

# ENROLLMENT(S)

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# COUNCIL OF THE DISTRICT OF COLUMBIA

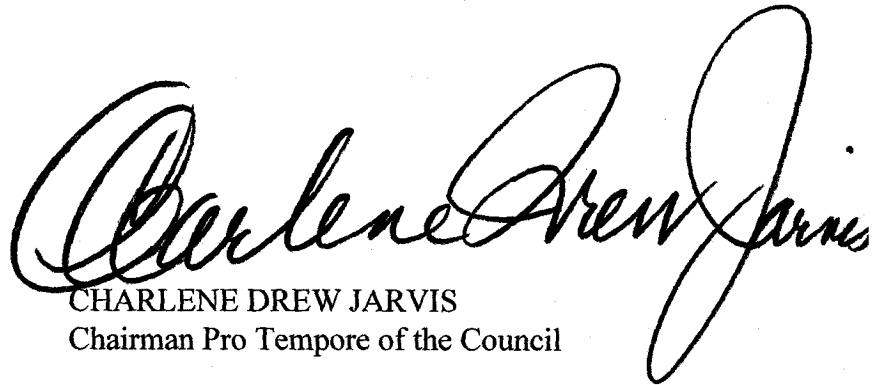
## NOTICE

### D.C. LAW 11-259

#### "Procurement Reform Amendment Act of 1996".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 11-705, on first and second readings, November 7, 1996 and December 3, 1996, respectively. Following the signature of the Mayor on January 3, 1997, pursuant to Section 404(e) of "the Act", and was assigned Act No. 11-526 and published in the March 14, 1997, edition of the D.C. Register (Vol. 44 page 1423) and transmitted to Congress on February 6, 1997 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 11-259, effective April 15, 1997.



CHARLENE DREW JARVIS  
Chairman Pro Tempore of the Council

Dates Counted During the 30-day Congressional Review Period:

Feb. 6,7,10,11,12,13,24,25,26,27,28  
Mar. 3,4,5,6,10,11,12,13,14,17,18,19,20,21  
Apr. 7,8,9,10,14

AN ACT

D.C. ACT 11-526

*Codification  
District of  
Columbia  
Code  
1997 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 3, 1997

To amend the District of Columbia Procurement Practices Act of 1985 to establish the Office of Contracting and Procurement, to centralize procurement authority for the District government in the Director of the Office of Contracting and Procurement, to appoint the Director to a 5-year term, and to provide for the Director's removal only for cause, to transfer all Department of Administrative Services personnel with procurement functions to the Office of Contracting and Procurement; to amend Section 6 of An Act to regulate the election of delegates representing the District of Columbia to national political conventions, and for other purposes to provide for the renting of privately owned space, facilities, and equipment by the Office of Contracting and Procurement on behalf of the Board of Elections and Ethics; to amend the Law to Legalize Lotteries, Daily Numbers Games and Bingo Raffles for Charitable Purposes in the District of Columbia to authorize the Office of Contracting and Procurement to procure supplies, materials, machinery, and work on behalf of the Lottery Board; to amend section 14 of An Act to fix and regulate the salaries of teachers, school officers, and other employees of the Board of Education to authorize the Office of Contracting and Procurement to contract for services to raze structures on behalf of the Board of Education; to amend An Act To provide books and educational supplies free of charge to pupils of the District of Columbia to provide for the Office of Contracting and Procurement to purchase books and supplies on behalf of the Board of Education; to amend An Act to establish a Department of Food Services in the public schools of the District of Columbia, and for other purposes to provide for the Office of Contracting and Procurement to contract for services, supplies, or equipment for the public schools Department of Food Services; to amend An Act To reorganize public postsecondary education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees to consolidate the existing local institutions of public postsecondary education into a single Land-Grant University of the District of Columbia, direct the Board of Trustees to administer the University of the District of Columbia, and for other purposes to provide for the Office of Contracting and Procurement to contract for services, supplies, or

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equipment on behalf of the Board of Trustees of the University of the District of Columbia; to amend the District of Columbia General Hospital Commission Act to authorize the Office of Contracting and Procurement to procure goods, services, improvements, and interests in real property; to amend section 5 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia to require the Office of Contracting and Procurement, on behalf of the Board of Education, to contract for the maintenance of library buildings, the purchase of land, and erection or enlargement of library buildings; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to authorize the Director of the Office of Contracting and Procurement to retain independent legal counsel to assist the Public Employees Relations Board, to require that the Director of the Office of Contracting and Procurement be confirmed by the Council, to clarify that the Director of the Office of Contracting and Procurement may only be removed for cause, and to provide that the rate of pay for the Director of the Office of Contracting and Procurement shall be no less than the average of other executive agency heads; to amend the District of Columbia Automatic Data Processing Act of 1984 to clarify that the Office of Contracting and Procurement is the central procurement agency for the government of the District of Columbia; to amend the Minority Contracting Act of 1976 to authorize the Office of Contracting and Procurement to make advance, partial or progress payments for goods and services; to amend the D.C. Government Quick Payment Act of 1984 to require the Director of the Office of Contracting and Procurement to submit reports required by the act to the Mayor and the Council; to repeal section 1 of An Act Making appropriations to provide expenses for the government of the District of Columbia for the fiscal year ending June thirtieth eighteen hundred and eighty-three, and for other purposes; to repeal the provision of An Act Making appropriations for the expenses for the government of the District of Columbia for the fiscal year ending June thirtieth nineteen hundred and nine, and for other purposes which provides for the delegation of authority by the property clerk; to repeal section 2 of An Act to grant additional powers to the Commissioners of the District of Columbia, and for other purposes; to repeal Section 9(a) of An Act to Authorize certain administrative expenses in the Government service, and for other purposes; to repeal An Act Making Appropriations to provide expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and six authorizing the Commission to enter contracts for operating the District quarry, and for other purposes; to repeal An Act to authorize the Commissioners of the District of Columbia to provide for the removal of sludge; to repeal section 1 of An Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes; and to repeal An Act To Authorize the Commissioners of the District

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of Columbia to enter into contracts for the inspection, maintenance, and repair of fixed equipment in the District-owned buildings for periods not to exceed three years.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Procurement Reform Amendment Act of 1996".

**TITLE I - Procurement.**

Sec. 101. The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code § 1-1181.1 *et seq.*), is amended as follows:

(a) Section 101(b) (D.C. Code § 1-1181.1(b)) is amended by adding new paragraphs (1A),(1B), and (1C) to read as follows:

Section  
1-1181.1

"(1A) To centralize procurement and the authority to dispose of supplies, services, and construction for District government departments, agencies, and instrumentalities in an office headed by a chief procurement officer with a team of procurement professionals who are dedicated exclusively to procurement, property dispositions, and contract administration;

"(1B) To establish the Office of Contracting and Procurement as a service agency whose performance will be judged against the needs and reasonable expectations of its clients (the user agencies and its contractors) and the citizens of the District of Columbia;

"(1C) To implement technologies based on processes to manage procurement, including the use of electronic forms and signature and electronic commerce for placing orders for goods and services;"

(b) Section 104 (D.C. Code § 1-1181.4), is amended to read as follows:

Section  
1-1181.4

"Sec. 104. (a) Except as provided in section 320, this act shall apply to all departments, agencies, instrumentalities, and employees of the District government, including agencies which are subordinate to the Mayor, independent agencies, boards, and commissions, but excluding the Council of the District of Columbia, District of Columbia courts, and the District of Columbia Financial Responsibility and Management Assistance Authority.

"(b) This act shall apply to any contract for procurement of goods and services, including construction and legal services, but shall not apply to a contract or agreement receiving or making grants-in-aid or for federal financial assistance.

