

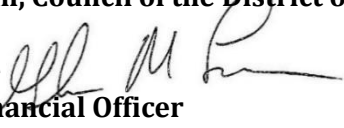
Government of the District of Columbia
Office of the Chief Financial Officer



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: October 14, 2026

SUBJECT: Fiscal Impact Statement – Contracting and Procurement Reform
Amendment Act of 2026

REFERENCE: Bill 26-0594, Draft Committee Print as provided to the Office of
Revenue Analysis on September 18, 2026

Conclusion

Funds are sufficient in the fiscal year 2027 through fiscal year 2030 budget and financial plan to implement the bill.

Background

The Office of Contracting and Procurement (OCP) under the direction of the Chief Procurement Officer (CPO) provides contracting services for selected agencies and offices in the District. OCP operates in accordance with District law, including the Procurement Practices Reform Act of 2010¹ (PPRA). This bill amends the PPRA as outlined below.

The bill repeals - two exemptions from the CPO's exclusive authority to administer procurement law:

- The exemption that allowed the demolition of an existing facility and the design, development, and construction of a new fire station and office space for the Fire and Emergency Medical Services Department (Fire and EMS) at the Walter Reed site on Butternut Street and Georgia Avenue NW²; and

¹ D.C. Law 18-371, effective April 8, 2011, D.C. Official code 2-351.01 *et seq.* The PPRA was a comprehensive update to the 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.*).

² D.C. Official Code § 2-351.05(c)(15).

- The exemptions allowing the Department of Disability Services (DDS) and the Department of Behavioral Health (DBH)³ to exercise the duties of the CPO internally.⁴

The bill clarifies the process and deadlines around Council approval and disapproval of contracts. Current law⁵ states that a proposed multi-year contract is automatically disapproved unless the Council affirmatively approves it within a 45-day review period. For contracts over \$1 million in a 12-month period, the contract is automatically approved if no member introduces a resolution within 10 days or if a resolution is introduced, the Council does not disapprove it within the same 45-day review period. Council approval lasts 12 months and does not automatically authorize the District to exercise option periods.⁶ The bill clarifies that Council approval of a contract does not automatically approve any option to extend or modify that contract beyond the 12-month approval period and that if an extension option meets Council review requirements, the Mayor must submit the modification to exercise that option to the Council. The bill further clarifies that these procedures also apply to contract modifications that raise a contract's total value from \$1 million or less to more than \$1 million within a 12-month period; however, Council approval of such modifications is not retroactive.

The bill clarifies⁷ the Clean Hands requirement for contractors when contracts are submitted for Council approval.

The bill repeals⁸ the two calendar year 2021 reporting requirements of the CPO to the Mayor and Council regarding an analysis of indirect costs funded in District contracts and grants with nonprofits, and a comprehensive review of all emergency procurements during the COVID-19 public health emergency.

Current law⁹ provides for an Office of the Ombudsman for Contracting and Procurement (Office) within the OCP. Agencies with independent procurement authority¹⁰ must also designate their own procurement ombudsman. Each ombudsman is charged with serving as a centralized point for contractors and subcontractors to raise concerns; provide timely and accurate responses; evaluate complaints; recommend options for agency action; informally facilitate dispute resolution when possible; and identify systemic issues and offering policy and process improvement recommendations to the CPO and the Council.

³ If a court order no longer requires the agency to be exempt from the CPO's authority.

⁴ D.C. Official Code § 2-352.01(a)(3) stipulated an October 1, 2015 deadline.

⁵ D.C. Official Code § 2-352.02(b).

⁶ Any option that meets review criteria must be separately submitted.

⁷ By amending D.C. Official Code §2-352.02(c-3)

⁸ D.C. Official Code § 2-352.04(17)-(18).

⁹ D.C. Official Code § 2-352.07.

¹⁰ D.C. Official Code § 2-352.01 exempts The Office of the Chief Financial Officer; The Tax Revision Commission; The Office of the Attorney General; The University of the District of Columbia; The District of Columbia Housing Authority; The District of Columbia Public Library; The District of Columbia Public Schools; The Child and Family Services Agency, until such time as a court order no longer requires the agency to be exempt from the CPO's authority; The Public Service Commission; The Office of the People's Counsel; The Criminal Justice Coordinating Council; The Department of General Services; and The Criminal Code Reform Commission.

