

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



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: March 22, 2010

SUBJECT: Fiscal Impact Statement – “Omnibus Procurement Reform
Amendment Act of 2010”

REFERENCE: Draft Legislation – Bill 18-610

Conclusion

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation. The proposed legislation will cost approximately \$1.5 million in FY 2010 (assuming it is implemented by July 1, 2010) and approximately \$19.6 million in the four-year financial plan period.

Background

The proposed legislation would amend the Procurement Practices Act (PPA)¹ to require the Chief Procurement Officer to maintain a single website containing all publicly available information regarding procurement in the District as well as make sole source information available on the internet at least 14 days prior to award, make emergency procurement documentation available 7 days after the contract is awarded, enhance guidelines for acquisition planning, and mandate that all procurements meet specific environmental standards—or provide documentation when the standards cannot be met - as defined by the legislation.

The proposed legislation would also require the Office of Contracting and Procurement (OCP) to establish and administer a system of training and certification for all District contracting personnel. To fund the training program, a fee of one half of 1 percent would be assessed on

¹ “District of Columbia Procurement Practices Act of 1985, “effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), and “Excellence in Local Business Contract Grading Act of 2008, “effective February 5, 2008(D.C. Law 17-137; D.C. Official Code § 2-325.04 *et seq.*)

each contract entered into on behalf of the District and transferred into the Contracting and Procurement Reserve Training Fund.² In addition, a District employee would be required to meet procurement training requirements established by OCP prior to making any purchase on behalf of the District.

Finally, the proposed legislation would create an independent Office of the Procurement Ombudsman that would conduct procurement related audits and reviews for compliance with statutes, policies, and procedures; detect fraud, waste, and abuse in procurement operations; assess the effectiveness and efficiency of District agencies' procurement operations; ensure that agencies are maintaining appropriate records; and issue reports to Council and Mayor on procurement related issues or concerns. The Director of the Office of Procurement Ombudsman would be a position appointed by the Mayor with advice/consent of Council and would serve a 5 year term (up to 2 terms).

Financial Plan Impact

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation. The proposed legislation will cost approximately \$1.5 million in FY 2010 (if implemented by July 1, 2010) and approximately \$19.6 million in the four-year financial plan period.

Implementing a one half of one percent fee on all contracts above \$100,000 would cost the District an additional \$5 million. Our discussions with OCP suggest that vendors would pass on the cost of this fee to the District. The key assumption that drives this cost is that all existing service levels will be kept the same.

The creation of the Office of the Procurement Ombudsman would require hiring 6 FTEs to meet the responsibilities outlined in the legislation. The staffing levels of the Ombudsman's Office are based on the structure of OCP's Office of Procurement Integrity and Compliance with one Director and 5 analysts.

Finally, the additional green procurement requirements in the proposed legislation would establish environmental standards for the purchase of goods and services greater than \$100,000. The OCFO estimates that the environmental purchasing mandate would require one additional FTE to help to alleviate the burden to fulfill the new procurement requirements, which include completing an Environmental Analysis Statement for certain purchases that involve a large energy component. The OCP and District agencies can eliminate the need for preparing Environmental Analysis Statements if they purchase goods and services from prequalified environmentally friendly lists or require in solicitations that vendors provide environmentally friendly goods and services. The real fiscal impact of this requirement would be the additional cost to purchase goods that are environmentally friendly. It is not possible to estimate the fiscal impact of such changes at this time, but increased costs, combined by balanced budget

² The Contracting and Procurement Reserve Training Fund is a nonlapsing fund that would be used solely for contracting and procurement training of District government employees.

requirements, can reduce the amount of goods and services that could be purchased by the existing contracting budget.

Estimated Fiscal Impact of Bill, 18-610 “Omnibus Procurement Reform Amendment Act of 2010”					
	FY 2010	FY 2011	FY 2012	FY 2013	4 Year Total
Ombudsman & Analysts ^a	\$212,901	\$734,330	\$737,138	\$740,030	\$2,424,399
.5 Percent Fee for Training ^b	\$1,296,666	\$5,186,666	\$5,186,666	\$5,186,666	\$16,856,663
1 FTE for Environmental Procurement ^c	\$23,662	\$95,049	\$95,463	\$95,890	\$310,064
Total Fiscal Impact	\$1,533,229	\$6,016,045	\$6,019,267	\$6,022,586	\$19,591,127

NOTES

^a Staff levels based on the structure of the Office of Procurement Integrity and Compliance. This includes one Director, two Grade 14-5 analysts, two Grade 13-5 analysts, and one Grade 12-5 analyst. Also included are the estimated start-up costs of an office which includes rent, office furniture, computers, phones, and other essential office supplies. The value in FY 2010 is based on implementing the proposed legislation 6 months into FY 2010.

^b Total value of all District contracts worth more than \$100,00 in FY 2009 was \$1,037,333,136. The value in FY 2010 is based on implementing the proposed legislation 6 months into FY 2010.

^c One additional FTE would be required to manage the environmental purchasing mandate.

Regardless of the contracting process, all contracts must be implemented within existing resources. To the extent that the contracting process changes the total cost of the contract, these changes must be absorbed through available agency resources. Anti-deficiency laws³ prohibit District officers and employees from exceeding agency appropriations in any fiscal year.

³ 31 USCA § 1341 (2000) and D.C. Official Code § 47-355.01 *et seq.* (2003).