"(c) The Council of the District of Columbia, the Corporation Counsel, Inspector General, Auditor, and Chief Financial Officer may contract for the services of accountants, lawyers, and other experts when they determine and state in writing that good reason exists why such services should be procured independently of the Director of the Office of Contracting and Procurement. During a control year, as defined by section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995

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(109 Stat. 97; D.C. Code § 47-393(4)), the Office of the Chief Financial Officer of the District of Columbia shall be exempt from the provisions of this act, and shall adopt, within 30 days of passage of the Procurement Reform Amendment Act of 1996, the procurement rules and regulations adopted by the District of Columbia Financial Responsibility and Management Assistance Authority. During years other than control years, the Office of the Chief Financial Officer shall be bound by the provisions contained in this act."

(c) Section 105 (D.C. Code § 1-1181.5) is amended to read as follows:

Section  
1-1181.5

"Sec. 105. (a) There is established an independent service agency to be called the Office of Contracting and Procurement ("OCP"), which shall be administered by a Director. By delegation from the Mayor, the Director of the OCP ("Director") shall be the exclusive contracting authority for all procurements covered by this act. Except as otherwise provided in this act, no other department, agency, instrumentality, or employee subject to the provisions of this act shall exercise procurement or contracting authority, except authority otherwise provided for receiving or making grants-in-aid or for federal financial assistance. Departments, agencies, and entities subject to this act shall be responsible for determining their requirements for goods and services and for technical direction of awarded contracts. The Director may, by regulation, delegate contracting authority to employees of a department, agency, or other entity commensurate with the Director's judgment of each employee's ability to meet the objective of this act.

"(b) The Director shall be the chief procurement officer of the District responsible for procurements covered by this act, subject to the Mayor's review and approval as provided in section 449 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 802; D.C. Code § 47-312).

"(c)(1) The Director is authorized to delegate or remove contracting authority from employees of the OCP who are designated as contracting officers and specialists in procurement. This delegation shall be subject to limitations specified in writing, copies of which shall be filed in the office of the Director and submitted to the Mayor and the Inspector General. The Director shall publish annually in the District of Columbia Register a list of District contracting officers with a description for each of their delegated contracting authority and responsibility. The Director shall concurrently submit quarterly reports to the Mayor and Council on delegated authority and such other matters as the Mayor shall request.

"(2) The Director shall place OCP employees with contracting authority at various agencies when necessary to best serve the individual agency's contracting needs. These employees will rotate among the agencies and through OCP offices to provide a wide experience base to allow all agencies to benefit from the experience of other agencies. In determining the number and authority of OCP employees assigned to an agency, the delegated procurement authority of agency employees shall be considered.

"(d)(1) No District employee subject to this act shall authorize payment for the value of goods and services received without a valid written contract. This subsection shall not apply to

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a payment required by court order or a final decision of the Contract Appeals Board.

"(2) After the effective date of the Procurement Reform Amendment Act of 1996, no District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid written contract. Any violation of this paragraph shall be cause for termination of employment of the District employee.

"(3) Any vendor who, after the effective date of the Procurement Reform Amendment Act of 1996, enters into an oral agreement with a District employee to provide goods or services to the District government without a valid written contract shall not be paid. If the oral agreement was entered into by a District employee at the direction of a supervisor, the supervisor shall be terminated. The Mayor shall submit a report to the Council at least 4 times a year on the number of persons cited or terminated under this provision.

"(e) The Director shall require bidders on procurement contracts issued by the District of Columbia to utilize the Metropolitan Washington Council of Governments' ("COG") Rider Clause:

"(1) If authorized by the bidder, resultant contract will be extended to any and all of the listed members of COG as designated by the bidder to purchase at contract prices in accordance with contract terms.

"(2) Any member utilizing such contracts will place its own orders directly with the successful contractor. There shall be no obligation on the part of any participating member to utilize the contracts.

"(3) A negative reply will not adversely affect consideration of the bidder's proposal.

"(4) It is the awarded vendor's responsibility to notify the members of COG of the availability of the contracts."

(d) A new section 105e is added to read as follows:

"Sec. 105e. Director of the Office of Contracting and Procurement.

"(a) The head of the OCP shall have the title Director of the Office of Contracting and Procurement.

"(b) The Director shall be appointed by the Mayor with the advice and consent of the Council. The Director's nomination and confirmation shall be consistent with the provisions of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Code § 1-633.7).

"(c) The Mayor shall appoint the Director as soon as practicable, but not less than 180 days after the effective date of the Procurement Reform Amendment Act of 1996. Upon appointment, the Director will immediately assume the responsibilities as the head of the OCP pending review and action on the appointment by the Council. Until a Director is appointed by the Mayor, the highest ranking employee of the OCP shall serve as Acting Director.

"(d) The Director shall have not less than 7 years of procurement experience in federal, state, or local procurement, and shall have demonstrated management skills.

"(e) The Director shall serve for one 5-year term.

New Section  
1-1181.5e

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"(f) The Director shall not be removed from office before expiration of the 5-year term except for cause, subject to the right of appeal."

(e) Section 107 (D.C. Code § 1-1181.7) is amended as follows:

**Section  
1-1181.7**

(1) Paragraph 2 is amended to read as follows:

"(2) "Agency" means any officer, employee, office, department, board, commission, or entity of the District as described in section 104(a)."

(2) Paragraph (9) is amended to read as follows:

"(9) "Chief procurement officer" means the Director of the Office of Contracting and Procurement."

(3) Paragraph (13) is amended to read as follows:

"(13) "Contract" means a mutually binding agreement covered by this act, which, except as otherwise authorized, is in writing. It includes, but is not limited to:

"(A) Awards and notices of award;

"(B) Contracts providing for the issuance of job or task orders;

"(C) Letter contracts;

"(D) Purchase orders;

"(E) Supplemental agreements and contract modifications with respect to any of the foregoing;

"(F) Orders;

"(G) Any order or agreement, mutually agreed upon between the District and a contractor, implemented through electronic commerce; and

"(H) Agreements to acquire goods or services which do not involve the appropriation or expenditure of funds by the District."

(4) Paragraph (15) is amended to read as follows:

"(15) "Contracting officer" means the Mayor or the Director of the Office of Contracting and Procurement or the Director's designee vested with the authority to execute contracts on behalf of the District in compliance with the provisions of this act."

(5) A new paragraph (22A) is added to read as follows:

"(22A) "Electronic commerce" means the electronic exchange of all information needed to do business."

(6) A new paragraph (37A) is added to read as follows:

"(37A) "Procurement card" means a credit card issued by a bank, with conditions and terms, issued through the District's agent for the purchase of goods and services."

(7) Paragraph (47) is amended by inserting the word "personal" before the word "property".

(f) Section 201 (D.C. Code § 1-1182.1) is amended by adding a new subsection (a-1) to read as follows:

**Section  
1-1182.1**

"(a-1) It is the policy of the Council that the District achieve accountability, uniformity,



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efficiency, and economy in its procurement system by centralizing all procurement authority within the OCP, staffed by procurement professionals dedicated exclusively to contract formation and administration."

(g) Section 202 (D.C. Code § 1-1182.2) is amended as follows:

Section  
1-1182.2

(1) Subsection (a)(1) is amended to read as follows:

"(a)(1) The Mayor shall issue rules consistent with this act governing procurement, management, control, and disposal of supplies, services, and construction."

(2) Subsection (d) is amended by striking the phrase "agencies subordinate to the Mayor" and inserting the phrase "agencies, independent agencies, boards, and commissions as described in section 104(a)" in its place.

(3) Subsection (e) is amended by striking the phrase "independent of the Mayor" and inserting the phrase "with independent procurement authority" in its place.

(h) Section 203 ( D.C. Code § 1-1182.3) is amended as follows:

Section  
1-1182.3

(1) Subsection (a) is amended by striking the word "central" and inserting the word "chief" in its place.

(2) Subsection (b)(8) is amended to read as follows:

"(8) To staff the Office of Contracting and Procurement with procurement professionals dedicated solely to the formation and administration of contracts on behalf of the entities covered by this act."

(3) Subsection (d) is repealed.

(i) Section 204(b)(6) (D.C. Code § 1-1182.4(b)(6)) is amended by striking the phrase "by District government agencies which is" and inserting the phrase "which are" in its place.