The bill transfers the Ombudsman to the Office of the City Administrator (OCA) and designates the position Chief Ombudsman. The bill requires the Chief Ombudsman to submit¹¹ a report to the Mayor and the Council outlining policy changes and strategies to improve the contracting and procurement process. The bill requires the Chief Ombudsman to distribute¹² an anonymous survey to independent agencies to collect data on systemic issues and recommend policy changes and strategies to improve contracting and procurement to the Mayor and Council. One year after the bill's effective date, all associated staff, records, property, and funds of the Office transfer to the OCA. The bill authorizes the OCA to manage the Office's administration and budget, but restricts the OCA from interfering in the Office's substantive determinations.

Current law¹³ requires the CPO develop a process to assess, for each solicitation, the capacity of a prospective contractor, including a process to certify the responsibility of prospective contractors. The contractor must have adequate financial resources; be able to meet the performance schedule; have good performance history, integrity, legal compliance, organizational and technical capability, and necessary equipment; and have no pattern of overcharging, or significant delinquent debt to the District or federal government.¹⁴ Contractors must update the certification when material changes occur, and failure to do so may be treated as a material breach. The bill requires prospective contractors to submit another certification before any option period is exercised. The bill also clarifies that the determination by the CPO that a contractor is non-responsible is subject to review by the Contract Appeals Board (CAB) and only occurs if the prior determination is deemed arbitrary and capricious by the CAB.

The bill requires OCP to establish pay-for-performance standards, which tie contractor compensation to measurable results. The standards shall require payments to be contingent on meeting defined performance targets; set payment schedules aligned with milestones or deliverables; enable the District to withhold or reduce payments when benchmarks are not met; and permit performance-based incentives or bonuses. The bill requires the CPO to issue¹⁵ guidance, developed with agency input, identifying when pay-for-performance contract models are appropriate; and create model contract terms for agencies to use. The guidance must also address how to maximize the use of pay-for-performance provisions, including in evaluating sole-source and multiyear contracts. The bill requires agencies to consult with OCP when developing solicitations to determine whether and how pay-for-performance standards should be applied.

Current law¹⁶ prohibits District employees from attempting to influence source selection outside of established procurement processes¹⁷, unless they are members of a technical advisory group¹⁸. The bill removes the exemption for technical advisory group members, which is replaced with a defined

¹¹ At the beginning of each Council period.

¹² Within one year of the bill's effective date.

¹³ D.C. Official Code § 2-353.01.

¹⁴ If a contractor has a small delinquent debt below the disqualification threshold (\$1,000 or 1% of the contract value, up to \$25,000), the District must recover it by offsetting payments under the awarded contract.

¹⁵ Within 120 days of the bill's effective date.

¹⁶ D.C. Official Code § 2-354.01a.

¹⁷ Pursuant to Title II, Chapter III-A, Subchapter IV.

¹⁸ Interchangeable with the term "technical evaluation panel," (TEP) which is defined as a panel composed of individuals who possess considerable knowledge of the services requested in the RFP to assist in reviewing and considering the qualifications of a prospective contractor, including a subject matter expert from the procuring agency.

Technical Evaluation Panel (TEP). The bill clarifies that the rules restricting contact during procurement do not allow an agency to withhold information from the Council permitted under existing¹⁹ oversight and investigation laws.²⁰ The bill also clarifies that contracting officers and staff are not restricted from updating their client agencies about the status of a procurement.²¹

Current law²² requires contracts exceeding \$100,000 be awarded by competitive sealed bidding unless the CPO issues a determination finding use of competitive sealed bidding impracticable or not in the best interests of the District. The bill removes the minimum amount, competitive sealed bidding, and CPO determination requirements.²³

The bill authorizes a contracting officer to appoint a TEP to evaluate and rank RFQ or RFP responses. If appointed, the bill requires the contracting officer to provide the TEP with the technical proposal or qualifications package submitted to OCP; and specifies that the TEP evaluate the technical proposal first, and afterwards, the contracting officer may allow the TEP to review pricing, as long as this review does not change the original evaluation and is completed according to the solicitation's stated criteria. After completing its review, the bill requires the TEP to provide the contracting officer with a report of evaluations and rankings.²⁴ The contracting officer then performs an independent assessment and may adopt all, part, or none of the TEP's results. The bill requires the contracting officer document in detail the specific rationale for any adoption or rejection of the TEP's findings.

Current law²⁵ authorizes the CPO to develop a streamlined contracting process for goods and services up to \$100,000. This process must include basic competition requirements involving multiple vendors, a noncompetitive option for smaller purchases up to a CPO-set limit not exceeding \$10,000, and measures to ensure transparency in all purchases. The bill increases the smaller purchases limit to \$25,000.

