-352.01(a)) is amended by adding a new
66 paragraph (4A) to read as follows:

67 “(4A) The CPO may delegate any other authority of the CPO under this act or
68 other law to subordinates under the CPO’s jurisdiction.”.

69 (c) Section 202 (D.C. Official Code § 2-352.02) is amended as follows:

70 (1) Subsection (a)(2) is repealed.

71 (2) Subsection (b) is amended as follows:

72 (A) Paragraph (3) is repealed.

73 (B) New paragraphs (4), (5), and (6) are added to read as follows:

74 “(4) A contract or contract modification submitted to the Council for its review
75 and approval pursuant to section 451 of the District of Columbia Home Rule Act, approved
76 December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51) (“section 451 of the HRA”), or
77 this section may be transmitted to the Council during a period of recess. The time periods set
78 forth in section 451 of the HRA and this section, and the starting day of such time periods, shall
79 include days of recess of the Council.

80 “(5)(A) Paragraph (2) of this subsection and the other procedures of this section
81 applicable to proposed contracts in excess of \$1 million during a 12-month period shall apply to
82 a proposed contract modification that will increase the dollar value of the underlying contract
83 from an amount less than or equal to \$1 million to an amount in excess of \$1 million during a 12-
84 month period.

85 “(B) Council approval of a contract described in subparagraph (A) of this
86 paragraph shall not be considered retroactive for the purposes of this act or any other act.

87 “(6) Council approval of a contract that contains one or more option periods each
88 of a duration of 12 months or less shall constitute the Council review and approval required by
89 section 451(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87
90 Stat. 803; D.C. Official Code § 1-204.51(b)) of each option period of the contract if the option
91 period is exercised pursuant to the terms of the contract approved by the Council and there has

92 been no material change to the terms of the contract subsequent to the Council’s approval of the
93 contract.”.

94 (3) New subsections (i), (j), (k) and (l) are added to read as follows:

95 “(i) Review and approval by the Council of an annual program of locally funded highway
96 and construction projects included in the capital improvement plan shall constitute the Council
97 review and approval required by section 451 of the District of Columbia Home Rule Act,
98 approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51) of the individual
99 contracts that make up the annual program.

100 “(j) Review and approval by the Council of an annual program of District of Columbia
101 Supply Schedule contracts under section 412 shall constitute Council review and approval
102 required by section 451 of the District of Columbia Home Rule Act, approved December 24,
103 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), of the individual contracts that make up the
104 annual program.

105 “(k) Review and approval by the Council of an annual program of purchases of motor
106 vehicles, including cars, trucks, ambulances, firetrucks, and fire apparatus, included in the capital
107 improvement plan shall constitute the Council review and approval required by section 451 of
108 the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C.
109 Official Code § 1-204.51),of the individual contracts that make up the annual program.

110 “(l) Certifications for legal sufficiency of proposed contracts submitted pursuant to this
111 section may be issued by the Office of the Attorney General or the Office of General Counsel of
112 an Agency having procurement authority.”.

113 (d) Section 401 (D.C. Official Code § 2-354.01) is amended by adding a new subsection
114 (a-1) to read as follows:

115 “(a-1) Notwithstanding subsection (a) of this section, a District government contract may
116 be awarded through a selection method not listed in subsection (a) of this section if the CPO
117 determines in writing that use of the selection method is in the best interest of the District.”.

118 (e) Section 402(a) (D.C. Official Code § 2-354.02(a)) is amended to read as follows:

119 “(a) Contracts exceeding \$100,000 may be awarded by competitive sealed bidding.”.

120 (f) Section 403 (D.C. Official Code § 2-354.03) is amended as follows:

121 (1) A new subsection (g-1) is added to read as follows:

122 “(g-1) A contracting officer may appoint a technical evaluation panel to evaluate and
123 rank the technical aspects of responses to an RFQ or RFP. The contracting officer may adopt all,
124 part, or none of the technical evaluation panel’s evaluation and ranking as the evaluation and
125 ranking of the contracting officer.”.