Section  
1-1182.4

(j) Section 207 (D.C. Code § 1-1182.7) is amended to read as follows:

"Sec. 207. Transfer of procurement personnel to the Office of Contracting and Procurement.

Section  
1-1182.7

"(a) Within 30 days after the effective date of the Procurement Reform Amendment Act of 1996, all agencies, boards, commissions, and entities whose procurement functions will fall under the authority of the Director of the OCP shall provide the Director a list of personnel performing procurement functions or serving as contracting officers.

"(b) On the effective date of the Procurement Reform Amendment Act of 1996, employees of the Department of Administrative Services who perform or support procurement contract administration duties shall be transferred to the OCP along with the assets and budget authority associated with those functions.

"(c) On the 60th day following the effective date of the Procurement Reform Amendment Act of 1996, District agencies, boards, and commissions shall cease to have procurement authority except as otherwise provided by this act, including through delegation by the Director."

(l) Section 304 ( D.C. Code § 1-1183.4 ) is amended as follows:

Section  
1-1183.4

(1) Subsection (b) is amended by striking the phrase "supplies or services" and

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inserting the phrase "supplies, services, or construction" in its place.

(2) Subsection (d) is amended by inserting after the word "work" the phrase "or other description of the District's specific needs".

(m) Section 305 (D.C. Code § 1-1183.5) is amended as follows:

Section  
1-1183.5

(1) Subsection (a) is amended by striking the phrase "under rules issued by the Mayor and approved by the Council, the Director or a designee" and inserting the phrase "under rules implementing this section, the Director or the Director's designee" in its place.

(2) Subsection (b) is repealed.

Section  
1-1183.6

(n) Section 306 (D.C. Code § 1-1183.6) is repealed.

Section  
1-1183.8

(o) Section 308(a) (D.C. Code § 1-1183.8(a)) is amended by inserting after the phrase "shall submit cost or pricing" the phrase "for procurements in excess of \$100,000".

(p) Section 312(a)(1) (D.C. Code § 1-1183.12(a)(1)) is amended to read as follows:

Section  
1-1183.12

"(a)(1) Notwithstanding any other provision of this act, a contracting officer may make emergency procurements when there exists an imminent threat to the public health, welfare, property, or safety under emergency conditions as defined in rules adopted pursuant to this act."

(q) A new section 320 is added to read as follows:

New Section  
1-1183.20

"Sec. 320. Exemptions.

"(a) Nothing in this act shall affect the operations, jurisdiction, functions, or authority of the Redevelopment Land Agency relating to real property or interests in real property.

"(b) Nothing in this act shall affect the operations, jurisdiction, functions, or authority of the Administrator of the Homestead Program Administration under the Homestead Housing Preservation Act of 1986, effective August 9, 1986 (D.C. Law 6-135; D.C. Code § 45-2701 *et seq.*), as they relate to the disposal or transfer of real property under that act.

"(c) Nothing in this act shall affect the authority of the Mayor to sell real property in the District of Columbia for nonpayment of taxes or assessments of any kind pursuant to section 437 of the District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1059; D. C. Code § 47-847).

"(d) Nothing in this act shall affect the authority of the Mayor and the Council pursuant to the District of Columbia Public Space Rental Act, approved October 17, 1968 (82 Stat. 1156; D.C. Code § 7-1001 *et seq.*).

"(e) Nothing in this act shall affect the authority of the Convention Center Board of Directors pursuant to the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code § 9-602 *et seq.*).

"(f) Nothing in this act shall affect the authority of the Sports Commission pursuant to the Omnibus Sports Consolidation Act of 1994, effective August 23, 1994 (D.C. Law 10-152; D.C. Code § 2-4001 *et seq.*).

"(g) Nothing in this act shall affect the authority, jurisdiction, functions, or operations of the District of Columbia Housing Finance Agency.

"(h) Nothing in this act shall affect the authority of the District of Columbia Retirement

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Board pursuant to the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D.C. Code § 1-701 *et seq.*).

"(i) Nothing in this act shall affect the Metropolitan Police Department's authority to make procurements not in excess of \$500,000 as provided in the District of Columbia Appropriations Act, approved April 26, 1996 (Pub. Law 104-134)."

(r) Section 501 (D.C. Code § 1-1185.1) is amended by striking the word "Mayor" wherever it appears and inserting the word "Director" in its place. Section 1-1185.1

(s) Section 502 (D.C. Code § 1-1185.2) is amended by striking the word "Mayor" wherever it appears and inserting the word "Director" in its place. Section 1-1185.2

(t) Section 503 (D.C. Code § 1-1185.3) is amended by striking the word "Mayor" wherever it appears and inserting the word "Director" in its place. Section 1-1185.3

(u) Section 504 (D.C. Code § 1-1185.4) is amended by striking the word "Mayor" wherever it appears and inserting the word "Director" in its place. Section 1-1185.4

(v) Section 507 (D.C. Code § 1-1185.7) is amended by striking the word "Mayor" and inserting the word "Director" in its place. Section 1-1185.7

(w) Section 803 (D.C. Code § 1-1188.3) is amended as follows: Section 1-1188.3

(1) Subsection (a)(1) is amended to read as follows:

"(a)(1) All claims by the District government against a contractor arising under or relating to a contract shall be decided by the contracting officer who shall issue a decision in writing, and furnish a copy of the decision to the contractor."

(2) Subsection (a)(4) is amended by striking the word "Director" and inserting the phrase "contracting officer" in its place.

(3) Subsection (b) is amended by striking the word "Director" and inserting the phrase "contracting officer" in its place.

(4) Subsection (c) is amended by striking the word "Director" in both places and inserting the phrase "contracting officer" in its place.

(x) Section 804 (D.C. Code § 1-1188.4) is amended as follows: Section 1-1188.4

(1) Subsection (a)(1) is amended to read as follows:

"(a)(1) After reasonable notice to a person or a business, and reasonable opportunity to be heard.

"(A) The Director shall debar a person or business from consideration for award of contracts or subcontracts for any conviction under subsection (b)(1) through (3) of this section, or for a judicial determination of a violation under subsection (b)(4) of this section, unless the Director makes a finding in writing that it would be contrary to the best interests of the District of Columbia to do so;

"(B) The Director may debar a person or business from consideration for award of contracts or subcontracts if one or more of the causes listed in subsection (b) of this section exist."

(2) Subsection (a)(3) is amended to read as follows:

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"(3)(A) The Director shall suspend a person or business from consideration for award of contracts or subcontracts for any conviction listed in subsection (b)(1) through (3) of this section, or for a judicial determination of a violation under subsection (b)(4) of this section, unless the Director makes a finding in writing that it would be contrary to the best interests of the District of Columbia to do so.

"(B) The Director may suspend a person or business from consideration for award of contracts or subcontracts if the person or business is charged with the commission of any offense described in subsection (b) of this section and if the Director makes a finding in writing that such suspension would be in the best interests of the District of Columbia."

(3) Subsection (b)(2) is amended to read as follows:

"(2) Conviction under this act or under any other District, federal, or state statute, for fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity which currently affects the contractor's responsibility as a District government contractor."

(4) Subsection (b)(4) is amended to read as follows:

"(4) A violation under section 808(a), or a false assertion of local, small, or disadvantaged business status, or eligibility, under the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1992, effective March 17, 1993 (D.C. Law 9-217; D.C. Code § 1-1152 *et seq.*)".

(5) A new subsection (b)(5A) is added to read as follows:

"(5A) Violation of contract provisions, as set forth below, of a character which is regarded by the Director to be sufficiently serious to justify debarment action:

"(A) Wilful failure, without good cause, to perform in accordance with the specifications or within the time limit provided in the contract; or

"(B) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms or conditions of one or more contracts; failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be bases for debarment."