Current law²⁶ authorizes the CPO to procure goods or services using the federal General Services Administration (GSA) schedule²⁷ as long as the CPO ensures that the contract price is reasonable. The bill requires that each order issued under a federal schedule contract state its period of performance at the time it is awarded, and that all orders be solicited and awarded before the underlying federal schedule contract expires. The bill further provides that if the federal schedule contract allows option periods, an order may include those options, provided that the options are clearly stated in the order and the federal schedule contract is not expired.

¹⁹ D.C. Official Code § 2-354.17.

²⁰ Provided that source selection information shall remain confidential as otherwise required by law.

²¹ Provided that source selection information shall remain confidential as otherwise required by law.

²² D.C. Official Code § 2-354.02(a).

²³ Contracts *may* be awarded by competitive sealed bidding.

²⁴ The contracting officer is required to discuss the panel's initial evaluation and findings with the TEP's chairperson and document the results of the discussion in the Business Clearance Memorandum or Award Memorandum.

²⁵ D.C. Official Code § 2-354.07.

²⁶ D.C. Official Code § 2-354.10.

²⁷ Pursuant to 40 U.S.C. § 502(a)(3) and 40 U.S.C. § 602(c).

Current law²⁸ authorizes and encourages the CPO to participate in, lead, or administer cooperative purchasing²⁹ agreements for goods, services, or construction. These agreements must follow District contracting laws and rules as much as practicable and comply with any applicable District-specific federal laws. Agencies may only join such agreements if authorized by the CPO³⁰. When the District serves as the lead jurisdiction, the CPO may collect administrative fees or receive rebates, which must be deposited into the District's Supply Schedule, Purchase Card, and Training Fund³¹. The bill requires all District-sponsored agreements to follow District contracting laws and any applicable District-specific federal laws. The bill permits agency participation in cooperative purchasing agreements only with written authorization from the CPO³². The bill allows participation only if the cooperative contract was competitively procured.³³ The bill requires contracting officers to conduct market research to ensure better pricing is not otherwise available prior to exercising a competitive cooperative agreement. The bill requires the District's contract terms and pricing match those of the cooperative agreement.

The DC Supply Schedule (DCSS) is the District's multiple-award schedule for providing commercial products and services to District government agencies. Competitive contracts are awarded to suppliers who can provide products and services to meet recurring needs of government agencies.³⁴ The bill authorizes agency personnel to make direct purchases from the DCSS without extra delays or approvals, subject to OCP-established thresholds. If authorized personnel are unavailable to make a direct purchase, the OCP may process supply schedule orders within 10 business days of receiving them. The bill requires OCP to review and update the DCSS at least every two fiscal years to maintain competitive pricing and vendor diversity.

Current law³⁵ requires the CPO review data marked as confidential or proprietary by bidders in response to solicitations with exceptions under the Freedom of Information Act of 1976³⁶. The bill clarifies that this exception is related to a new section regarding data sharing as established by the bill. The new section requires the CPO enter³⁷ into a data-sharing agreement with the Council to support procurement oversight. The bill requires the agreement specify what information must be shared; timelines; protocols for transferring, storing, and retaining data; and any necessary confidentiality or integrity protections. The bill stipulates that information required by law to be provided to the Council that is not covered by the agreement must still be delivered upon request and is not subject to the agreement's terms.

²⁸ D.C. Official Code § 2-354.11.

²⁹ Defined as a procurement conducted by the District government with, or on behalf of, any government or public entity, including a state, county, or municipal jurisdiction or the Federal government. D.C. Official Code § 2-351.04(18).

³⁰ Or a designee.

³¹ Pursuant to D.C. Official Code § 2-361.03.

³² Or a delegated designee.

³³ Unless the agency determines the requirement qualifies as a sole-source or another competition-exempt procurement.

³⁴ D.C. Official Code § 2-354.12.

³⁵ D.C. Official Code § 2-354.17.

³⁶ Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 et seq.)

³⁷ Within 180 days of the effective date.

Current law³⁸ authorizes the Inspector General, the D.C. Auditor, or the District to audit the books and records of any contractor or subcontractor under any negotiated contract or subcontract. The bill adds the Council as an authorized auditor.

Current law³⁹ requires the public announcement of all architectural and engineering (A/E) service needs and awards contracts based on demonstrated competence, qualifications, and fair pricing. The bill permits procurements for A/E services to be set aside for qualified certified business enterprises and qualified certified joint ventures.

This bill updates the retention requirements for contracts for construction work. Current law⁴⁰ requires a retention of 10%, unless otherwise provided. The bill 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 amends the review process of suspension and debarment decisions. Under current law⁴¹, a written decision by the CPO is deemed final and conclusive, unless fraudulent, or unless the debarred or suspended person appeals to the CAB within 60 days of receipt of the CPO's decision. The bill clarifies that review of the appeal by the CAB is limited to the administrative record upon which the CPO's final decision was based and cannot 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. The bill also prohibits the District from entering into contracts that include certain improper terms and automatically voids any contract, from the beginning, if any of these conditions are contained.