126 (2) A new subsection (i) is added to read as follows:

127 “(i)(1) Except as provided in paragraph (2) of this subsection, a covered proposal in the
128 possession or control of the District shall not be made available to any person under the District
129 of Columbia Freedom of Information Act, effective June 3, 1977 (D.C. Law 1-96; D.C. Official
130 Code § 2-531 *et seq.*).

131 “(2) Paragraph (1) of this subsection shall not apply to any proposal that is set
132 forth or incorporated in a contract entered into between the District and the contractor that
133 submitted the proposal.

134 “(3) For the purposes of this subsection, the term “covered proposal” means any
135 proposal, including a technical or cost proposal, submitted by an offeror in response to the
136 requirements of a solicitation, including requests for proposals, requests for qualifications, and
137 requests for expressions of interest, but excluding responses to invitations for bids.”.

138 (g) Section 407(a)(2) (D.C. Official Code § 2-354.07(a)(2)) is amended by striking the
139 phrase “not to exceed \$10,000” and inserting the phrase “not to exceed \$25,000” in its place.

140 (h) Section 410 (D.C. Official Code § 2-354.10) is amended by adding new subsections
141 (c) and (d) to read as follows:

142 “(c) The period of performance for each order awarded under a federal schedule contract
143 shall be specified in the order when it is initially awarded. Orders must be solicited and awarded
144 prior to the expiration of the federal schedule contract.

145 “(d) If the federal schedule contract provides, an order under the federal schedule contract
146 may contain option periods. Those option periods may be exercised after the federal schedule
147 contract has expired, provided that the options are clearly stated in the order and the contracting
148 officer finds the prices to be fair and reasonable.”.

149 (i) Section 413 (D.C. Official Code § 2-354.13) is amended by adding new paragraphs
150 (17) and (18) to read as follows:

151 “(17) Professional development training which supports principal, teacher, and student
152 achievement, health, and safety; and

153 (18) Police motorcycles to be used for presidential inaugurations.”.

154 (j) Section 604 (D.C. Official Code § 2-356.04) is amended by adding a new subsection
155 (f) as follows:

156 “(f) Procurements for architectural and engineering services made under this section may
157 be set aside for qualified certified business enterprises and qualified certified joint ventures.”.

158 (k) A new section 607 is added to read as follows:

159 “Sec. 607 Retainage.

160 “(a) With respect to construction contracts, if the contracting officer finds that
161 satisfactory progress was achieved during any period for which a progress payment is to be
162 made, the contracting officer may authorize payment to be made in full. If satisfactory progress
163 has not been made, the contracting officer may retain a maximum of 10% of the amount of the
164 progress payment until satisfactory progress is achieved.

165 “(b) When the work constructed under a construction contract is substantially complete,
166 the contracting officer may retain from previously withheld funds and future progress payments
167 the amount the contracting officer considers adequate for protection of the District government
168 and shall release to the contractor all the remaining withheld funds.

169 “(c) On completion and acceptance of each separate building, public work, or other
170 division of a construction contract, for which the price is stated separately in the contract,
171 payment may be made for the separate building, public work, or other division without retention
172 of a percentage.”.

173 (l) Section 907(f) (D.C. Official Code § 2-359.07(f)) is amended to read as follows:

174 “(f) A debarred or suspended person may, within 60 days after receiving the CPO’s final
175 decision, file an appeal with the Contract Appeals Board. The Contract Appeals Board’s review
176 shall be limited to the administrative record upon which the CPO’s final decision was based. The
177 Board shall not set aside the CPO’s decision or reduce the term of a debarment unless the Board
178 finds that the CPO’s decision was arbitrary, capricious, an abuse of discretion, or otherwise
179 contrary to law.”.

180 (m) Section 908(a) (D.C. Official Code § 2-359.08(a)) is amended by adding a new
181 sentence at the end to read as follows:

182 “No claim may be brought after the expiration of 3 years from the time the right to
183 maintain the claim accrued.”.

184 (n) A new section 911 is added to read as follows:

185 “Sec. 911. Prohibited contract terms.