(6) Subsection (b-1)(1) is amended to read as follows:

"(1) After reasonable notice to a person or business and reasonable opportunity to be heard, the Director shall debar such person or business from consideration for award of any contract or subcontract if the Director receives written notification from the Chairman of the Council or the chairperson of a Council committee that the person or business has willfully failed to cooperate in a Council or Council committee investigation conducted pursuant to section 413 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 777; D.C. Code § 1-234)."

(7) Subsection (f) is amended to read as follows:

"(f) Unless otherwise indicated in the debarment or suspension decision, the debarment or suspension of any person or business shall constitute a debarment or suspension of any

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affiliate of that person or business. For purposes of this section, the term "business" means any company, corporation, partnership, sole proprietorship, association, or other profit or non-profit legal entity; and the term "affiliate" means any business in which a suspended or debarred person is an officer or has a substantial financial interest (as defined by regulations), and any business that has a substantial direct or indirect ownership interest (as defined by regulations) in the suspended or debarred business, or in which the suspended or debarred business has a substantial direct or indirect ownership interest. The debarment or suspension shall be effective for all District government agencies unless otherwise stated in the decision."

(8) A new subsection (g) is added to read as follows:

"(g) If a person or business is charged with or convicted of committing any offense listed in subsection (b)(1) through (4) of this section, the Corporation Counsel or the United States Attorney, whoever is responsible for prosecuting the charge, shall immediately notify the Director of such charge or conviction and shall provide such information to the Director as may otherwise be permitted by law in order to enable the Director to take any action authorized by this section. The Director, in turn, shall immediately notify both the Corporation Counsel and the United States Attorney of any action taken or finding made under this section."

(y) Section 805 (D.C. Code § 1-1188.5) is amended as follows:

Section  
1-1188.5

(1) Subsection (a) is amended by striking the phrase "shall be submitted to the Director for an informal hearing and decision" and inserting the phrase "shall be submitted to the contracting officer for a decision" in its place.

(2) Subsection (b) is amended to read as follows:

"(b) The contracting officer shall issue a decision on any submitted claim of \$50,000 or less within 60 days from receipt of a written request from a contractor that a decision be rendered within that period."

(3) Subsection (c) is amended by striking the word "Director" and inserting the phrase "contracting officer" in its place.

(4) Subsection (d) is amended by striking the word "Director" and inserting the phrase "contracting officer" in its place.

(z) Section 806 (D.C. Code § 1-1188.6) is amended to read as follows:

Section  
1-1188.6

"Sec. 806. Interest on amounts found due to a contractor on claims shall be payable at a rate set in § 28-3302(b) applicable to judgments against the District government from the date the contracting officer receives the claim until payment of the claim. Interest on amounts found due to the District from a contractor on claims shall be payable at the rate set in § 28-3302(b) applicable to judgments against the District government, from the date the contractor receives a contracting officer's written decision asserting the claim on behalf of the District until payment of the claim."

(aa) Section 901(b) (D.C. Code § 1-1189.1(b)) is amended by striking the number "3" and inserting the number "2" in its place.

Section  
1-1189.1  
Section  
1-1189.2

(bb) Section 902(b) (D.C. Code § 1-1189.2(b)) is amended by striking the number "2".

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(cc) Section 903 (D.C. Code § 1-1189.3) is amended as follows:

Section  
1-1189.3

(1) The lead-in language is designated as subsection (a);

(2) Paragraph (1) of the newly designated subsection (a) is amended by striking the phrase "; and" and inserting a semicolon in its place;

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

"(2) Any appeal by a contractor from a final decision by the contracting officer on a claim by a contractor, when such claim arises under or relates to a contract; and";

(4) A new paragraph (3) is added to read as follows:

" (3) Any claim by the District against a contractor, when such claim arises under or relates to a contract."; and

(5) A new subsection (b) is added to read as follows:

"(b) Jurisdiction of the Board shall be consistent with the coverage of this act as defined in section 104."

(dd) Section 904 ( D.C. Code § 1-1189.4) is amended as follows:

Section  
1-1189.4

(1) Subsection (a) is amended by striking the word "Director" and inserting the phrase "contracting officer" in its place.

(2) Subsection (c)(1) is amended by striking the word "Director" and inserting the phrase "contracting officer" in its place.

(3) Subsection (d) is amended by striking the phrase "Director or other."

(ee) Section 908 (D.C. Code § 1-1189.8) is amended to read follows:

Section  
1-1189.8

"Sec. 908. Protest procedures.

"(a) This section shall apply to a protest of a solicitation or award of a contract addressed to the Board by any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract.

"(b)(1) A protest based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed prior to bid opening or the time set for receipt of initial proposals. In procurements where proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested not later than the next closing time for receipt of proposals following the incorporation.

"(2) In cases other than those covered in paragraph (1) of this subsection, protests shall be filed not later than 10 business days after the basis of protest is known or should have been known, whichever is earlier.

"(c)(1) Within one business day of receipt of the protest, the Contract Appeals Board shall notify the contracting officer that the protest has been filed. Except as provided in this act, no contract may be awarded in any procurement after the contracting officer has received this notice and while the protest is pending. If an award has already been made but the contracting officer receives this notice within 11 business days after the date of award, the contracting officer shall immediately direct the awardee to cease performance under the contract and to

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suspend any related activities that may result in additional obligations being incurred by the District under that contract. Except as provided in this act, performance and related activities suspended pursuant to this section may not be resumed while the protest is pending.

"(2) Performance under a protested procurement may proceed, or award may be made, while a protest is pending only if the Director makes a written determination, supported by substantial evidence, that urgent and compelling circumstances that significantly affect interests of the District will not permit waiting for the decision of the Board concerning the protest. A copy of the determination shall be provided within one business day of issuance to both the Board and the protester.

"(3) If the protester wishes to challenge a determination made by the Director pursuant to paragraph (2) of this subsection, the protester may do so by filing a written motion with the Board within 5 business days of receipt of a copy of the determination. The Board may adopt rules of procedure for assisting it in the evaluation of such challenges; provided, that the Board's decision on the challenge must be issued within 10 business days after the date the written motion is filed by the protester.

"(d) On any direct protest pursuant to subsection (a) of this section, the Board shall decide whether the solicitation or award was in accordance with the applicable law, regulations, and terms and conditions of the solicitation. The proceeding shall be de novo and the decision of the Board shall be issued within 60 business days from the date on which the protest is filed. Any prior determinations by administrative officials shall not be final or conclusive. If the Board determines that a contract is void pursuant to section 205(d)(1), the Board shall direct that the contract be cancelled and cause a determination to be made pursuant to section 205(d)(2).

"(e) A determination of an issue of fact by the Board under subsection (d) of this section shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous.

"(f)(1) In addition to other relief, except enjoining a contract award, the Board may order, when a protest is sustained, that the contract awarded under the solicitation be terminated for the convenience of the District. A determination in this regard shall be based on considerations such as:

- "(A) Best interests of the District government;
- "(B) Seriousness of the procurement deficiency;
- "(C) Existence of prejudice to other bidders;
- "(D) Maintaining the integrity of the procurement system;
- "(E) Good faith of District government officials and other parties;
- "(F) Extent of contract performance; or
- "(G) Impact of termination on the using agency's activities and mission.

"(2) The Board may, when requested, award reasonable bid or proposal preparation costs and costs of pursuing the protest, not including legal fees, if it finds that the District government's actions toward the protester or claimant were arbitrary or capricious.

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"(g) The Board may dismiss, at any stage of the proceedings, any protest, or portion of a protest, it deems frivolous. In addition, the Board may require the protester to pay the agency attorneys fees, at the rate of \$100 per hour, for time counsel spent representing the agency in defending the frivolous protest or its frivolous part. If the entire protest is dismissed on frivolous grounds, it may also assess the protester damages for each day the contract was suspended equal to the amount of liquidated damages specified in the contract for late completion of the contract. The Board shall not determine damages, if liquidated damages are not specified. In addition, counsel for the protester may be suspended or barred from practicing before the Board.

