

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare an emergency with respect to the need to amend the Procurement Practices Reform Act of 2010 to ensure that the Office of Contracting and Procurement’s retrospective analysis of emergency procurements addresses a period of additional emergency procurement authority after the expiration of the COVID-19 public health emergency; and with respect to the need to amend the Public Emergency Extension and Eviction and Utility Moratorium Phasing Temporary Amendment Act of 2021 to clarify the scope of that act’s termination of emergency procurement authority.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Analyzing Additional Emergency Procurement Activity Emergency Declaration Resolution of 2021”.

Sec. 2. (a) During the COVID-19 public health emergency that began on March 11, 2020 (PHE), the Office of Contracting and Procurement (OCP) invoked the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2301 *et seq.*), to justify contracting and procurement activities that would not otherwise have fully complied with District law.

(b) Over the course of the PHE, the Council sought to ensure adequate transparency and accountability for emergency procurements by mandating regular reporting on emergency procurements shortly after they concluded.

(c) In addition, the Council enacted the COVID-19 Public Health Emergency Procurement Analysis Amendment Act of 2021, Subtitle I.B of the Fiscal Year 2022 Budget Support Act of 2021, which amended Section 204(b) the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371, D.C. Official Code § 2-352.04(b)), to require a detailed summation report analyzing OCP's emergency procurement activities during the PHE (PHE Report).

(d) Pursuant to Mayor's Order 2021-096, the Mayor has elected to terminate the PHE, but continues to exercise emergency powers under a related public emergency. On September 1, 2021, the Mayor signed the Public Emergency Extension and Eviction and Utility Moratorium Phasing Temporary Amendment Act of 2021, enacted on September 10, 2021 (D.C. Act 24-168; 68 DCR 9487) which in part amends section 507(a)(2) of the Coronavirus Support Temporary Amendment Act of 2021 to cut off emergency procurement authority from November 5, 2021 through the remainder of the current emergency, but a technical correction is necessary to clarify the intent of the Council.

(e) Immediate action is necessary to eliminate any ambiguity as to the termination of emergency procurements under the ongoing public emergency.

(f) In addition, although the Public Emergency Extension and Eviction and Utility Moratorium Phasing Temporary Amendment Act of 2021, allows the executive to continue emergency procurements until November 5, 2021, the PHE Report will only address emergency procurement activities conducted through the PHE's end date, July 25, 2021.

(g) To ensure accountability for the full period during which OCP has exercised emergency procurement authority, including the period from July 25 to the end of emergency procurements associated with the outstanding public emergency, and to supplement the existing

mandate, a follow-up report covering substantially the same scope of information set forth in the COVID-19 Public Health Emergency Procurement Analysis Amendment Act of 2021 is required.

(h) Immediate action is necessary to ensure that relevant information regarding emergency procurements is not lost and that the Council will have a prompt and complete accounting of the executive's emergency procurement activity to inform any necessary interventions.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute an emergency making it necessary that the Analyzing Additional Emergency Procurement Activity Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.