Current law⁴² establishes the CAB as the exclusive tribunal to hear and decide all protests related to contract solicitations or awards, appeals from contractors regarding contracting officer final decisions, and claims made by the District against contractors. The CAB's jurisdiction is subject to certain exclusions, but it is authorized to enter into fee-for-service (FFS) agreements with District agencies or other public entities outside its normal jurisdiction. Through FFS agreements, the CAB can resolve contract disputes, protests, and appeals, and may also provide alternative dispute resolution services. The bill clarifies the role of the CAB as the exclusive hearing tribunal for appeals related to debarment or suspension actions. The bill requires the CAB to review and determine the appeal based solely on the administrative record and restricts sustainment of an appeal to a finding

³⁸ D.C. Official Code § 2-354.18(b).

³⁹ D.C. Official Code § 2-356.04.

⁴⁰ 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.).

⁴¹ D.C. Official Code § 2-359.07(f).

⁴² D.C. Official Code § 2-360.03.

that the CPO's decision was arbitrary or capricious. The bill requires appeals to the CAB by a contractor to 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 updates and expands the requirements for transparency of solicitation and contracting documents and vendor payment, requiring a centralized contracting and procurement portal. The CPO will issue guidance, develop standard templates, and work with the Office of the Chief Technical Officer (OCTO) to ensure portal integration with existing procurement and vendor payment systems. The portal must support role-based permissions to ensure access for each user-group⁴³ receive appropriate information. Any information not legally restricted to a specific group must be publicly viewable without registration.

The procurement portal must include:

- An internally available system that allows agencies and the Council to track solicitations, awards, and procurement activities with real-time updates; provides a list of responsible officials, timelines⁴⁴, and an inquiry-tracking feature⁴⁵; and
- A public transparency portal containing procurement laws and rules.

The public transparency portal must include:

- Links to all active solicitations over \$100,000, instructions for electronic responses, information on prohibited recipients, and a comprehensive database of all District contracts of \$100,000 or more, including the executed contract; findings; modifications; solicitations; contract summary documents for Council review and amendments to those documents; ethics and campaign-finance compliance information⁴⁶; and placeholders of any confidential information withheld by the OCP.
- An externally available list of all contracts under \$100,000⁴⁷ with searchable data⁴⁸ on District payments to contractors.
- A publicly available forecast that is updated quarterly and provides a schedule of upcoming solicitations and contract renewals. The forecast must list each anticipated procurement, including its description, estimated value, expected solicitation and award dates, the client agency and point of contact, and whether it involves a new or existing contract. The bill requires District agencies' quarterly submittal of procurement-forecasting data to OCP and to appoint a forecasting coordinator to ensure timely and accurate reporting.

The bill clarifies that agencies outside CPO authority are required to transmit their procurement information to OCP for posting and must use standardized data templates developed and provided

⁴³ Contracting officer or staff; client agency staff; oversight; bidder; and vendor and contractor. An oversight role grants the license-holder read-only access to all information available to a contract officer, subject to data-sharing agreements outlined in the bill. A unique oversight license must be provided to the Inspector General; the Auditor; and each committee of the Council, subject to data-sharing agreements outlined in the bill.

⁴⁴ Including expected dates for reviews, approvals, and contract execution, and indication of any timeline delays.

⁴⁵ For agencies to submit and track inquiries regarding their procurement requests.

⁴⁶ Whether the vendor is a covered contractor, as that term is defined in D.C. Official Code § 1-1161.01; to which prohibited recipients, as that term is defined in D.C. Official Code § 1-1161.01(45D), the vendor is prohibited from making campaign contributions; and during what prohibited period, as that term is defined in D.C. Official Code § 1-1161.01(45C).

⁴⁸ Purchase order number, invoice number, check number, voucher number, or any combination necessary to identify a particular payment.

by OCP. The bill requires OCP to publish an updated procurement procedures manual on its website within 120 days of the bill’s effective date.

The bill requires the OCP to create templates and guidance to standardize solicitation structure for clarity and comparability. Each solicitation must clearly state its purpose, objectives, deliverables, evaluation factors, and performance measures in plain language; use standardized formats for comparability; avoid duplicative questions that hinder comparability; and include a clear scoring rubric for all evaluation criteria.