"(h) The Board shall adopt rules for exercising its authority under this section."

(ff) The existing sections of title VIII are designated as part A and a new part B is added to read as follows:

**New Part B,  
Subchapter  
VIII,  
Chapter 11A,  
Title 1**

"Part B.

"Sec. 807. Definitions.

**New Section  
1-1188.7**

"For purposes of this part, the term:

"(1) "Claim" means any request or demand for money, property, or services made to any employee, officer, or agent of the District, or to any contractor, grantee, or other recipient, whether under contract or not, if any portion of the money, property, or services requested or demanded issued from, or was provided by, the District.

"(2) "Fixed obligation" means an amount due the District by contract or by law. The term "fixed obligation" does not include a fine to be imposed by law until the fine has been assessed.

"(3)(A) "Knowing" or "knowingly" means that a person, with respect to information, does any of the following:

"(i) Has actual knowledge of the information;

"(ii) Acts in deliberate ignorance of the truth or falsity of the information; or

"(iii) Acts in reckless disregard of the truth or falsity of the information.

"(B) Proof of specific intent to defraud is not required for an act to be knowing.

"(4) "Person" means any natural person, corporation, firm, association, organization, partnership, business, or trust.

"Sec. 808. Treble damages, costs and civil penalties; exceptions.

**New Section  
1-1188.8**

"(a) Any person who commits any of the following acts shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and may be liable to the District for a



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civil penalty of up to \$10,000 for each false claim for which the person:

"(1) Knowingly presents, or causes to be presented, to an officer or employee of the District, a false claim for payment or approval;

"(2) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the District;

"(3) Conspires to defraud the District by getting a false claim allowed or paid by the District;

"(4) Has possession, custody, or control of public property or money used or to be used by the District and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;

"(5) Is authorized to make or deliver a certifying receipt of property used or to be used by the District and knowingly makes or delivers a receipt that falsely represents the property used or to be used;

"(6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property;

"(7) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease a fixed obligation to pay or transmit money or property to the District;

"(8) Is a beneficiary of an inadvertent submission of a false claim to the District, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the District; or

"(9) Is the beneficiary of an inadvertent payment or overpayment by the District of monies not due and knowingly fails to repay the inadvertent payment or overpayment to the District.

"(b) Notwithstanding subsection (a) of this section, the court may assess not more than two times the amount of damages which the District sustains because of the act of the person, and there shall be no civil penalty if the court finds all of the following:

"(1) The person committing the violation furnished officials of the District or the federal government responsible for investigating false claims violations with all information known to that person about the violation within 30 days after the date on which the person first obtained the information;

"(2) The person fully cooperated with any investigation by the District; and

"(3) At the time the person furnished the District with information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

"(c) Liability under this section shall be joint and several for any act committed by 2 or more persons.

"(d) This section does not apply to any controversy involving an amount of less than

\$5,000 in value. For purposes of this section, the term "controversy" means any one or more claims submitted by the same person.

"(e) This section does not apply to the following:

"(1) Workers' compensation claims filed pursuant to the District of Columbia Workers' Compensation Act, effective July 1, 1980 (D.C. Law 3-77; D.C. Code § 36-301 *et seq.*);

"(2) Unemployment compensation claims filed pursuant to the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Code § 46-101 *et seq.*); and

"(3) Claims, records, or statements made pursuant to the District Tax Code as set forth in Title 47 of the District of Columbia Code.

"Sec. 809. Corporation Counsel investigations and prosecutions; powers of prosecuting authority; civil actions by individuals as qui tam plaintiffs; jurisdiction of courts.

New Section  
1-1188.9

"(a) The Corporation Counsel shall investigate violations under section 808 involving District funds. If the Corporation Counsel finds that a person has violated or is violating the provisions of section 808, the Corporation Counsel may bring a civil action against that person.

"(b)(1) A person may bring a civil action for a violation of section 808 for the person and either for the District or in the name of the District. The person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action brought by the qui tam plaintiff may be dismissed only with the written consent of the court, taking into account the best interest of the parties involved and the public purposes behind this act. The Corporation Counsel shall be served with notice of proposed dismissal and shall have the opportunity to be heard.

"(2) A complaint filed by a private person pursuant to this subsection shall be filed in the Superior Court in camera and may remain under seal for up to 120 days, unless the seal is extended by the court. No service shall be made on the defendant until after the complaint is unsealed.

"(3) On the same day as the complaint is filed pursuant to paragraph (2) of this subsection, the qui tam plaintiff shall serve the Corporation Counsel by certified or registered mail, return receipt requested, with a copy of the complaint and a written disclosure of substantially all material evidence and information the person possesses.

"(4) Within 120 days after receiving a complaint alleging violations involving District funds, the Corporation Counsel shall do either of the following:

"(A) Notify the court that it intends to proceed with the action, in which case the seal may be lifted unless, for good cause shown, the court continues the seal; or

"(B) Notify the court that it declines to take over the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.

"(5) Upon a showing of good cause, the Corporation Counsel may move the court for extensions of the time during which the complaint remains under seal.

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"(6) When a qui tam plaintiff brings an action under this subsection, no other person may bring a related action based on the facts underlying the pending action.

"(c)(1) No person may bring an action under subsection (b) of this section against a member of the Council of the District of Columbia ("Council"), the District judiciary, or an elected official in the executive branch of the District, if the action is based on an event occurring during his or her term of office.

"(2)(A) No person may bring an action under subsection (b) of this section based upon allegations or transactions in a criminal, civil, or administrative hearing, investigation, report, hearing, or audit conducted by or at the request of the Council, the Auditor, Inspector General, or allegations or transactions disclosed by the news media, unless the person bringing the action is an original source of the information.

"(B) For purposes of subparagraph (A) of this paragraph, the term "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based, who voluntarily provided the information to the District before filing an action based on that information, and whose information provided the basis or catalyst for the investigation, report, hearing, audit, or media disclosure which led to the public disclosure as described in subparagraph (A) of this paragraph.

"(3) No person may bring an action under subsection (b) of this section if the allegations are based upon information learned by the person in the course of an internal investigation in preparation for, or in conjunction with, a voluntary disclosure to the District or federal government.

"(4) No person may bring an action under subsection (b) of this section by or on behalf of a present or former employee of the District based upon information discovered during the course of his or her employment, unless that employee first in good faith exhausted internal procedures for reporting and seeking recovery of such falsely claimed sums through official channels, and unless the District failed to act on the information provided within a reasonable time.

"(5) No member or employee of the Council of the District of Columbia, the Office of the Corporation Counsel, the Office of the Inspector General, the Office of the Auditor, or the Internal Affairs Department of the Metropolitan Police Department may bring an action under subsection (b) of this section based upon information discovered during the term of his or her employment.

"(d)(1) If the District proceeds with the action, it shall have the primary responsibility for prosecuting the action. The qui tam plaintiff may continue as a party to the action, provided the qui tam plaintiff's work is neither duplicative of nor interferes with the prosecution of the action by the Corporation Counsel, and the qui tam action was proper under subsection (c) of this section.

"(2)(A) The District may dismiss the action for good cause shown.

"(B) The District may settle the action with the defendant,

notwithstanding the objections of the qui tam plaintiff, if the court determines, after a hearing providing the qui tam plaintiff an opportunity to present evidence, that the proposed settlement is fair, adequate, and reasonable under all of the circumstances.

"(e)(1) If the District elects not to proceed and the qui tam action was proper under subsection (c) of this section, the qui tam plaintiff shall have the same right to conduct the action as the Corporation Counsel would have had if he or she had chosen to proceed under subsection (b) of this section. Upon request, the District shall be served with copies of all pleadings filed in the action.

"(2) Upon timely application, the court shall permit the District to intervene in an action with which it had initially declined to proceed.