186 “(a) A contract entered into pursuant to this act shall not contain a term that:

187 “(1) Requires the District government to:

188 “(A) Defend, indemnify, or hold harmless a contractor or other person;

189 “(B) Be bound by any term or condition that is unknown at the time of
190 signing such contract, or which may be unilaterally changed by the contractor or other person; or

191 “(C) Pay attorneys’ fees, court costs, or other litigation expenses in the
192 event of a dispute; or

193 “(2) Provides for:

194 “(A) Venue for any claim, action, or dispute other than the Contract
195 Appeals Board or the courts of the District;

196 “(B) The contract to be governed or construed by any laws other than
197 those of the District;

198 “(C) Binding arbitration; or

199 “(D) An automatic renewal of the contract such that District funds are or
200 would be obligated in subsequent fiscal years.

201 “(b) If a contract entered into pursuant to this part contains a term prohibited under
202 subsection (a) of this section, such term shall be void, and the contract shall be otherwise
203 enforceable as if it did not contain such term.”.

204 (o) Section 1004(a) (D.C. Official Code § 2-360.04(a)) is amended by striking the phrase
205 “after the date of receipt of a decision of the contracting officer” and inserting the phrase “after
206 either the date of receipt of a decision of the contracting officer, or the date when a claim has
207 been deemed denied” in its place.

208 (p) Section 1008(c)(2) (D.C. Official Code § 2-360.08(c)(2)) is amended to read as
209 follows:

210 “(2) Performance under a protested procurement may proceed, or award may be
211 made, while a protest is pending only if the CPO makes a written determination that urgent and
212 compelling circumstances that significantly affect interests of the District will not permit waiting
213 for the decision of the Board concerning the protest. A copy of the determination to proceed shall
214 be provided within one business day of issuance to both the Board and the protester. A
215 determination to proceed shall not be subject to review by the Board.”.

216 Sec. 3. Section 4 of the First Source Employment Agreement Act of 1984, effective June
217 29, 1984 (D.C. Law 5-93; D.C. Code § 2-219.03) is amended as follows:

218 (a) Subsection (c) is amended to read as follows:

219 “(c) The Mayor shall transmit each winning bidder’s or offeror’s employment agreement
220 to the Department of Employment Services and no work associated with the relevant government
221 assistance can begin on a project or contract until the employment agreement has been accepted
222 by the Department of Employment Services.”.

223 (b) Subsection (e) is amended as follows:

224 (1) Paragraph (1A)(F) is amended as follows:

225 (A) Sub-subparagraph (i) is amended by striking the phrase “These plans
226 shall be evaluated and scored by the Mayor based on the criteria listed in sub-sub-subparagraphs

227 (I), (II), and (III) of this sub-subparagraph. The evaluation shall be worth 10% of the overall
228 score of the bid or proposal.”.

229 (B) The lead-in text of sub-subparagraph (ii) is amended to read as
230 follows:

231 “(ii) The winning bidder or offeror shall submit a revised
232 employment plan to the Mayor for approval prior to signing the contract or beginning work
233 associated with the relevant government project or contract. The employment plan shall
234 include:”.

235 (2) Paragraph (1C)(B) is amended as follows:

236 (A) Sub-subparagraph (i) is amended by striking the phrase “These plans
237 shall be evaluated and scored by the Mayor based on the criteria listed in sub-sub-subparagraphs
238 (I), (II), and (III) of this sub-subparagraph. The evaluation shall be worth 10% of the overall
239 score of the bid or proposal.”.

240 (B) The lead-in text of sub-subparagraph (ii) is amended to read as
241 follows:

242 “(ii) The winning bidder or offeror shall submit a revised
243 employment plan to the Mayor for approval, prior to signing the contract or before beginning
244 work associated with the project or contract. The revised employment plan shall include:”.

245 (3) Paragraph (4) is amended as follows:

246 (A) Subparagraph (C) is amended by striking the phrase “for a period of
247 not more than 5 years” and inserting the phrase “in accordance with section 907 of the
248 Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C.
249 Official Code § 2-359.07)” in its place.

