

COMMITTEE ON HOUSING

ROBERT C. WHITE, JR., CHAIR
COUNCIL OF THE DISTRICT OF COLUMBIA

MEMORANDUM

TO: Chairman Phil Mendelson
FROM: Councilmember Robert C. White, Jr.
Chair, Committee on Housing
DATE: April 27, 2023
RE: Requests for May 2, 2023



I request that the following legislation be placed on the agenda for the legislative meeting of the Council on May 2, 2023:

Emergency Legislation

- **District of Columbia Housing Authority Procurement Regulations Approval Emergency Declaration Resolution of 2023**
- **District of Columbia Housing Authority Procurement Regulations Approval Emergency Resolution of 2023**

Section 20 of the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (DC Code § 6-219), directed DCHA to submit procurement regulations for Council review within 180 days—that is, by November 5, 2000. The then-newly-reorganized agency does not appear have to submitted procurement regulations by its 2000 deadline, or during the ensuing 22 years.

In October 2022, the federal Department of Housing and Urban Development’s report on a comprehensive assessment of DCHA became public. Among many serious problems, HUD noted the lack of a formal procurement policy. In response, executive leadership have prepared a proposed new chapter of the DC Municipal Regulations, 14 DCMR § 7200 *et seq.*, and the Stabilization and Reform Board has approved it for submission to the Council. See [PR25-141](#).

While some of the policy choices reflected in the proposed regulations are not to the Committee on Housing’s liking, DCHA’s current executive leadership and board have taken a positive step by addressing the long-neglected task of updating and formalizing their procurement practices; the Committee on Housing appreciates their efforts. Yet, as noted in yesterday’s Committee budget report, one line of the proposed regulations has raised serious concerns, including among our advisors in the Office of the General Counsel and Office of the Budget Director. In proposed 14 DCMR § 7200.1, DCHA wrote:

In light of the need for DCHA to conduct procurements with Federal Funds expeditiously and in accordance with rules issued by the United States Department of Housing and Urban Development (HUD), the District of Columbia Council (D.C. Council) has determined that D.C. Code, §1-204.61 [*sic*] and §2-352.02, which require D.C. Council approval of contracts in excess of one million dollars (\$1,000,000) and of contracts that are multi-year, does not apply to DCHA procurements involving Federal Funds.

DC Code § 1-204.51, which requires Council approval of multi-year and \$1M+ contracts, is a

provision of the Home Rule Act that cannot be waived absent Congressional approval. OGC has advised that the Council should take action to avoid codifying the sentence quoted above. As described in more detail below, the application of DC Code § 2-352.02, which is part of the Procurement Practices Reform Act, also requires clarification, so the Council should also excise the proposed regulation's reference to that law. Finally, OGC has advised that the June 1, 2023 deemed-approval date currently listed in LIMS for PR25-141 may reflect a calculation error and the review period may end in mid-May, so emergency action is needed.

The attached emergency resolution would exercise the Council's authority under DC Code § 6-219 to approve DCHA's procurement regulations "in whole or in part," and approve the proposed regulations attached to PR25-141 except for the offending sentence in proposed 14 DCMR § 7200.1.

- **District of Columbia Housing Authority Procurement Clarification Emergency Declaration Resolution of 2023**
- **District of Columbia Housing Authority Procurement Clarification Emergency Amendment Act of 2023**
- **District of Columbia Housing Authority Procurement Clarification Temporary Amendment Act of 2023**

This emergency legislative package would clarify which local, Council-approved procurement laws apply to DCHA.

DC Code § 6-219 states that federally funded contracts are exempt from "[t]he Procurement Act." This was originally a defined term in the District of Columbia Housing Authority Act of 1999; it referred to certain District laws that existed at the time and have since been repealed. Now, agencies' submission of contracts for Council approval is governed by the Procurement Practices Reform Act of 2010 (PPRA). The PPRA expressly states that DCHA has independent procurement authority (unlike agencies that rely on the central Office of Contracting and Procurement) but must otherwise "conduct procurements in accordance with" the PPRA. DC Code § 2-352.01(b)(3). So, it would not be correct to say that the Council has found that DCHA is currently exempt from the PPRA's procedures for Council review of contracts. The attached legislation would amend DC Code § 6-219 to strike the outdated exemption from the old Procurement Act.

OGC has confirmed, however, that DCHA is correct to note that certain HUD requirements applicable to public housing authorities and their use of federal funds may be inconsistent with the PPRA. Accordingly, the attached emergency and temporary measures would confirm DCHA's authority to establish procurement regulations that depart from the PPRA to govern its use of federal funds.

Oversight responses make clear that DCHA has made a practice of not submitting federally-funded multi-year contracts or federally-funded contracts for over \$1 million for Council review. The Committee on Housing has seen no indication that DCHA was aware this practice was unlawful, but under the Home Rule Act, it must end. The Committee anticipates further conversations with DCHA, OGC, and OBD on this point.