"(f)(1) If the District proceeds with an action brought by a qui tam plaintiff under subsection (b) of this section, and the qui tam action was proper under subsection (c) of this section, the qui tam plaintiff shall, subject to paragraphs (3) and (4) of this subsection, receive at least 10%, but not more than 20%, of the proceeds of the judgment or settlement of the claim, taking into account the significance of the information, the role of the qui tam plaintiff in advancing the litigation, the scope of the qui tam plaintiff's involvement in the fraudulent activity, the qui tam plaintiff's attempts to avoid or resist such activity, and all other circumstances surrounding the activity. When it conducts the action, the Office of the Corporation Counsel shall receive 25% of the proceeds of the judgment or settlement of the claim, which funds shall be used to support its ongoing investigation and prosecution of false claims made against the District, subject to appropriations.

"(2) If the District does not proceed with the action, the court shall award the qui tam plaintiff at least 25%, but not more than 40%, of the proceeds. The Court shall take into account the significance of the information, the role of the qui tam plaintiff in advancing the case to litigation, and the scope of, and response to, the employee's attempts to report and gain recovery of such falsely claimed funds through official channels.

"(3) The portion of the recovery not distributed pursuant to paragraphs (1) and (2) of this subsection, inclusive, shall be paid to the District treasury.

"(4) For purposes of this section, the term "proceeds" includes civil penalties as well as double or treble damages as provided in section 808.

"(5) If the District or the qui tam plaintiff prevails or settles an action under subsection (c) of this section, the qui tam plaintiff shall receive an amount for reasonable expenses, including costs and attorneys fees. Costs and fees awarded against the defendant shall not be the responsibility of the District.

"(6) If the District does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant reasonable attorneys fees and expenses if the defendant prevails in the action and the court finds that the claim of the qui tam plaintiff was frivolous, vexatious, or brought solely to harass.

"(g) The court may stay discovery if the Corporation Counsel shows that discovery

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would interfere with investigating or prosecuting of a criminal matter arising out of the same facts, regardless of whether the Corporation Counsel has pursued the criminal or civil investigation or proceedings with reasonable diligence, and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

"(h) Upon a showing by the Corporation Counsel that unrestricted participation during the course of the litigation by the qui tam plaintiff would interfere with or unduly delay the Corporation Counsel's prosecution of the case, or would be repetitious, irrelevant, or harassment, the court may impose limitations on the qui tam plaintiff's participation, including the following:

- "(1) Limiting the number of witnesses the person may call;
- "(2) Limiting the length of the testimony of such witnesses;
- "(3) Limiting the person's cross-examination of witnesses; or
- "(4) Otherwise limiting the participation by the person in the litigation.

"Sec. 810. Employer interference with employee disclosures; liability of employer; remedies of employee.

New Section  
1-1188.10

"(a) No employer, including the District of Columbia, shall make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency or from acting in furtherance of a false claims action, including investigating, initiating, testifying, or assisting in an action filed or to be filed pursuant to section 808.

"(b) No employer, including the District of Columbia, shall discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or others in disclosing information to a government or law enforcement agency relating to, or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in, an action filed or to be filed pursuant to section 808.

"(c) Any employer, including the District of Columbia, who violates subsection (a) or (b) of this section shall be liable for the relief necessary to make the employee whole, including reinstatement with the same seniority status that the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, compensation for any special damage sustained as a result of the discrimination, and, where appropriate, punitive damages. In addition, the defendant shall be required to pay litigation costs and reasonable attorneys fees, necessarily incurred. An employee may bring an action in the Superior Court for the relief provided in this subsection.

"(d) An employee who is discharged, demoted, suspended, harassed, denied promotion, or discriminated against in the terms and conditions of employment by any employer, including the District of Columbia, because of participation which directly or indirectly results in submission of a false claim shall be entitled to the remedies provided in subsection (c) of this

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section, if the following occurs:

"(1) The employee voluntarily disclosed information to a government or law enforcement agency or acted in furtherance of a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed; and

"(2) The employee had been harassed, threatened with termination or demotion, or otherwise coerced by the employer or its management into engaging in the fraudulent activity in the first place.

"Sec. 811. Limitation of actions; activities antedating this article; burden of proof.

**New Section  
1-1188.11**

"(a) A civil action brought pursuant to section 808 shall not be filed more than 6 years after the date on which the violation of section 808 is committed.

"(b) A civil action brought pursuant to section 808 shall not be brought for activity prior to the effective date of the Procurement Reform Amendment Act of 1996.

"(c) In any action brought pursuant to section 808, the District or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

"(d) Notwithstanding any other provision of law, a guilty verdict in a criminal proceeding charging false statements or fraud upon a verdict after trial or upon a plea of guilty or nolo contendere, except for a plea of nolo contendere made prior to the effective date of the Procurement Reform Amendment Act of 1996, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding brought pursuant to section 808.

"Sec. 812. Remedies under other laws; severability of provisions; liberality of construction.

**New Section  
1-1188.12**

"The provisions of this act are not exclusive, and the remedies provided for shall be in addition to any other remedies provided for in any other law or available under common law."

**TITLE II. Applicability and transition provisions.**

Sec. 201 (a) Except as otherwise provided, the provisions of this act shall not apply until 90 days after the effective date of this act.

(b) On the effective date of this act, all covered agencies, independent agencies, boards, and commissions shall continue procurement actions, but shall cooperate with the Director in planning and implementing the transition to centralized procurement.

(c) Within 60 days after the enactment of this act, all agencies, boards, commissions, and other entities whose procurement functions will fall under the authority of the Director shall provide the Director with a report detailing: (1) all contracts currently being administered by that entity, (2) all currently pending acquisitions, and (3) all new procurement actions

**Note, New  
Sections  
1-1181.5e,  
1-1183.20,  
1-1188.7**

anticipated to be necessary during the 180 days following the effective date of this act.

**TITLE III. Conforming amendments.**

Sec. 301. Section 705 of the District of Columbia Revenue Act of 1970, approved January 5, 1971 (84 Stat. 1939; D.C. Code § 1-336), is amended as follows:

Section  
1-336

(a) Subsection (a) is amended by striking the phrase "The Mayor of the District of Columbia" and inserting the phrase "The Director of the Office of Contracting and Procurement" in its place.

(b) Subsection (c) is amended in the fourth sentence by striking the phrase "proposed designation has been submitted" and inserting the phrase "developer has been selected through competitive procedures in accordance with title III of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code § 1-1183.1 *et seq.*), and the proposal has been submitted" in its place.

(c) Subsections (c)(4), (5), and (6), (d), (e), and (g) are amended by striking the word "Mayor" wherever it appears and inserting the phrase "Director of the Office of Contracting and Procurement" in its place.

(d) Subsections (f) and (h) are repealed.

(e) Subsection (i) is amended by striking the word "Mayor" wherever it appears and inserting the phrase "The Director of the Office of Contracting and Procurement" in its place.

Sec. 302. Section 1 of An Act To grant additional powers to the Commissioners of the District of Columbia, and for other purposes, approved December 20, 1944 (58 Stat. 819; D.C. Code § 1-337), is amended as follows:

Section  
1-337

(a) The section heading is amended to read as follows: "Additional powers of Mayor, Council, and Director.";

(b) Subsection (e) is amended by striking the phrase "The Mayor" and inserting the phrase "Except as otherwise provided, the Mayor" in its place.

(c) Subsection (j) is amended by striking the phrase "Mayor of the District of Columbia" and inserting in its place the phrase "Director of the Office of Contracting and Procurement" in its place.

(d) Subsection (k)(1) is amended by striking the phrase "Mayor of the District of Columbia" and inserting the phrase "Director of the Office of Contracting and Procurement" in its place.

(e) Subsection (k)(2) is repealed.

Sec. 303. Section 7 of An Act Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1946, and for other purposes, approved June 30, 1945

Section  
1-344

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(59 Stat. 293; D.C. Code § 1-344), is amended by striking the phrase "Mayor of the District of Columbia" and inserting the phrase "Director of the Office of Contracting and Procurement" in its place.