250 (B) Subparagraph (D) is amended by striking the phrase “for a period of
251 not more than 5 years” and inserting the phrase “in accordance with section 907 of the
252 Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C.
253 Official Code § 2-359.07)” in its place.

254 Sec. 4. An Act Regulating the retent on contracts with the District of Columbia, approved
255 March 31, 1906 (34 Stat. 94; D.C. Official Code § 2-203.01), is repealed.

256 Sec. 5. Section 2346 of the Small and Certified Business Enterprise Development and
257 Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-
258 218.46) is amended as follows:

259 (a) Subsection (d) is amended as follows:

260 (1) Paragraph (1) is amended by striking the phrase “shall be deemed
261 nonresponsive and shall be rejected” and inserting the phrase “shall be deemed unacceptable” in
262 its place.

263 (2) Paragraph (3) is amended to read as follows:

264 “(3) A subcontracting plan required by this subsection shall be submitted at such
265 time as is set forth in the solicitation, or at such other time as may be specified by the contracting
266 officer. If a subcontracting plan is required for a contract under this act, the contract shall not be
267 awarded to a beneficiary unless the beneficiary has submitted an acceptable subcontracting plan,
268 compliant with District law, before the award. Nothing in this section shall preclude a
269 contracting officer from negotiating the terms of a subcontracting plan submitted by a
270 beneficiary before the award of the contract.”.

271 (b) Subsection (e) is amended to read as follows:

272 “(e) No beneficiary shall be allowed to amend the final subcontracting plan submitted as
273 part of its bid or proposal except with the consent of the Director. Any decrease in the dollar
274 volume of the subcontracted portion resulting from such amendment to the subcontracting plan
275 shall inure to the benefit of the District.”.

276 Sec. 6. Fiscal impact statement.

277 The Council adopts the fiscal impact statement in the committee report as the fiscal
278 impact statement required by required by section 4a of the General Legislative Procedures Act of
279 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

280 Sec. 7. Effective date.

281 This act shall take effect following approval by the Mayor (or in the event of veto by the
282 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
283 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
284 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
285 Columbia Register.

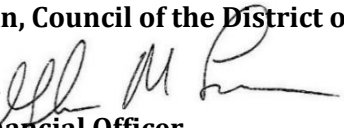
Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee 
Chief Financial Officer

DATE: July 1, 2025

SUBJECT: Fiscal Impact Statement – Procurement Reform Amendment Act of 2025

REFERENCE: Draft Bill as provided to the Office of Revenue Analysis on June 13, 2025

Conclusion

Funds are sufficient in the proposed revised fiscal year 2025 budget and proposed fiscal year 2026 through fiscal year 2029 budget and financial plan to implement the bill. The Office of Contracting and Procurement (OCP) can implement the bill with current resources.

Background

The District of Columbia OCP, under the direction of the Chief Procurement Officer (CPO),¹ was established by District law in 1997² and provides contracting services for selected agencies and offices in the District. In 2007, the United States Government Accounting Office (GAO) published GAO-07-159³, a report that examined the District's procurement system with a series of recommendations that became the basis for the Procurement Practices Reform Act of 2010 (PPRA),

¹ The title of the head of the Office of Contracting and Procurement was changed from Director to CPO pursuant to the Procurement Reform Amendment Act of 1998, effective May 8, 1998 (D.C. Law 12-104: D.C. Official Code § 1-1181.1 et seq.).

² Procurement Reform Amendment Act of 1996, effective April 15, 1997 (D.C. Law 11-259: D.C. Official Code § 1-1181.1 et seq.).

³ U.S. Gov't Accountability Off., GAO-07-159,) District of Columbia: Procurement System Needs Major Reform (2007), available at: <https://www.gao.gov/products/gao-07-159> (last retrieved July 1, 2025).

which was a comprehensive update to the existing law established in 1986.⁴ This bill amends the PPRA as outlined below.