The bill amends, clarifies and makes technical changes to the First Source Act⁴⁹ to align with current practices to:

- Require the Mayor to transmit each winning employment agreement to the Department of Employment Services (DOES) and to make government assistance on a project or contract conditional on DOES acceptance of the employment agreement;
- Remove evaluation by the Mayor of proposals submitted on specified criteria⁵⁰;
- Require the winning bidder or offeror submit a revised employment plan to the Mayor for approval prior to signing the contract or beginning work⁵¹ associated with the relevant government project or contract; and
- Conform the debarment process under the First Source Act⁵² with the debarment process under the PPRA.

The bill amends current law⁵³ to require a bid or proposal responding to a solicitation for which a subcontracting plan is required contain specific information⁵⁴; to require subcontracting plan submittal at the time stated in the solicitation; to authorize the contracting officer to accept updates to the plan and treat them as part of the initial submission⁵⁵; to clarify the preclusion of a beneficiary 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 (DSLBD); and to, unless required by law, waive the subcontracting requirements if there is insufficient market capacity for the goods or services that comprise the project and such lack of capacity leaves

⁴⁹ D.C. Official Code § 2-219.03. The law requires companies receiving government contracts, grants, or financial assistance to give priority consideration for new jobs to District residents.

⁵⁰ Specified criteria includes descriptions of the health and retirement benefits provided to employees any of the offeror’s past 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.

⁵¹ The revised-plan requirement already exists; current law stipulates “prior to beginning work” and “before beginning work.” The proposed legislation moves it earlier: “prior to signing the contract or beginning work” and “before signing the contract or beginning work”. This modifies when an existing duty kicks in, not whether it exists.

⁵² The First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Code § 2-219.03).

⁵³ 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 § 2-218.01 *et seq.*).

⁵⁴ A subcontracting plan must include: the name and address of each subcontractor; a current certification number of the small or certified business enterprise; the scope of work to be performed by each subcontractor; and the price to be paid by the beneficiary to each subcontractor.

⁵⁵ If the initial and updated plans meet all legal requirements, including the 35% minimum subcontracting requirement regarding small business enterprises.

The Honorable Phil Mendelson

FIS: "Contracting and Procurement Reform Amendment Act of 2026", Bill 26-0594, Draft Committee Print as provided to the Office of Revenue Analysis on September 18, 2026

the contractor commercially incapable of achieving the subcontracting requirements at a project level. The purpose is to limit the rejection of bids and proposals, which are otherwise responsive and competitive, due to administrative errors in the contracting plan; and to clarify that a waiver is only required if a subcontracting plan is required by law.

Financial Plan Impact

Funds are sufficient in the fiscal year 2027 through fiscal year 2030 budget and financial plan to implement the bill.

OCP manages the purchase of over \$5 billion in goods, services, and construction annually on behalf of more than 78 District government agencies through the Procurement Automated Support System (PASS), which is designed to support transactions between more than 68,000 suppliers and nearly 4,000 government users. PASS is undergoing a modernization, with Phase I consisting of integration between the PASS system and District Integrated Financial System (DIFS) and is expected to go live in 2026. Phase II is projected to go live in October 2027, and will consolidate all procurement functionality into a single interface. The system upgrade will merge registration, invoicing, and solicitation interfaces, reducing the number of portals required by a vendor from three to one. OCP anticipates that the majority of the bill's requirements have already been incorporated within the technology roadmap. Since these service enhancements are part of the PASS project initiative, OCP does not require any additional costs for implementing the procurement portal features of the bill.

OCP can also implement the other requirements of the bill without additional resources.

The bill requires the transfer of the Ombudsman to OCA, which would physically remove the Ombudsman from the OCP office and existing infrastructure, and require space out of which to operate within OCA, which should be available within existing resources. The Chief Ombudsman would no longer be situationally and logistically proximate to procurement operations, contracting officers and OCP leadership, which would modify the current Ombudsman's method of facilitating issue resolution, investigating procurement-related grievances, identifying trends and recommending policy and process changes to the CPO and OCP leadership. The Ombudsman has an annual salary of \$182,540 and operating budget of \$6,800 for equipment, outreach materials, brochures, pamphlets, etc. One year after the bill's effective date, all associated staff, records, property, and funds of the Office transfer to the OCA.

OCP has two Attorney Advisors on staff who assist the Ombudsman in resolving complaints based on workload and/or issue complaint complexity. These Attorney Advisors are responsible for legal support and counsel to the Ombudsman. In resolving complaints, the Ombudsman is in contact with program staff at the respective administering agency and OCP contracting staff. The bill requires agencies specify this contact via designation, but does not necessitate the hiring of additional personnel. The Attorney Advisors can remain a resource to the Chief Ombudsman.