Sec. 304. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*), is amended as follows:

(a) Section 502 (D.C. Code § 1-605.2) is amended as follows:

Section  
1-605.2

(1) Subsection (n) is amended by striking the word "Retain" and inserting the phrase "Retain, through the Director of the Office of Contracting and Procurement," in its place.

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

"(q) Notwithstanding any other provision of this section, all procurement authority shall be vested in the Office of Contracting and Procurement; provided, that the Mayor's obligations pursuant to section 449 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 802; D.C. Code § 47-312), to provide financial review and approval of contracts is unaffected."

(b) Section 1001 (D.C. Code § 1-611.1) is amended as follows:

Section  
1-611.1

(1) Subsection (b) is amended by striking the period at the end of the existing subsection and inserting the phrase: ", but the Mayor's appointment of the Director of the Office of Contracting and Procurement must be approved by a majority of members of the District of Columbia Council." in its place.

(2) Subsection (c) is amended by inserting the phrase "other than the Office of Contracting and Procurement" after the phrase "subordinate agency."

(c) Section 1002 (D.C. Code § 1-611.2) is repealed.

Section  
1-611.2

(d) Section 1107(d) (D. C. Code §1-612.7(d)) is amended by striking the period at the end of the second sentence and inserting the clause ": provided; however, that the rate of pay for the Director of the Office of Contracting and Procurement shall not be less than the average rate established for all other persons in the Executive Service." in its place.

Section  
1-612.7

Sec. 305. The District of Columbia Automatic Data Processing Act of 1984, effective March 15, 1985 ( D.C. Law 5-168; D.C. Code § 1-1134 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Code § 1-1135) is amended as follows:

Section  
1-1135

(1) Subsection (a) is amended in the lead-in language to read as follows:

"(a) The Mayor shall:"

(2) Subsection (c) is repealed.

(b) Section 4 (D.C. Code § 1-1136) is repealed.

Section  
1-1136

Sec. 306. Section 12 of the Minority Contracting Act of 1976, effective March 29, 1977 (D.C. Law 1-95; D.C. Code § 1-1150), is amended as follows:

Section  
1-1150



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- (a) Subsection (a) is amended to read as follows:
  - "(a) The Office of Contracting and Procurement may:".
  - (b) Subsection (a)(1) is amended by striking the phrase "made by the agency".
  - (c) Subsection (c) is amended by striking the phrase "by the agency head" and inserting the phrase "by the Director of the Office of Contracting and Procurement" in its place.

Sec. 307. The District of Columbia Government Quick Payment Act of 1984, effective March 15, 1985 (D.C. Law 5-164; D.C. Code § 1-1171 *et seq.*), is amended as follows:

- (a) Section 2 (D.C. Code § 1-1171) is amended as follows:
  - (1) Paragraph (3) is amended by striking in the first sentence the phrase "other than an independent agency" and inserting the phrase "including, unless otherwise provided, an independent agency" in its place.
  - (2) Paragraph (4) is amended by striking the phrase "(A) the Mayor may require by regulation, and (B) the District agency involved may require by regulation or contract" and inserting the phrase "required by regulation or contract" in its place.

Section  
1-1171

- (b) Section 6 (D.C. Code § 1-1175) is amended as follows:
  - (1) Subsection (a) is amended by inserting the phrase "and the Director of the Office of Contracting and Procurement" after the word "Mayor".
  - (2) Subsection (b) is amended by inserting the phrase "and the Director of the Office of Contracting and Procurement after the word "Mayor".
  - (3) Subsection (c) is amended by striking the phrase "Mayor shall submit to the Council" and inserting the phrase "Director of the Office of Contracting and Procurement shall submit to the Mayor and the Council" in its place.

Section  
1-1175

Sec. 308. Section 6 of An Act to regulate the election of delegates representing the District of Columbia to national political conventions, and for other purposes, approved August 12, 1955 ( 69 Stat. 700; D.C. Code § 1-1310), is amended as follows:

Section  
1-1310

- (1) Subsection (a) is amended by inserting the phrase "or in matters of procurement," after the phrase "performance of its duties,".
- (2) Subsection (b) is amended to read as follows:
  - "(b) The District government shall furnish to the Board, upon request of the Board, such space and facilities as are available in public buildings in the District to be used as registration or polling places, and such records, information, services, personnel, offices, and equipment, and such other assistance and facilities as may be necessary to enable the Board properly to perform its functions. Privately owned space, facilities and equipment may be rented by the Office of Contracting and Procurement on behalf of the Board for the registration, polling, and other functions of the Board."

Sec. 309. Section 3 of An Act To establish a District of Columbia Armory Board, and

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for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code § 2-303), is amended by striking the second sentence of the section and inserting a new sentence in its place to read as follows:

**Section  
2-303**

"For the purposes of maintenance and repair, the Office of Contracting and Procurement shall perform all contracting on behalf of the Armory."

Sec. 310. Section 2-2536 of section 4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D. C. Law 3-172; D.C. Code § 2-2536), is amended as follows:

**Section  
2-2536**

(a) Subsection (b) is amended to read as follows:

"(b) The Office of Contracting and Procurement shall procure supplies, materials, equipment, machinery, work, or other items relating to or necessary for the operation of any gambling form on behalf of the Board."

(b) Subsections (c), (e), and (f) are repealed.

Sec. 311. Section 14 of An Act to fix and regulate the salaries of teachers, school officers, and other employees of the Board of Education of the District of Columbia, approved June 20, 1906 (34 Stat. 321; D.C. Code § 31-120), is amended by adding the following sentence at the end of the existing text:

**Section  
31-120**

"Any contract services required to carry out this purpose shall be procured through the Office of Contracting and Procurement."

Sec. 312. Section 4 of An Act To provide book and education at supplies free of charge to pupils of the public schools of the District of Columbia, approved January 31, 1930 (46 Stat. 62; D.C. Code § 31-704), is amended by striking the phrase "The Board of Education shall purchase for use" and inserting the phrase "The Board of Education shall, through the Office of Contracting and Procurement, purchase for use" in its place.

**Section  
31-704**

Sec. 313. Section 1 of An Act To establish a Department of Food Services in the public schools of the District of Columbia, and for other purposes, approved October 8, 1951 (65 Stat. 367; D.C. Code § 31-801), is amended by adding a new sentence at the end of the existing text to read as follows:

**Section  
31-801**

"Contracting for services, supplies, or equipment shall be done through the Office of Contracting and Procurement."

Sec. 314. An Act To reorganize public postsecondary education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees, to consolidate the existing local institutions of public postsecondary education into a single Land-Grant University of the District of Columbia, direct the Board of Trustees to administer the

**ENROLLED ORIGINAL**

University of District of Columbia, and for other purposes, approved October 26, 1974 (88 Stat. 1424; D.C. Code § 31-1501 *et seq.*), is amended as follows:

(a) Section 201(a) (D.C. Code § 31-1511(a)) is amended by striking the period at the end and inserting the following phrase "; provided, however, that contracting for the purchase or disposal of goods and services shall be carried out by the Office of Contracting and Procurement on behalf of the Board of Trustees." in its place.

**Section  
31-1511**

(b) Section 206 (D.C. Code § 31-1516) is amended as follows:

**Section  
31-1516**

(1) Paragraph (6) is repealed.

(2) Paragraph (7) is amended by striking the phrase "pursuant to the regulations adopted by the Trustees under paragraph (6) of this section" and inserting the phrase "in accordance with District contracting and procurement rules and regulations" in its place.

(3) The first sentence of paragraph (16) is amended by striking the period, and inserting the phrase "; provided, however, except as provided in section 301, that procurement and disposal of goods and services shall be carried out by the Office of Contracting and Procurement on behalf of the Trustees." in its place.

(c) Section 405(b) (D. C. Code § 31-1535(b)) is amended to read as follows:

**Section  
31-1535**

"(b) Except as provided in section 301, the Office of Contracting and Procurement shall contract on behalf of the Board of Education for procurement of goods or services necessary for the performance of Board of Education functions."