SUBCHAPTER I. GENERAL PROVISIONS

The legislation adds definitions of "certified business enterprise" and "certified joint venture" to align with the Small and Certified Business Enterprise Development and Assistance Act of 2005⁵ and amends the definition of "public notice" to remove the requirement that advertisement for competitive sealed bids and proposals for more than \$250,000 must be in newspapers of general circulation and in trade publications. "Public notice" would constitute delivery of information to interested parties via reasonably available methods.⁶

SUBCHAPTER II. PROCUREMENT ORGANIZATION

The delegation of authority by the CPO to subordinates is explicitly permitted. The bill also sanctions the usage of source selection methods not outlined in D.C. Official Code § 2-354.01 to acquire goods and services if written justification by the CPO is provided.

The PPRA specifies that approval of the base period of a contract does not constitute Council approval of option periods (D.C. Official Code § 2-352.02(b)(3)). The bill modifies this language by removing the requirement of submission of the modification to exercise the option period for contracts that are exercising the option period. Further, it removes:

- the expiration of Council approval of contracts submitted in excess of \$1 million during a 12-month period after the 12-month period has passed;
- the stipulation that Council approval of a contract to extend or amend beyond 12-months does not constitute automatic approval of those options; and
- the stipulation that the Mayor resubmit, inclusive of specified criteria⁷, the option contract to Council.

Instead, the bill permits the submission of contracts⁸ and contract modifications during periods of Council recess. The bill exempts from Council approval requirements contracts that are less than or equal to \$1 million, but via exercise of a contract modification, would total greater than \$1 million—specifying such contracts are not considered a "retroactive contract." If the Council approves a contract that contains an option period with a duration of one year or less, and there is no material change to the original contract, then that is considered approval of exercise of the option period and

⁴ District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85: D.C. Official Code § 1-1181.1 et seq.).

⁵ The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D) et seq.).

⁶ Reasonably available methods may include newspapers, electronic or paper mailing lists, trade publications, and websites designated by the District.

⁷ Specified criteria includes items like information on the proposed contractor, contract amount, method of compensation, contract term and type, source selection method; if containing an option period, inclusive of those details; any information on if the contract was awarded through an emergency procurement; etc.

⁸ The contract must be approved pursuant to D.C. Official Code § 1-204.51, which covers special rules regarding certain contracts.

the contract by the Council. The bill also specifies that review and approval of District Supply Schedule contracts, locally funded construction and transportation contracts, and capially funded vehicle purchases through an annual program are considered independently and individually reviewed and approved by the Council.

SUBCHAPTER IV. SOURCE SELECTION AND CONTRACT FORMATION

The bill clarifies the period of performance for, and the use of option periods in contracts to, procure goods or services by the CPO under federal schedule.⁹ It increases the limit for non-competitive procurements from \$10,000 to \$25,000. Further, the CPO is authorized to set aside certain contracts for architectural and engineering services to qualified certified business enterprises and certified joint ventures.

The bill would no longer subject all contracts exceeding \$100,000 to the competitive sealed bidding process. It authorizes contracting officers to appoint technical evaluation panels and delineate the manner in which they are utilized by contracting officers in evaluating proposals. Further, it exempts covered proposals¹⁰, from the District of Columbia Freedom of Information Act (FOIA).

SUBCHAPTER VI. PROCUREMENT OF CONSTRUCTION PROJECTS AND RELATED SERVICES

This bill creates a new section that allows contracting officers to establish a retainage rate for construction contracts that utilize progress payments. If the contracting officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, payment may be made in full. If satisfactory progress has not been made, the contracting officer may retain up to 10% of the progress payment until progress is achieved. When work is substantially complete, the contracting officer may retain (from previously withheld funds and future progress payments) the amount the contracting officer considers adequate for District protection. Acceptance of finished separately delineated items in a contract allows for payment of each distinct work upon completion.

The bill repeals existing law¹¹ that outlines the retention requirements for contracts for construction work and requires a retention of 10%, unless otherwise provided.

SUBCHAPTER IX. PROHIBITED ACTIONS AND REMEDIES

The bill amends the review process of suspension and debarment decisions. Under current law, a written decision by the CPO is deemed final and conclusive, unless fraudulent, or unless the debarred or suspended person appeals to the Contract Appeals Board (CAB) within 60 days of receipt of the CPO's decision. This legislation would clarify that review of the appeal—still within 60 days—by the CAB is limited to the administrative record upon which the CPO's final decision was based and cannot

⁹ General Services Administration schedule under 40 U.S.C. §§ 502(a)(3) and 602(c).