Contract Legislation at the Request of the Mayor

- **Human Care Agreement No. CW100360 with CORE DC, LLC Approval and Payment Authorization Emergency Declaration Resolution of 2023**
- **Human Care Agreement No. CW100360 with CORE DC, LLC Approval and Payment Authorization Emergency Act of 2023**

- **Human Care Agreement No. CW100362 with DC Doors, Inc. Approval and Payment Authorization Emergency Declaration Resolution of 2023**
- **Human Care Agreement No. CW1003602 with DC Doors, Inc. Approval and Payment Authorization Emergency Act of 2023**

- **Human Care Agreement No. CW100513 with N Street Village, Inc. Approval and Payment Authorization Emergency Declaration Resolution of 2023**
- **Human Care Agreement No. CW100513 with N Street Village, Inc. Approval and Payment Authorization Emergency Act of 2023**

- **Human Care Agreement No. CW100401 with Wheeler Creek Community Development Corporation Approval and Payment Authorization Emergency Declaration Resolution of 2023**
- **Human Care Agreement No. CW100401 with Wheeler Creek Community Development Corporation Approval and Payment Authorization Emergency Amendment Act of 2023**

- **Contract No. CW100309 with The National Center for Children and Families Approval and Payment Authorization Emergency Declaration Resolution of 2023**
- **Contract No. CW100309 with The National Center for Children and Families Approval and Payment Authorization Emergency Act of 2023**

Each of the above 5 measures would approve an increase to an existing Human Care Agreement or contract between DHS and a company that provides permanent supportive housing case management services to individuals and families experiencing homelessness. Because the contracts will exceed \$1 million during a 12-month period, Council approval is required under Section 451(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(b)).

The Office of Contracting and Procurement (OCP) issued the Request for Quotation (RFQ) for these contracts on April 11, 2022. The RFQ resulted in 28 submissions, 23 of which were awarded Human Care Agreements (HCAs). On July 1, 2022, OCP awarded the above 4 HCAs and one contract for the period of July 1, 2022, through June 30, 2023, in the not-to-exceed amount of \$950,000. The HCAs and contract each had a fixed unit price with a cost reimbursable component to be used through task orders.

At the time of the award, each HCA/contract was below the \$1 million threshold for Council review and approval. DHS shared that these amounts have changed, just months before the contract

periods in part because in Fiscal Year 2023, the Council funded 968 vouchers for PSH3 (and over 1,300 vouchers overall) after DHS had issued its initial HCA/contract awards. Accordingly, DHS must now increase capacity for PSH3 providers. These emergency measures are necessary for additional PSH3 participants to receive case management services.

The details for each contract are as follows:

CORE DC, LLC (Human Care Agreement No. CW100360)

CORE DC, LLC, provides permanent supportive housing case management services, utility assistance, and financial assistance to individuals and families experiencing homelessness and other vulnerabilities. (CORE DC, LLC, is a Certified Business Enterprise (CBE).) This emergency measure would approve a Human Care Agreement (HCA), and modifications 1, 2, 3, 4, and 5 to that HCA, with CORE DC, LLC, for a term from July 1, 2022, through June 30, 2023. Modifications 1, 2, 3, and 4 were administrative modifications. Modification 5 is now necessary to increase the not-to-exceed amount for the contract by \$1,778,664.55 to a **total of \$2,728,664.55**.

DC Doors, Inc. (Human Care Agreement No. CW100362)

DC Doors, Inc., provides permanent supportive housing case management services, utility assistance, and financial assistance to individuals and families experiencing homelessness. (DC Doors, Inc., is not a CBE.) The emergency measure will approve a Human Care Agreement (HCA) contract, and modifications 1, 2, 3, and 4 to that HCA, with DC Doors, Inc., for a term from July 1, 2022, through June 30, 2023. Modifications 1, 2, and 3 were administrative modifications. Modification 4 is now necessary to increase the not-to-exceed amount by \$1,606,925.19 to a **total of \$2,556,925.19**.

N Street Village, Inc. (Human Care Agreement No. CW100513)

N Street Village provides permanent supportive housing case management services, utility assistance, and financial assistance to individuals and families experiencing homelessness. (N Street Village is not a CBE.) The emergency measure will approve a Human Care Agreement (HCA), and modifications 1, 2, 3, and 4 to that HCA, with N Street Village for a term from July 1, 2022, through June 30, 2023. Modifications 1, 2, and 3 were administrative modifications. Modification 4 is now necessary to increase the not-to-exceed amount by \$157,885.76 to a **total of \$1,107,885.76**.

Wheeler Creek Community Development Corporation (Human Care Agreement No. CW100401)

Wheeler Creek Community Development Corporation provides permanent supportive housing case management services, utility assistance, and financial assistance to individuals and families experiencing homelessness. (Wheeler Creek Community Development Corporation is not a CBE.) The emergency measure will approve a Human Care Agreement (HCA), and modifications 1, 2, 3, and 4 to that HCA, with Wheeler Creek Community Development Corporation for a term from July 1, 2022, through June 30, 2023. Modifications 1, 2, and 3 were administrative modifications. Modification 4 is now necessary to increase the not-to-exceed amount by \$1,384,500.05 to a **total**

of \$2,334,500.05.

The National Center for Children and Families (Contract No. CW100309)

The National Center for Children and Families provides permanent supportive housing case management services to individuals and families experiencing homelessness. (The National Center for Children and Families is not a CBE.) The emergency measure will approve a contract, and modifications 1, 2, 3, and 4 to that contract, with The National Center for Children and Families for a term from July 1, 2022, through June 30, 2023. Modifications 1, 2, and 3 were administrative modifications. Modification 4 is now necessary to increase the not-to-exceed amount by \$1,120,892.51 to a **total of \$2,070,892.51.**