Sec. 315. The D.C. General Hospital Commission Act, effective May 13, 1977 (D.C. Law 1-134; D.C. Code § 32-201 *et seq.*), is amended as follows:

(a) Section 210 (D.C. Code § 32-220) is amended as follows:

**Section  
32-220**

(1) The lead-in language is designated as subsection (a);

(2) Paragraph (8) is repealed.

(3) A new subsection (b) is added to read as follows:

"(b) All goods, services, and improvements to achieve any or all of the Commission's purposes shall be procured by the Office of Contracting and Procurement. This includes contracts for capital construction projects for which funds have been authorized and made available to construct, maintain, repair, improve, or modify Commission facilities and to plan, design, and implement capital construction projects; provided, that for the purposes of this subsection, the term "Commission facilities" means health care facilities or other facilities owned by or under the jurisdiction of the Commission, but does not include sidewalks or streets that are public ways or any sewer or water mains."

(b) Section 501 (D.C. Code § 32-251) is repealed.

**Section  
32-251**

Sec. 316. Section 5 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Code § 37-105(a)(1)), is amended by adding the following phrase after the semicolon:

**Section  
37-105**

**ENROLLED ORIGINAL**

"provided, however, that contracting for the maintenance of the library and the erection or enlargement of library buildings shall be carried out by the Office of Contracting and Procurement on behalf of the Board;".

**TITLE IV. Repealers.**

Sec. 401. The phrase in the fourth paragraph of the heading "General Expenses" of An Act Making appropriations to provide expenses for the government of the District of Columbia approved, July 1, 1822 (22 Stat. 139; D.C. Code § 1-364), which reads, "Purchasing Officer, who shall hereafter, under the direction of the commissioners, supervise the purchase and distribution of all supplies, stores, and construction materials for the government of the District of Columbia, and who shall give bond in such sums as the commissioners may determine," is repealed.

Section  
1-364

Sec. 402. The second sentence of the fourth paragraph of the heading "General Expenses" of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth nineteen hundred and nine, and for other purposes, approved May 26, 1908 (35 Stat. 274; D.C. Code § 1-365) is repealed.

Section  
1-365

Sec. 403. The phrase in the twenty-first paragraph of the heading "General Expenses" of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and ten, and for other purposes, approved March 3, 1909 (35 Stat. 692; D.C. Code § 1-366), which reads "municipal architect whose duty it shall be to prepare plans for, and superintend the construction of all municipal buildings, and, the repair and improvement of all buildings belonging to the District of Columbia under the direction of the engineer commissioner of the District of Columbia," is repealed.

Section  
1-366

Sec. 404. Section 2 of An Act To grant additional powers to the Commissioners of the District of Columbia, and for other purposes, approved December 20, 1944 (58 Stat. 821; D.C. Code § 1-339), is repealed.

Section  
1-399

Sec. 405. Section 9 (a) of An Act To authorize certain administrative expenses in the Government service, and for other purposes, approved August 2, 1946 (60 Stat. 809; D.C. Code § 1-1110), is repealed.

Section  
1-1110

Sec. 406. An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes, approved March 3, 1905 (33 Stat. 892; D.C. Code § 1-1114), is

Section  
1-1114

**ENROLLED ORIGINAL**

repealed.

Sec. 407. An Act To authorize the Commissioners of the District of Columbia to provide for the removal of sludge, approved March 24, 1950 (64 Stat. 35; D.C. Code § 1-1121), is repealed.

Section  
1-1121

Sec. 408. Section 1 of An Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, eighteen hundred and eighty-four, and for other purposes, approved March 3, 1883 (22 Stat 470; D.C. Code § 1-1123), is repealed.

Section  
1-1123

Sec. 409. The last paragraph under the heading "Contingent and Miscellaneous Expenses" of An Act Making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes, approved June 26, 1912 ( 37 Stat. 147; D.C. Code § 1-1124), is repealed.

Section  
1-1124

Sec. 410. Section 1 of An Act To Authorize the Commissioners of the District of Columbia to enter into contracts for the inspection, maintenance, and repair of fixed equipment in District-owned buildings for periods not to exceed three years, approved October 12, 1968 (82 Stat. 1004; D.C. Code § 1-1129), is repealed.

Section  
1-1129

**TITLE V. Fiscal impact statement.**

Sec. 501. The District spends approximately \$1 billion per year in procurement activities. The centralized procurement process has the potential to generate a savings of approximately 10% to 15% per year to the District of Columbia government in both the administrative and acquisition costs.

About 17,700 transactions in 1995 (over 85%) were made using small purchase procedures, yet those transactions represented only \$43 million (2%) of the total amount spent on procurement in the District of Columbia. Additionally, the Procurement Reform Amendment Act of 1996 helps define "true emergencies", which would greatly reduce the costs associated with the emergency contracting process. The emergency contracting process has become an effective vehicle for bypassing normal contracting procedures by agencies. This fact has increased costs and reduced competition, which leads to system wide abuse.

Currently, there are 14 agencies in the District government with about 227 employees which handle procurement (Excellence in Procurement Report, Phase I). With a centralized system, the need for so many procurement employees might be reduced. This act provides for a Chief Procurement Officer with a staff composed of those DAS and other agency employees

who are currently involved with procurement.

Below is a chart estimating the amount of costs and savings using a modest amount of 10% per year savings:

**Staff Costs**

No more than current.

**Staff Costs Now**

\$7 million (227 employees @ \$32,000 per employee)

**Equipment and Supplies**

\$150,000\*

**10% Savings of 1 billion**

\$100 million\*

Moreover, these procurement functions would simply be transferred so that net costs would remain the same, although savings through more competitive and efficient procurement practices could easily reach 10% of current procurement expenditures.

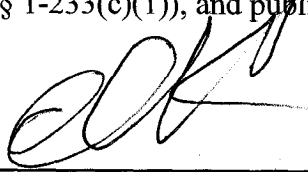
\*These figures are estimates as the true savings can only be estimated.

**TITLE VI. Effective date.**

Sec. 601. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-

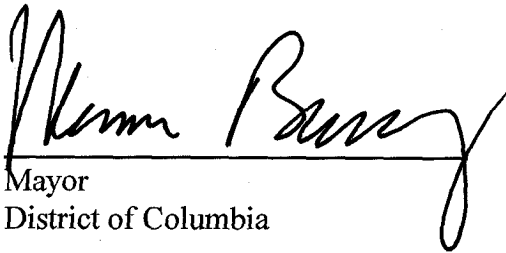
**ENROLLED ORIGINAL**

Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia

APPROVED: January 3, 1997



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

B11-705

Docket No. \_\_\_\_\_

[ ] ITEM ON CONSENT CALENDAR

ACTION & DATE ADOPTED FIRST READING, 11-7-96

VOICE VOTE APPROVED  
RECORDED VOTE ON REQUEST

LIGHTFOOT AND THOMAS

ABSENT \_\_\_\_\_

[ ] ROLL CALL VOTE - Result \_\_\_\_\_

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

[Signature]  
Secretary to the Council

December 18, 1996  
Date

[ ] ITEM ON CONSENT CALENDAR

ACTION & DATE ADOPTED FINAL READING, 12-3-96

VOICE VOTE APPROVED  
RECORDED VOTE ON REQUEST

ALL PRESENT

ABSENT \_\_\_\_\_

[ ] ROLL CALL VOTE - Result \_\_\_\_\_

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates no AB - Absent NV - Present not voting

CERTIFICATION RECORD

[Signature]  
Secretary to the Council

December 18, 1996  
Date

[ ] ITEM ON CONSENT CALENDAR

[ ] ACTION & DATE \_\_\_\_\_

[ ] VOICE VOTE \_\_\_\_\_  
RECORDED VOTE ON REQUEST

ABSENT \_\_\_\_\_

[ ] ROLL CALL VOTE - Result \_\_\_\_\_

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

\_\_\_\_\_  
Secretary to the Council

\_\_\_\_\_  
Date