¹⁰ The bill defines a "covered proposal" as those documents "submitted by an offeror in response to the requirements of a solicitation, including requests for proposals, requests for qualifications, and requests for expressions of interest, but excluding responses to invitations for bids."

¹¹ An Act Regulating the retent on contracts with the District of Columbia, approved Mar. 31, 1906 (34 Stat. 94; D.C. Official Code § 2-203.01 et. seq.).

set aside the CPO's decision or reduce the term of a debarment unless the CAB finds that the CPO's decision was arbitrary, capricious, an abuse of discretion and the like.

The bill establishes a three-year time frame within which a claim arising under or relating to a government contract may be made by a contractor. It also prohibits the District from entering into contracts that include certain improper terms¹² and automatically voids any contract, from the beginning, if any of these conditions are contained.

SUBCHAPTER X. CONTRACT APPEALS BOARD

The bill requires that appeals to the CAB by a contractor may be made after either the date of receipt of a decision by the contracting officer, or the date when a claim has been deemed denied.

The bill amends procedures for performance under a protested procurement to remove a requirement that the CPO's written determination must be "supported by substantial evidence." However, the determination must still provide that urgent and compelling circumstances that significantly affect the interests of the District will not permit waiting for the decision of the CAB concerning the protest.

The bill also amends the First Source Employment Agreement Act of 1984 (First Source Act) to remove evaluation by the Mayor of proposals submitted on specified criteria¹³ and conforms the debarment process under the First Source Act with the debarment process under the PPRA; and amends the Small and Certified Business Enterprise Development and Assistance Act of 2005⁵ to authorize contracting officers to designate when subcontracting plans are due; to permit contracting officers to negotiate the terms of subcontracting plans with vendors; and to prevent a beneficiary from reducing the subcontracting percentage set forth in its subcontracting plan after contract award, except with the consent of the Director of the Department of Small and Local Business Development.

¹² That is, requires the District to defend, indemnify, or hold harmless a contractor or other person; be bound by any term or condition that is unknown at the time of signing such contract, or which may be unilaterally changed by the contractor; pay associated litigation expenses in the event of a dispute; provides a venue for dispute other than the CAB or the District courts; is subject to laws other than those of the District; has binding arbitration; and has an automatic renewal that would obligate funds in future years.

¹³ Specified criteria includes descriptions of the health and retirement benefits provided to employees any of the offeror's past 3 completed projects; a description of the offeror's efforts to provide District residents with ongoing employment and training opportunities; and disclosure of past compliance with the Workforce Act and the Davis-Bacon Act of 1931, approved March 3, 1931 (46 Stat. 1494; 40 U.S.C. § 3141 et seq.) where applicable, on projects or contracts completed within the last 2 years.

The Honorable Phil Mendelson

FIS: "Procurement Reform Amendment Act of 2025", Draft Bill as provided to the Office of Revenue Analysis on June 13, 2025

Financial Plan Impact

Funds are sufficient in the proposed revised fiscal year 2025 budget and proposed fiscal year 2026 through fiscal year 2029 budget and financial plan to implement the bill. The OCP can implement the bill with current resources. Several of the bill's provisions may reduce costs at the OCP, but the agency has not provided sufficient information to quantify those costs and no savings have been incorporated into the budget and financial plan at this time.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

BRIAN L. SCHWALB
ATTORNEY GENERAL



PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

LEGAL COUNSEL DIVISION

MEMORANDUM

TO: Tomás Talamante
Director
Office of Policy and Legislative Affairs

FROM: Adele El-Khoury
Deputy Attorney General
Legal Counsel Division

DATE: June 9, 2025

SUBJECT: Legal Sufficiency Review of the “Procurement Reform Amendment Act of 2025”
(AE-25-275)

This is to Certify that the Office of the Attorney General has reviewed the above-referenced legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at (202) 262-6402.

Adele El-Khoury

Adele El-Khoury